

CHAPTER VI : REVENUE RECEIPTS

GENERAL

6.1 Trend of revenue receipts

Total receipts of the Government of Meghalaya for the year 2000-2001 were Rs.1132.16 crore as against the anticipated receipts of Rs.1091.84 crore. The position of revenue raised by the State Government and State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and preceding two years is given below:-

Table 6.1

Sl. No.	Particulars	1998-99	1999-2000	2000-2001
		(Rupees in crore)		
I.	Revenue raised by the State Government –			
	(a) Tax Revenue	88.36	102.99	118.62
	(b) Non-Tax Revenue	51.46	83.86	86.66
	Total : I	139.82	186.85	205.28
II.	Receipts from Government of India -			
	(a) State's share of divisible Union taxes	300.55	341.76	164.20
	(b) Grants-in-aid	392.31	415.04	762.68
	Total : II	692.86	756.80	926.88
III.	Total receipts of the State Government - I + II	832.68	943.65	1132.16

6.2 Tax revenue raised by the State

6.2.1 Receipts from tax revenue constituted 58 **per cent** of the State's own revenue receipts during the year 2000-2001. Details of tax revenue for the year 2000-2001 and the preceding two years are given below:-

Table 6.2

Sl. No.	Head of revenue	1998-99	1999-2000	2000-2001		Per centage of Increase (+)/ Decrease (-) of receipts of 2000-2001 over	
				Budget estimate	Actual receipts	Receipts of 1999-2000	Budget estimate of 2000-2001
(Rupees in lakh)							
1.	Sales Tax	4592.37	5352.35	6500.00	6470.84	(+) 21	(-) 0.45
2.	State Excise	3268.58	3951.25	4800.00	4108.67	(+) 4	(-) 14
3.	Taxes on Goods and Passenger	138.86	139.74	310.00	141.91	(+) 2	(-) 54
4.	Other Taxes and Duties on Commodities and Services	135.50	151.76	465.00	179.15	(+) 18	(-) 61
5.	Taxes on Vehicles	289.57	379.24	470.00	466.29	(+) 23	(-) 0.79
6.	Stamps and Registration fees	227.70	265.90	254.00	300.94	(+) 13	(+) 18
7.	Other Taxes on Income and Expenditure	72.72	39.27	331.00	38.09	(-) 3	(-) 88
8.	Land Revenue	32.52	17.21	18.00	110.03	(+) 539	(+) 511
9.	Taxes and Duties on Electricity	78.10	1.78	100.00	46.29	(+) 2501	(-) 54
		8835.92	10298.50	13248.00	11862.21	(+) 15	(-) 10

6.2.2 Reasons for variations in receipts (actuals) during 2000-2001 over those of 1999-2000 and with reference to budget estimates under all the above heads of revenue had not been furnished (December 2001).

6.3 Non-tax revenue of the State

6.3.1 Interest, non-ferrous mining and metallurgical industries, forestry and wildlife, public works and miscellaneous general services were the principal sources of non-tax revenue of the State. Receipts from non-tax revenue constituted 42 **per cent** of the State's own revenue receipts during 2000-2001. Details of non-tax revenue under the principal heads for the year 2000-2001 and the preceding two years are given below:-

Table 6.3

Sl. No.	Head of revenue	1998-99	1999-2000	2000-2001		Percentage of Increase (+)/ Decrease (-) of receipts of 2000-2001 over	
				Budget estimate	Actual receipts	Receipts of 1999-2000	Budget estimate of 2000-2001
(Rupees in lakh)							
1.	Miscellaneous General Services	227.10	110.47	605.00	114.96	(+) 4	(-) 81
2.	Non-ferrous Mining and Metallurgical Industries	2239.28	4975.48	6200.00	5022.47	(+) 1	(-) 19
3.	Forestry and Wild life	464.27	616.59	375.00	544.46	(-) 12	(+) 45
4.	Co-operation	1.06	78.56	15.00	1.68	(-) 98	(-) 89
5.	Interest	597.87	837.91	560.00	925.80	(+) 10	(+) 65
6.	Dividends and Profits	2.57	59.84	2.00	0.55	(-) 99	(-) 72
7.	Public Works	269.56	356.65	355.00	361.73	(+) 1	(+) 2
8.	Other Agricultural Programme	63.58	90.22	52.00	42.03	(-) 53	(-) 19
9.	Police	233.83	107.97	265.00	188.56	(+) 75	(-) 29
10.	Crop Husbandry	172.46	189.73	225.00	232.71	(+) 23	(+) 3
11.	Animal Husbandry	73.02	128.83	125.00	109.95	(-) 15	(-) 12
12.	Other Administrative Services	119.35	522.92	228.00	109.91	(-) 79	(-) 52
13.	Other Rural Development Programme	283.46	4.53	10.00	1.28	(-) 72	(-) 87
14.	Other Industries	127.83	16.01	1.00	688.60	(+) 4201	(+) 68760
15.	Others	270.87	290.52	530.00	321.19	(+) 11	(-) 39
		5146.11	8386.23	9548.00	8665.88	(+) 3	(-) 9

6.3.2 Reasons for variations in receipts (actuals) during 2000-2001 over those of 1999-2000 and with reference to budget estimates under all the above heads of revenue had not been furnished (December 2001).

6.4 Revenue realisation vis-a-vis budgetary forecast

6.4.1 The trend of actual revenue raised by the State Government compared to budget estimates during the five years' period ending March 2001 is as under:-

Table 6.4

Year	Budget Estimates			Actuals			Increase (+)/ Decrease (-) and percentage of variation with reference to Budget Estimates		
	Tax Revenue	Non-tax revenue	Total	Tax revenue	Non-tax revenue	Total	Tax revenue	Non-tax revenue	Total
(Rupees in crore)									
1996-97	76.51	46.65	123.16	77.37	47.47	124.84	(+) 0.86 (1)	(+) 0.82 (2)	(+) 1.68 (1)
1997-98	85.15	73.40	158.55	73.55	29.85	103.40	(-)11.60 (14)	(-) 43.55 (59)	(-) 55.15 (35)
1998-99	94.33	62.88	157.21	88.36	51.46	139.82	(-) 5.97 (6)	(-) 11.42 (18)	(-) 17.39 (11)
1999-2000	109.52	68.07	177.59	102.99	83.86	186.85	(-) 6.53 (6)	(+) 15.79 (23)	(+) 9.26 (5)
2000-2001	132.48	95.48	227.96	118.62	86.66	205.28	(-)13.86 (10)	(-) 8.82 (9)	(-) 22.68 (10)

6.4.2 The actual revenues raised by the State Government were less than the budget estimates during 3 years out of 5 years' period ending March 2001. The actual tax revenue fell short by **10 per cent** while the overall shortfall of **9 per cent** under non-tax revenue of the budget estimates during 2000-2001.

6.5 Follow up on Audit Report – Summarised position

6.5.1 With a view to ensuring accountability of the executive in respect of all the issues dealt in the various Audit Reports, the Public Accounts Committee (PAC) issued instructions (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 6 weeks up to 32nd Report and 6 months in 33rd Report.

6.5.2 Review of outstanding ATNs as of 31 October 2001 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 52 paragraphs of Audit Reports for the years from 1992-93 to 1998-99 in respect of revenue receipts, as detailed below:-

Table 6.5

Year of Audit Report	Date of presentation of the Audit Report to the Legislature	Number of paragraphs/ reviews included in the Audit Report (excluding standard paragraphs)		Number of paragraphs/reviews on which suo motu replies are awaited		Total
		Paragraphs	Reviews	Paragraphs	Reviews	
1992-93	16.9.1994	6	...	6	...	6
1993-94	08.9.1995	8	...	8	...	8
1994-95	29.9.1996	10	...	4	...	4
1995-96	07.4.1997	14	2	3	2	5
1996-97	12.6.1998	21	1	18	1	19
1997-98	09.4.1999	8	1	1	...	1
1998-99	12.4.2000	8	1	8	1	9
Total		75	5	48	4	52

(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 its 16th to 33rd Reports presented before the State Legislature between December 1988 and June 2000, as detailed below:-

Table 6.6

Year of Audit Report	Number of paragraphs on which recommendations were made by PAC but ATNs are awaited	Particulars of paragraphs	Number of PAC Report in which recommendations were made
1982-83	2	6.6 & 6.7	16 th
1984-85	9	6.4 to 6.11 6.12	26 th 19 th
1987-88	1	6.6	26 th
1988-89	1	6.9	20 th
1989-90	1	6.14	20 th
1990-91	11	6.5 to 6.14 6.15	26 th 20 th
1991-92	3	6.6 to 6.8	26 th 20 th
1997-98	1	6.5	33 rd
Total	29		

6.5.3 Thus, failure to comply with the instructions of the PAC by the respective departments, the objective of ensuring accountability of the executives remained unfulfilled.

6.6 Response of the Departments to Draft Paragraphs

6.6.1 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 are invariably indicated at the end of each such Paragraph included in the Audit Report.

6.6.2 22 Draft Paragraphs and 1 Review pertaining to Revenue Receipts proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2001 - Government of Meghalaya, were forwarded to the Secretaries of the respective Departments during May – July 2001 demi officially.

6.6.3 The Secretaries of the Departments did not send replies to 8 Draft Paragraphs and the Review in compliance to the request of Audit. As such these Paragraphs/Review have been included in this Report without the response of the Government/Departments.

SECTION ‘A’ - REVIEW

FINANCE (TAXATION) DEPARTMENT

6.7 Assessment and collection of tax under the Meghalaya Passenger and Goods Taxation Act

Highlights

There was short realisation of Passenger and Goods Tax amounting to Rs.1310.59 lakh calculated at lump sum rate.

(Paragraphs 6.7.10 & 6.7.11)

Probable loss of revenue to the tune of Rs.730.81 lakh attributable to non-revision of old lump sum rates of fares and freights.

(Paragraphs 6.7.12 & 6.7.13)

Evasion of Passenger tax amounting to Rs.115.25 lakh in respect of Tourist Buses calculated on the basis of proportionate distance.

(Paragraphs 6.7.14 & 6.7.15)

Evasion of tax of Rs.34.05 lakh attributable to non-registration of vehicles.

(Paragraphs 6.7.16 & 6.7.17)

Non levy of penalty of Rs.5.30 lakh for delay in payment of tax.

(Paragraphs 6.7.18 & 6.7.19)

Under-assessment of Passenger tax of Rs.225.96 lakh due to irregular adoption of lump sum rate.

(Paragraphs 6.7.22 to 6.7.24)

Introduction

6.7.1 The assessment, levy and collection of tax on Passenger and Goods carried by road or inland waterways is regulated by the provisions of the Assam Passenger and Goods Taxation Act, 1962 and the Rules framed thereunder (as adopted by the Government of Meghalaya and here-in-after

referred to as the Meghalaya Passenger and Goods Taxation Act 1972) and administrative instructions issued from time to time. The Rules also regulate the functioning of the Passenger and Goods Taxation Department of the State Government. Revenue under Passenger and Goods Taxation Act is realised by way of assessment and collection of taxes and penalty. The Motor Vehicles Tax (MVT) is assessed and collected by the District Transport Officers under Transport Department, whereas the Passenger and Goods Tax (PGT) is assessed and collected by the Superintendent of Taxes of the respective areas under Taxation Department. The Acts and Rules under both MPGT Act and MV Act have not laid down any provision for close co-ordination between these two Departments of the Government.

Organisational set up

6.7.2 The administration of the Passenger and Goods Taxation Department is headed by the Commissioner of Taxes, Meghalaya who is assisted by a Deputy Commissioner of Taxes, an Assistant Commissioner and a Superintendent of Taxes. At the district level, the Superintendents of Taxes are entrusted with the work of registration of commercial vehicles, assessment of Passenger and Goods Tax, raising of demand and collection of tax etc. The Superintendents of Taxes are assisted by the Inspectors of Taxes for survey, inspection and other ancillary works in relation to assessments and collection of tax.

Scope of audit

6.7.3 With a view to assessing the adequacy and efficiency of the system for effective administration in regard to assessment/collection of the Passenger and Goods Tax, records for the period from 1995-96 to 1999-2000 were test checked in the office of the Commissioner of Taxes, Meghalaya, and all three offices of the Superintendent of Taxes at Shillong, Jowai and Byrnihat (out of five units) during the period from October 2000 to January 2001. The records in the offices of the Commissioner of Transport, Meghalaya and three District Transport Officers (East Khasi Hills, Jaintia Hills, Ri-Bhoi) were also cross-examined. The audit findings are discussed in the succeeding paragraphs.

Growth of vehicular population and Trend of revenue

Growth of vehicles

6.7.4 The table below indicates the numbers of various categories of commercial vehicles registered during 1995-1996 to 1999-2000, and the percentage of increase in their population from year to year with reference to the year 1995-1996:-

Table 6.7

Type of Vehicles	Number of vehicles/registered in different years					Total (Categories)
	1995-96	1996-97	1997-98	1998-99	1999-2000	
Trucks	5382	6045	6305	6514	6871	31,117
Buses	1002	1072	1155	1209	1312	5,750
Taxis	3772	4055	4412	4780	5514	22,533
Maxi Cabs	...	...	93	134	216	443
Total (year wise)	10156	11172	11965	12637	13913	59,843
Increase in percentage with reference to the year 1995-96	...	10	18	24	37	...

Trend of revenue

6.7.5 The budget estimates vis-a-vis revenue realised by the State from Passenger and Goods tax during the year 1995-96 to 1999-2000 are shown below :-

Table 6.8

Year	Budget Estimates	Actual receipt	Excess (+)/ Shortfall (-)	Per centage of excess (+)/ shortfall (-)
(Rupees in lakh)				
1995-96	181.00	145.96	(-) 35.04	(-) 19.4
1996-97	146.00	151.29	(+) 5.29	(+) 3.6
1997-98	155.00	129.63	(-) 25.37	(-) 16.4
1998-99	165.00	138.86	(-) 26.14	(-) 15.8
1999-2000	178.00	139.74	(-) 38.26	(-) 21.5
Total	825.00	705.48	(-) 119.52	14.5

6.7.6 The reasons for variation between the budget estimates and actuals although called for (October 2000) have not been furnished.

*Assessment and collection of Passenger and Goods Tax**Short realisation of Passenger and Goods Tax*

6.7.7 Under Section 3 of the Meghalaya Passenger and Goods Taxation (MPGT) Act, tax at 10 **per cent** on all fares freights in respect of all Passenger and goods carried in a taxable vehicle is to be levied, charged and paid to the State Government. Under Section 4 *ibid* the State Government may accept a lump sum in lieu of the tax chargeable on fare and freight in the manner prescribed by notification in the official gazette from time to time. Such lump sum is payable in advance either for the whole year or for each quarter as

envisaged in Rule 11 of MPGT Rules thereunder. The lump sum rate for MPGT per annum as prescribed by the State Government from 01 April, 1991 for such vehicles are as under :-

Table 6.9

Truck	Bus	Taxi/Tourist Taxi	Maxi Cab
(In rupees)			
4428	4305	1652	4,160

6.7.8 During the course of review, it was noticed (November 2000) that MPGT of Rs.705.48 lakh only was collected by the Taxation Department at lump sum rate from 1995-96 to 1999-2000 against Rs.2016.07 lakh realisable during this period leaving a balance of Rs.1310.59 lakh only as found on cross-verification with the numbers of taxable vehicles registered with the Transport Department as shown in Tables 'A' and 'B' below :-

6.7.9 The table below indicates amount of the tax realisable at lump sum rates in respect of different categories of vehicles registered during 1995-96 to 1999-2000:-

Table 6.10

(Amount in lakh of rupees)

Year	Number of Trucks	Amount realisable	Number of Buses	Amount realisable	Number of Taxis	Amount realisable	Number of Maxi Cabs	Amount realisable	Grand Total	
1995-96	5382	238.31	1002	43.14	3772	62.31	...	...	10156	343.76
1996-97	6045	267.67	1072	46.15	4055	66.99	...	...	11172	380.81
1997-98	6305	279.19	1155	49.72	4412	72.89	93	3.87	11965	405.67
1998-99	6514	288.44	1209	52.05	4780	78.96	134	5.57	12637	425.02
1999-2000	6871	304.25	1312	56.48	5514	91.09	216	8.99	13913	460.81
Total	31117	1377.86	5750	247.54	22533	372.24	443	18.43	59843	2016.07

6.7.10 The table below shows the annual tax realisable, tax actually realised and short realisation of tax:-

Table 6.11

(Figures in lakh of rupees)

Year	Tax realisable	Tax realised	Short realisation
1995-96	343.76	145.96	197.80
1996-97	380.81	151.29	229.52
1997-98	405.67	129.63	276.03
1998-99	425.02	138.86	286.17
1999-2000	460.81	139.74	321.07
Total	2016.07	705.48	1310.59

6.7.11 The short realisation of Rs. 1310.59 lakh calculated at the prescribed lump sum rates was, therefore, attributable to lack of co-ordination between the Transport and the Taxation Departments.

6.7.12 Section 3 of the MPGT Act 1972 provides the payment of tax at the rate of 10 **per cent** on fares and freights, whereas Section 4 *ibid* and Rule 11 thereunder empowers the State Government to fix lump sum rates per annum/quarter in lieu of tax, chargeable on fares and freights. During the period of review (1995-96 to 1999-2000) there has been substantial increase of yearly fares and freights rates in the cases of Buses and Trucks which varied from 31.58 to 142.11 **per cent** and 19.04 to 71.43 **per cent** respectively but the lump sum rates (Rs.4305 per Bus per year and Rs.4428 per Truck per year) have not been revised after April 1991. Reasons for non-revision of lump sum rate were not on records. Hence, the lump sum rates under Section 4 which remained static since April 1991 are not commensurate with those under Section 3 showing periodical increase.

6.7.13 However, on scrutiny of the assessment records of the three units (Shillong, Jowai and Byrnihat), it was noticed that due to non-revision of lump sum rates, all the owners of commercial vehicles opted for lump sum rate as it was to their advantage thereby adversely affecting the scope of mobilization of increased resources of the State as exhibited in the table below showing *inter alia* the probable loss of revenue to the tune of Rs.730.81 lakh.

Table 6.12

Year	Percentage of increase in		Number of Vehicles		Loss of rate per vehicle per annum		Loss of revenue due to non-revision of lump sum rate		Total loss
	Fare	Freight	Buses	Trucks	Bus	Truck	Bus	Truck	
(Rupees in lakh)									
1995-96	31.58	19.04	1002	5382	1360	843	13.63	45.37	59.00
1996-97	52.63	19.04	1072	6045	2266	843	24.29	50.96	75.25
1997-98	52.63	19.04	1155	6305	2266	843	26.17	53.15	79.32
1998-99	78.95	61.90	1209	6514	3399	2741	41.09	178.55	219.64
1999-2000	142.11	71.43	1312	6871	6118	3163	80.27	217.33	297.60
						Total	545.36	185.45	730.81

Evasion of Passenger Tax on Tourist Buses coming into Meghalaya from Assam

6.7.14 The lump sum rate of passenger tax prescribed by the State Government for Tourist Buses is Rs.5473 per annum. Section 3(2) of the MPGT Act provides that where Passengers are carried in a taxable vehicle from any place outside the State to any place within the State or vice versa, the

tax is payable on proportionate basis, the proportion being the ratio of distance covered within the State (Meghalaya) to the total distance of the journey. Further, in order to arrest evasion of tax, the Act vide Section 16 *ibid* also contemplates setting up of check posts/barriers at such places as may be notified by the Government.

6.7.15 Cross-check of records maintained by the State Transport Authority (STA), Shillong revealed (November, 2000) that , during the calendar years from 1996 to 2000 (up to March), 2233 Tourist Buses, bearing registration numbers of Assam were issued permits by the STA for operating in Meghalaya and these owners paid composite fee under MVT Act to the Government of Meghalaya. Scrutiny of records of the Taxation Department, however, disclosed that these owners neither registered their vehicles nor paid any tax on the basis of proportionate distance which resulted in evasion of tax of Rs.115.25 lakh. Such evasion of Passenger tax could have been averted had the State Government erected Check Gates as per provisions of the Act to detect defaulting owners of the inter-State Tourist Buses entering into the State of Meghalaya.

Non-registration of vehicles under the MPGT Act leading to evasion of tax

6.7.16 Rule 37 of the MPGT Rules, envisages that every owner of taxable vehicles carrying goods and Passenger has to apply for registration to the prescribed authority. He is also required to submit to the assessing officer within 10 days of the close of each month, a return in prescribed form, along with the proof of tax deposited into the Treasury. In lieu of tax on the basis of fares and freights, the owner of the vehicles may, however, pay a lump sum at the rate prescribed by Government by notification from time to time in terms of Rule 11. Such lump sum is payable in advance either for the whole year or for each quarter. The Passenger and goods tax is assessed and collected by the Superintendent of Taxes in respect of vehicles registered in his office. In the course of review, the following cases of evasion of tax were noticed :-

(i) Scrutiny of records of the three District Transport Officers (East Khasi Hills, Jaintia Hills and Ri-Bhoi) revealed that owners of 526^(a) vehicles of different categories were registered under the Motor Vehicles (M.V) Act, 1988 between November 1997 and March 2000, but the owners of these vehicles had neither applied for registration nor were they registered under the MPGT Act in any of the three Sales Tax offices (Shillong, Jowai and Byrnihat). Thus, failure on the part of the registering authorities to assess and recover tax, had resulted in evasion of tax of Rs.26.10 lakh and surcharge of Rs.1.31 lakh.

^(a) Truck – 131, Bus – 34, Taxi – 327 M. Cab - 34

.(ii) The Shillong City Bus Syndicate submitted returns and paid passenger tax in respect of all City Buses plying within the City up to 31 December 1997. The Syndicate informed the Assessing Officer in October 1998 that the individual owners of the City Buses would pay Passenger tax as due from 01 January 1998 directly to the assessing officer.

6.7.17 However, on scrutiny of records, it was noticed that out of 93 City Buses only 33 were registered by the Superintendent of Taxes till date of review and the remaining 60 buses continued to ply without registration and payment of Passenger tax leading to evasion of tax amounting to Rs.6.64 lakh.

Non-levy of penalty

6.7.18 Under Section 9 of the Meghalaya Passenger and Goods Taxation Act, 1972 if the prescribed authority is satisfied that any owner is liable to pay tax under the provision of this Act in respect of any period but has failed to pay tax, the said authority may, after giving the owner a reasonable opportunity of being heard, assess the amount of tax and also direct the owner to pay by way of penalty in addition to the tax payable by him, a sum not exceeding Rs.1000.

6.7.19 Scrutiny of records of the Superintendent of Taxes (Shillong, Jowai and Byrnihat), disclosed that 142 owners of various types of taxable vehicles failed to pay tax consecutively from 1 quarter to 20 quarters and delayed payment of tax ranging from 1 month to 60 months. Penalty amounting to Rs.5.30 lakh leviable was not levied.

Irregular exemption from payment of Passenger Tax

6.7.20 Under Section 4 of the Meghalaya Passenger and Goods Taxation Act, 1972 read with Rules framed thereunder, the State Government may accept a lump sum in lieu of the tax chargeable on fare and freight. Thus, the lump sum payment in full discharge of tax liability is an arrangement between the owners of the taxable vehicle and the State Government towards payment of a fixed amount per annum. Therefore, if the vehicle is off the road for a part of the year, the owner of the vehicle is not eligible to get proportionate deduction from the lump sum rate, as there is no provision in the Act and Rules made thereunder for such exemption.

6.7.21 In three Sales Tax Unit Offices (Shillong, Jowai and Byrnihat), it was noticed that 73^(a) vehicles of different categories were off the road for a period ranging from 1 month to 60 months and the owners of the vehicles were allowed proportionate deduction from the lump sum rate in respect of the period for which the vehicles could not ply. As a result of such unauthorised exemption, tax of Rs.2.47 lakh was under assessed and not realised.

^(a) Truck – 23 Bus – 18 Taxi – 30 M. Cab - 2

Under assessment of Passenger tax

6.7.22 Rule 11 of the Meghalaya Passenger and Goods Taxation Rules prescribes that the rate of lump sum payment shall be fixed by the State Government by way of notification in the official Gazette. Under the provisions of notification last issued on 05 April 1991, the owners of taxable vehicles shall apply for permission to pay tax in lump sum within 15 days after the commencement of each financial year for which the tax is intended to be paid. If anybody fails to exercise his option within 15th April of each year, he is liable to pay MPGT at **10 per cent** on fares and freights.

6.7.23 Meghalaya Transport Corporation (MTC) did not exercise any option to pay tax in lump sum in lieu of **10 per cent** since the date of notification (April 1991). The assessee (MTC) neither submitted any returns nor paid any tax for the period 1994-95 to 1998-99, but the assessing officer assessed (November 2000) the Corporation for the said period on lump sum rate in lieu of **10 per cent** chargeable on fares and freights and tax of Rs.20.20 lakh and surcharge of Rs.1.01 lakh were levied. However, on cross - verification with the Annual Accounts of MTC, it was noticed that during the aforesaid period, an amount of Rs.2354.02 lakh was collected as fares and freights by the Corporation and tax of Rs.235.40 lakh and surcharge of Rs.11.77 lakh were leviable.

6.7.24 Such irregular assessment, thus, resulted in under assessment of tax and surcharge of Rs.215.20 lakh and Rs.10.76 lakh respectively.

Lack of internal control and system failure

6.7.25 Under Rule 6 of the MPGT Rules, the assessing officer shall maintain a "Demand and Collection Register" (DCR) in prescribed form showing vehicle number, date of assessment, tax assessed and paid, position of arrear if any etc. Rules 36 and 40 *ibid* also prescribe the maintenance of "Register of Owners" and a "Register of Certificates of Registration".

6.7.26 Scrutiny of records of three unit offices (Shillong, Jowai and Byrnihat) revealed that the DCR's were not maintained in any of the three offices in prescribed form (PGT-3). Moreover, the registers as required were not maintained at all in any of those units. Thus, non-maintenance/ improper maintenance of basic records in the unit office (Taxation), the vital information e.g statistical position of arrear tax, number of vehicles registered, cancelled, transferred, etc. escaped notice of audit in as much as evasion of tax if any further to what have been discussed in the foregoing paragraphs remained unchecked.

Recommendations/ Conclusion

6.7.27 Under the Meghalaya Motor Vehicle Rules, the Transport Department issues permits to commercial vehicles to ply without clearance certificates having been obtained from the Sales Tax Authority of the Taxation Department. The Government also did not issue any Circular/instructions to the District Transport Authority or State Transport Authority for proper co-ordination between these two departments with regard to registration and collection of revenues. Taking this advantage, the owners of the commercial vehicles safely avoided to get the vehicles registered for payment of PGT to Sales Tax Department.

6.7.28 Hence, in order to arrest such evasion of tax, State Government may enact some mandatory provisions in both the Acts and Rules, so that the owners of the taxable commercial vehicles are compelled to get registered under both the Acts simultaneously. Alternatively, the responsibility of assessment and collection of PGT may henceforth be shifted to the Transport Department with a view to designing a ‘single door system’ to arrest any further evasion of tax attributable to the existing inherent system defects.

6.7.29 The Department (Taxation) also failed in observance of the codal provisions in regard to maintenance of essential records pertaining to assessment/collection of PG Tax exhibiting lack of internal control and system failure. As such, the State Government may take effective steps to gear up internal mechanism to ensure proper maintenance of all basic records in correct and complete manner to prevent possible evasion of tax. The State Government may also consider erection of check posts at notified places to detect the unregistered owners of the taxable vehicles in order to prevent any further evasion of tax. Over and above it is necessary for State Government to review the very old lump sum tax structure of April 1991 for commercial vehicles, which is not in consonance with the periodical hikes of passenger fares and goods freight.

6.7.30 Foregoing points were reported to the Department/Government in March 2001; their replies/comments have not been received (December 2001).

SECTION 'B' - PARAGRAPHS

EXCISE DEPARTMENT

6.8 Incorrect exemption

Non-realisation of excise duty of Rs.4.10 lakh due to incorrect exemption.

6.8.1 Under Rule 58 of the Assam Excise Rules, 1945 and Rule 32 of the Assam Bonded Warehouse Rules, 1965 (as applicable in Meghalaya) the State Government shall not be held responsible for loss or damage of any India Made Foreign Liquor (IMFL) stored in a warehouse by fire, theft or by any other cause.

6.8.2 Test check (April 2000) of records of the Commissioner of Excise, Shillong revealed that the Government of Meghalaya (Excise, Registration etc Department) based on recommendations (March, 1999) of the Commissioner of Excise, Shillong granted (August 1999) exemption from payment of excise duty of Rs.4.10 lakh payable on 819 cases and 10 bottles of IMFL which were reported to have been stolen from the bond on the night of 26 May 1998. The grant of exemption was incorrect and resulted in non-realisation of excise duty of Rs.4.10 lakh.

6.8.3 On this being pointed out (May 2000, February and July 2001) in audit the Government stated (August 2001) that the grant of exemption was not irregular as the shortage of IMFL caused by fire or theft was unforeseen, unpreventable and un-avoidable. The reply is not tenable as no loss or damage of IMFL stored in a warehouse by the licensee was admissible under rules and hence the licensee was liable to pay the excise duty of Rs.4.10 lakh.

MINING DEPARTMENT

6.9 Loss of revenue

Injudicious decision of temporary erection of Mineral check gate led to loss of revenue of Rs.43.89 lakh.

6.9.1 The Director of Mineral Resources (DMR), Meghalaya Shillong, notified (September 1995) that penalty at the rate varying from 25 **per cent** to 100 **per cent** on the royalty value of coal for which advance royalty was not paid by any coal traders, should be collected at the check gate with effect from October 1995 in addition to the admissible royalty thereon. Further, under notification dated 7 February 2000 the DMR set-up a temporary check-gate at Mawsmai between Jorabat and Khanapara (Assam) on National Highway (NH)-37 for collection of royalty on excess loaded coal if any, to replace the existing check-gate at Mookyndur located between Jowai (Meghalaya) and Guwahati (Assam) on the same extended NH. The check-gate of Mookyndur however continued to function to check the movement of coal laden trucks. The new checkgate (Mawsmai) was discontinued (04 April 2000) and Mookyndur check-gate was again authorised to collect royalty on coal besides performing the other function cited earlier.

6.9.2 Test check of records of the Mawsmai check gate revealed (August 2000) that during the period from 14 February to 10 March 2000, royalty of Rs.13.98 lakh was collected for 11652 metric tonnes (MT) of coal despatched to Assam in 4988 trucks. A collection of records of Mookyndur check gate for the same period, however, disclosed that 38583 MT of coal was despatched to Assam in 10333 trucks without payment of advance royalty amounting to Rs.46.30 lakh.

6.9.3 This resulted in evasion of revenue to the tune of Rs.43.89 lakh (Royalty: Rs.32.32 lakh; Penalty: Rs.11.57 lakh) entailing a loss to Government.

6.9.4 On this being pointed out (September 2000, February and March 2001) in audit, the Government while admitting the facts stated (September 2001) that the loss was due to refusal of the Assam Government to allow installation of barricade on National Highway due to which a large number of coal carrying trucks did not enter the coal depot for weighment and evaded the payment of royalty on excess load. The reply is not tenable as the loss could have been avoided, had the Government obtained prior approval of the Assam Government for installation of the proposed barricade.

6.10 Short realisation of penalty

Realisation of penalty of Rs.0.52 lakh against Rs.37.23 lakh led to short realisation of penalty of Rs.36.71 lakh.

6.10.1 The Director of Mineral Resources, Meghalaya, Shillong notified (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 rate varying from **25 per cent** to **100 per cent** on the royalty value of coal for which advance royalty was not paid, should be collected at the mineral check gate for first and subsequent offences respectively in addition to the royalty on the quantity of coal for which advance royalty was not paid with effect from October 1995.

6.10.2 A test check of records of seven^(a) mineral check gates under the Divisional Mining Officer, Williamnagar and the Director of Mineral Resources, Shillong revealed (June 1999 and July 2000) that based on weighment, 7.86 lakh M.T of coal was despatched and transported on payment of advance royalty of Rs.794.12 lakh against royalty of Rs.943.04 lakh payable during the different periods falling between April 1996 and March 2000. The authorities of these check gates collected the balance amount of royalty of Rs.148.92 lakh but due to non-collection of advance royalty prior to despatch of the aforesaid quantity of coal, penalty of Rs.37.23 lakh was to be collected against which Rs.0.52 lakh only was collected. This resulted in short-realisation of penalty of Rs.36.71 lakh.

6.10.3 On this being pointed out (July 1999, September 2000, February and May 2001) in audit, the Government in reply stated (September 2001) that the imposition of penalty did not come within the intention of the existing Public Notice (September 1995) and that the matter was under examination. This is contrary to the said notice issued by the Directorate under intimation to all concerned mandating that all checkgates should strictly comply in levying penalty on coal for which advance royalty was not actually paid. Further report is awaited (December 2001).

^(a) Dainadubi, Daluagre, Gasuapara, Riango, Borsora, Byrnihat and Mawsmai.

TAXATION DEPARTMENT

6.11 Loss of revenue

Delay in completion of assessment in respect of five registered dealers led to loss of revenue of Rs.271.50 lakh.

6.11.1 Under Section 16 of the Meghalaya Sale Tax Act and Rules framed thereunder, every registered dealer is required to submit prescribed return along with payment of admitted tax as per return through treasury challan within 30 days at the close of each six monthly period. If a dealer fails to submit such return along with payment of admitted tax or after submission of return, the dealer fails to produce books of accounts 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.

6.11.2 Cross verification of records of the Superintendent of Taxes, Byrnihat with those of the Industries department of the Government of Meghalaya revealed (July 1999 and May 2000) that two registered dealers 'A' and 'B' sold 14725.669 cum of pine sawn timber (A: 1401.869 cum, B: 13323.800 cum) in course of inter-State trade or commerce during the period April 1993 to March 1995. The royalty value of the sold sawn timber was Rs.392.69 lakh (A: Rs.19.63 lakh, B: Rs.373.06 lakh) with tax effect of Rs.233.65 lakh (A: Rs.9.81 lakh, B: Rs.223.84 lakh). Dealer 'A' submitted return without payment of tax and Dealer 'B' neither submitted any return nor was any tax paid for the aforesaid period till the date of audit (May 2001). It was further noticed in audit that both the dealers had closed down their businesses (April 1997).

6.11.3 On being pointed out in audit (July 1999, May 2000 and February 2001), the Superintendent of Taxes, Byrnihat stated (June 2001) that both the dealers were untraceable and chance of recovery of dues was remote as they had already closed down their businesses in April 1997. The reply was however, silent as to why assessment was not completed on best judgement basis when the dealers were traceable along with their business till March 1997.

6.11.4 Thus, failure of the assessing officer to complete the assessments on best judgement basis till the date of audit (May 2000) resulted in loss of revenue of Rs.233.65 lakh.

6.11.5 The matter was reported (August 1999, May 2000 and February 2001) to the Government; their reply has not been received (December 2001).

6.11.6 Cross verification of records in Byrnihat Sales Tax Unit office with those of the Taxation check gate, Khanapara, Assam revealed (July 1999) that a local dealer 'A' sold dry supari valued at Rs.110.88 lakh involving tax effect of Rs.11.09 lakh to dealers in the course of inter-State trade or commerce during April - May 1997. Similarly in respect of another local dealer 'B' cross check of records, with those of the State Excise Unit offices at Shillong in Meghalaya and Itanagar in Arunachal Pradesh revealed (July 1999) that the dealer sold India Made Foreign Liquor valued at Rs.15.90 lakh involving tax effect of Rs.7.95 lakh to an Itanagar based dealer in course of inter-State trade or commerce during May 1995. Both these dealers neither filed any return along with payment of admitted tax nor was any action initiated by the assessing officer to complete the assessment on best judgement basis. Further scrutiny revealed that both these dealers were not traceable. Thus, laxity of the assessing Officer to assess these dealers in time on best judgement basis resulted in evasion and loss of tax of Rs.19.04 lakh in these cases.

6.11.7 On this being pointed out (August 1999, February and March 2001) in audit, the Government stated (July 2001) that these cases were being investigated to trace out the dealers for recovery of dues. The report on either assessment or recovery of dues has, however, not been received (December 2001).

6.11.8 A test check of records of the Superintendent of Taxes, Byrnihat revealed (June 2000) that a registered dealer imported cement valued at Rs.156.76 lakh during May to September 1997 from a registered dealer of Assam through declaration in form 'C' for re-sale in the State. Thereafter, the dealer neither filed any return nor was any tax paid for the corresponding period till the date of audit (June 2000). The assessing officer also did not initiate any action to assess the dealer on best judgement basis for the aforesaid period. However, further scrutiny revealed that the dealer was not traceable as he left the place of business since June 2000. Thus, failure of the assessing officer to initiate timely action to assess the dealer on best judgement basis resulted in loss of revenue of Rs.18.81 lakh.

6.11.9 On this being pointed out (June 2000, February and May 2001) in audit, the Government observed (July 2001) that the reply of the assessing officer (June 2000) was not satisfactory and that he had failed to assess the dealer on the grounds that the dealer had not submitted returns. The Government (July 2001) directed the assessing officer to complete summary assessment and to file a case to the Bakijai Officer which had been complied with (September 2001). Further progress on recovery is still awaited (December 2001).

6.12 Short levy of tax

Turnover of Rs.2824.24 lakh escaped assessment resulting in short-levy of tax of Rs.225.94 lakh.

6.12.1 Under the Meghalaya Sales Tax Laws, if any dealer fails to submit the prescribed return despite notice, the Commissioner of Taxes shall assess the dealer on best judgement basis. This provision of the State Act applies, mutatis mutandis in the case of assessment under the Central Sales Tax Act, 1956.

6.12.2 In Jowai Sales Tax Unit Office, it was noticed (December 2000) that a registered coal dealer was assessed (September 1999) to tax on best judgement basis for the period from April 1995 to March 1997 by determining inter-State sales turnover of Rs.263.25 lakh. However, cross check (December 2000) of records of the Registrar of Companies, Shillong disclosed that the inter-State sales turnover of this coal dealer during the aforesaid period was Rs.3087.49 lakh. Thus turnover of Rs.2824.24 lakh escaped assessment with consequential short-levy of tax to the tune of Rs.225.94 lakh due to injudicious determination of assessee's turnover.

6.12.3 On this being pointed out, the Commissioner of Taxes stated (September 2001) that the dealer was reassessed and demand notice issued (September 2001) accordingly for payment of balance tax. Further report on realisation of tax has not been received (December 2001).

6.12.4 The case was reported to the Government in January 2001; their reply has not been received (December 2001).

6.13 Incorrect exemption

Grant of incorrect exemption led to non-levy of Tax of Rs.63.11 lakh.

6.13.1 Under Schedule of the Meghalaya Sales Tax (MST) Act, products of Khadi or Village Industries when sold by a producer or organisation are exempted from tax subject to the condition that such products are certified by the Khadi and Village Industries Commission or Board. Inter-State sales of goods which are conditionally exempted from tax under the Sales Tax Laws of the appropriate State shall not be deemed to be exempted from Central Sales Tax under the Central Sales Tax (CST) Act, 1956.

6.13.2 In Shillong Sales Tax Unit Office (Circle-6) it was noticed (September 2000) in audit that a registered dealer cum producer of Khadi and Village Industries products (Husk and Mat Board) disclosed inter-State sales turnover of Rs.653.36 lakh during the period from April 1995 to September 1998 and claimed exemption of Rs.631.07 lakh being sale of Khadi and Village Industries products and was assessed to tax (September 1999) accordingly. However, in the instant case, exemption of inter-State sales turnover of Khadi and Village Industries products under the Central Sales Tax Act was not admissible as the same was not generally exempted under the Sales Tax Laws of Meghalaya as judicially held^(a). This incorrect exemption under Central Sales Tax Act had resulted in non-levy of tax of Rs.63.11 lakh.

6.13.3 On this being pointed out in audit (November 2000, February and May 2001) the Government stated (July 2001) that Khadi Products classified under items 52 of Schedule iii of the MST Act are exempted under Section 7 ibid and hence such exemption has to be treated as a general one within the meaning of Section 8 (2A) of the CST Act and in terms of opinion (1992)^(b) of the Hon'ble Guwahati High Court. The reply is not tenable as the Khadi Products are only conditionally exempted under Section 7 of the MST Act and, therefore, exemption granted under CST Act is irregular within the meaning of "Explanation" below Section 8 (2A) of the CST Act as also upheld (1994)^(a) by the Hon'ble Supreme Court of India. Hence tax (Rs.63.11 lakh) not levied stands recoverable from the assessee.

6.14 Short levy of interest and non-levy of penalty

Interest of Rs.3.97 lakh was short levied due to erroneous assessment besides non-levy of maximum penalty of Rs.49.24 lakh for default in payment of tax.

6.14.1 Under Section 20(A) of the Meghalaya (Sales on Motor Spirits, Petroleum Products and Lubricants) Taxation Act, if a registered dealer fails to pay the full amount of tax by the due date (i.e. within a period of one month following the close of the quarter), he is liable to pay interest at 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 may be levied.

^(a) Commissioner of Sales Tax, Jammu & Kashmir and others Vs Pine Chemicals Ltd., and others and other review petition (1995) 96 STC 355 (SC).

^(b) Muli Bash Hasta Silpa Samabaya Society Vs State of Assam.

6.14.2 Test check (August 2000) of the records of the Superintendent of Taxes (Circle-VI) Shillong revealed that a registered dealer was assessed (April 2000) and levied tax of Rs.49.24 lakh for the quarters ended (QE) June 1997 (Rs.27.81 lakh) and September 1997 (Rs.21.43 lakh). The dealer paid the admitted tax belatedly in August 1999 and April 1998 respectively. Thus for delayed payment of tax, interest amounting to Rs.14.71 lakh was leviable against which only Rs.10.74 lakh was levied which resulted in short levy and non-realisation of interest of Rs.3.97 lakh. Besides, maximum penalty of Rs.49.24 lakh which could be levied was, however, not levied in this case.

6.14.3 The case was reported to the Department/Government (November 2000); their replies have not been received (December 2001).

6.15 Concealment of turnover

Five registered dealers concealed turnover of Rs.614.54 lakh and evaded tax of Rs.50.92 lakh.

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

6.15.2 Test check of records of four Sales Tax Unit Offices revealed (between May 1999 and December 2000) as under:-

6.15.3 In Jowai Sales Tax Unit Office, a registered dealer 'X' disclosed turnover of Rs.15.97 lakh during April 1993 to March 1994 under Central Sales Tax Act and was assessed (October 1999) to tax accordingly. It was, however, noticed from cross verification with the records of the Industries Department, Government of Meghalaya that the dealer sold 8400 c.u.m. of unclassified sawn timber involving royalty value of Rs.29.40 lakh in course of inter-State trade or commerce during the aforesaid period. Thus, the dealer concealed inter-State sales turnover of Rs.13.43 lakh and evaded tax of Rs.6.71 lakh. Besides, maximum penalty of Rs.10.07 lakh was also leviable.

6.15.4 In Byrnihat Sales Tax Unit Office, a registered dealer 'Y' of Oxygen Gas disclosed turnover of Rs.90.39 lakh under both the Meghalaya Finance (Sales Tax) Act and the Central Sales Tax Act during the period from April 1997 to March 1999 and the dealer was assessed (September 1997 and September 1999) to tax accordingly. Cross check of the said dealer's final

accounts submitted to the Registrar of Companies, Shillong disclosed that the actual sales turnover under both the Acts for the aforesaid period was Rs.112.29 lakh. Thus, the dealer had concealed turnover of Rs. 21.90 lakh and evaded a tax of Rs.1.75 lakh. Besides, maximum penalty of Rs.2.63 lakh was leviable.

6.15.5 On these being pointed out (January and February 2001) in audit, the Government in both the cases directed (August 2001) the assessing officers to revise the assessments which were complied with 'X' and 'Y' raising demand for payment of tax including surcharge and interest of Rs.7.49 lakh (August 2001) and Rs.5.15 lakh (September 2001) respectively. No penalty was imposed in either of the cases. Further progress on the report of recovery of arrear dues has not been received (December 2001).

6.15.6 In Sales Tax Unit Office at Tura, a registered dealer dealing in high density Polybag and Phul-Jharu (broom stick), disclosed turnover of Rs.196.27 lakh under both the Meghalaya Finance (Sales Tax) Act and the Central Sales Tax Act during the period from April 1994 to March 1996 and was assessed (November 1997 and April 1999) to tax accordingly. However, cross check of records of the Registrar of Companies, Shillong disclosed that the dealer's actual turnover was Rs.583.28 lakh during the aforesaid period. This resulted in concealment of turnover of Rs.387.01 lakh with consequential evasion of tax of Rs.27.09 lakh during the said period, besides, the maximum penalty of Rs.40.64 lakh.

6.15.7 On this being pointed out (May 2001) in audit, the Government stated (July 2001) that there was no concealment as the dealer not only dealt in Polybag and Phul-Jharu, but also dealt in locally purchased cement valued at Rs.387.01 lakh. The Government stated that though the item 'cement' was specifically not included in his registration certificate (RC) but the word "etc." mentioned in the dealer's RC permitted him to deal in cement as well. The reply was not tenable as Section 12 (I) of the Meghalaya Sales Tax Act has explicitly stipulated that the certificate of registration shall specify the class or classes of goods in which the dealer carries on business at the time of grant of the said certificate. It was also judicially held^(a) that the goods should be specified in the RC as much exactness as possible and hence the mention of the word 'etc' is irregular. However, the fact remains that the turnover of cement was neither disclosed by the dealer in his returns nor was the same brought under assessment.

6.15.8 Cross check of records in Sales Tax Unit Office (Circle-3) at Shillong, with those of the Meghalaya Transport Corporation, Shillong, revealed (July 2000) that two Shillong based registered dealers sold motor parts valued at

^(a) Merchant and Traders (P) Ltd Vs State of West Bengal (1963) 14 STC 798, 802 Cal.

Rs.213.23 lakh during the different periods falling between April 1995 and March 1998. But these dealers disclosed turnover as Rs.21.03 lakh and were assessed to tax accordingly (between April 1997 and April 2000). Thus, turnover of Rs.192.20 lakh was concealed resulting in short payment of tax of Rs.15.37 lakh. Besides, maximum penalty of Rs.23.06 lakh could also be levied.

6.15.9 In reply the Government stated (July 2001) that the cases were under scrutiny for rectification of assessments and the result thereof would be intimated in due course. The report on further progress of either re-assessment or recovery of dues has not been received (December 2001) despite reminders.

6.16 Evasion of Tax

Delay in initiating action to assess a dealer led to evasion of tax of Rs.4.62 lakh besides levying of penalty to the extent of Rs.6.93 lakh.

6.16.1 Under the Meghalaya Finance (Sale Tax) Act, Tax is leviable on the sale of taxable goods imported by a dealer from any place outside the State for re-sale within the State. The Act further provides that every registered dealer is required to file prescribed return accompanied by Treasury challan showing the payment of tax due within 30 days at the end of each six monthly period. If a dealer fails to file such return, 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.

6.16.2 Test check of records of Superintendent of Taxes (Circle-3) Shillong revealed (August 2000) that one Shillong based registered dealer 'A' neither submitted any return nor paid any tax for the period from April 1995 onwards and no assessment was made in this case till the date of audit. However, on cross verification of records of a Guwahati based registered dealer 'B' disclosed that the dealer 'A' imported motor parts valued at Rs.32.85 lakh from 'B' during April 1995 to March 1996 on 'C' - forms issued by the Assessing Officer of the Circle. The same dealer further imported motor parts worth Rs.33.11 lakh fraudulently by utilising 'C' Forms issued to another dealer registered in Circle 2 of Sale Tax Unit, Shillong during the same period. Thus, failure of the assessing officer to initiate timely action to assess the dealer 'A' led to evasion of tax of Rs.4.62 lakh on Rs.65.96 lakh besides levy of penalty of Rs.6.93 lakh for such evasion. No investigation was conducted by the assessing authority against fraudulent use of C - Forms.

6.16.3 On this being pointed out during (August 2000) the assessing officer while admitting the audit observation assessed (August 2000) the dealer for Rs.4.78 lakh (Tax : Rs.4.77 lakh, Penalty : Rs.0.01 lakh) on best judgement

basis and referred (August 2000) the case for recovery of dues to the Bakijai Officer who in turn reported (July 2001) that the dealer was not traceable.

6.16.4 The matter was reported (November 2000, March and July 2001) to the Government; their reply has not been received (December 2001).

6.17 Short levy of tax

Short levy of tax of Rs.10.75 lakh due to turnover of Rs.22.68 lakh escaped assessment.

6.17.1 Under the Meghalaya Sales Tax Act, if a dealer fails to make a return or having made a return fails to produce books of accounts in support of his return, the Commissioner shall, by an order in writing assess the dealer to the best of his judgement and determine the tax payable by him on the basis of such assessment.

6.17.2 Test check of assessment records of the Superintendent of Taxes, Purchase Tax Circle Shillong (October 2000) revealed that a registered dealer submitted six monthly return of his sales for the period ending March 1992 to March 1994 and disclosed sales of timber for Rs.55.68 lakh in course of inter-State trade or commerce. On his failure to produce the books of accounts for these return periods, assessment on best judgement basis was completed (July 2000) based on turnover of Rs.32.99 lakh against disclosed turnover of Rs.55.68 lakh. Thus turnover of Rs.22.68 lakh escaped assessment leading to short levy of tax of Rs.10.75 lakh.

6.17.3 On this being pointed out (November 2000, June and July 2001) in audit the Government while admitting the facts stated (August 2001) that the assessing officer was directed to rectify the assessment. The report on rectification of assessment and recovery of dues has however, not been received (December 2001).

6.18 Evasion of tax by un-registered dealer

Failure of the department to register a dealer led to evasion of tax of Rs.9.70 lakh.

6.18.1 Under the State Taxation Laws of Meghalaya, no dealer liable to pay tax, shall carry on business unless he is registered and possessed with a Certificate of registration. The Act empowers the Commissioner of taxes to register a dealer compulsorily. This provision of the State Act applies mutatis

mutandis in respect of registration/ assessment under the Central Sales Tax Act, 1956.

6.18.2 Cross check of records of the Superintendent of Taxes, Jowai with those of the Industries Department, Government of Meghalaya revealed (December 2000) that an un-registered dealer sold 5542 cum of unclassified sawn timber in course of inter-State trade or commerce during April 1993 to March 1994. This resulted in evasion of tax of Rs.9.70 lakh.

6.18.3 The Superintendents of other Tax Circles confirmed (February 2001) that the dealer was not registered in their Circles. Thus, failure of the Taxation department to register the dealer resulted in evasion of tax of Rs.9.70 lakh.

6.18.4 The matter was reported to the Government in (January and February 2001); their reply has not been received (December 2001).

6.19 Short levy of tax due to incorrect assessment

Incorrect acceptance of revised return led to short levy of tax of Rs.8.35 lakh.

6.19.1 Under the Meghalaya Sales Tax Act, if a dealer discovers any omission or other error in any return furnished by him, he may furnish a revised return at any time before assessment is made on the original return. It was judicially^(a) held that return submitted after the statutory period is *non-est* for the purpose of initiating assessment proceedings. Assessment based on such *non-est* return will be illegal and void. These provisions of the state Act apply mutatis mutandis in case of assessment/re-assessment under the Central Sales Tax Act, 1956.

6.19.2 Test check (October 2000) of records of the Purchase Tax Circle, Shillong revealed that a registered dealer was assessed (May 1998) to tax for the period April 1995 to March 1996 based on inter-state sales turnover of Rs.35.47 lakh as per return and books of accounts produced by the dealer. After a lapse of 18 months from the date of completion of assessment, the dealer submitted (October 1999) a revised return reducing turnover to Rs.21.56 lakh for revision of the aforesaid assessment on the plea of error in the original returns. The assessing officer accepted the revised return and re-assessed (November 1999) the dealer accordingly. As the revised return was submitted only after completion of assessment proceedings, the re-assessment based on such *non-est* return is illegal and void. Thus the irregular acceptance

^(a) Bormahjan Tea Co. Vs Superintendent of Taxes (1974) ALR 115 Gau. affirmed by S.C in S.T Vs Bormahjan Tea Co. Ltd (1978) 1 SCC513.

of revised returns by the assessing officer led to short levy of tax of Rs.8.35 lakh.

6.19.3 The case was reported (November 2000 and March 2001) to the Government/ Department; their replies have not been received (December 2001) despite reminders.

6.20 Application of incorrect rate.

Application of incorrect rate of tax led to short levy of tax of Rs.3.15 lakh.

6.20.1 Under the Meghalaya Finance (Sales Tax) Act, the sales turnover of high density poly bag is taxable at the rate of **7 per cent** at the first point of sale within the State.

6.20.2 In Tura Sales Tax Unit Office it was noticed (June 1999) in audit that a registered dealer sold high density poly bag at Rs.104.91 lakh as per return for the period April 1994 to March 1996 and the dealer was assessed (April 1999) to tax at the concessional rate of **4 per cent** against **7 per cent**. This incorrect application of rate led to short levy of tax of Rs.3.15 lakh.

6.20.3 On this being pointed out (June 1999, June 2000 and May 2001) in audit the Government while admitting the facts stated (July 2001) inter alia that the mistake was due to lack of co-ordination between Taxation and Industry Departments. However, the report on reassessment and recovery of dues from the dealer is still awaited from the Department (December 2001).

6.21 Under-assessment of tax

Under-assessment of tax of Rs.5.01 lakh due to application of incorrect rate of tax.

6.21.1 Under the Central Sales Tax Act,1956 and the Rules framed thereunder, inter-State sales duly supported by the declaration in the form C are taxable at the concessional rate of **4 per cent** or otherwise such sales are taxable at the rate of **10 per cent** or at the rate applicable to the sale or purchase of such goods inside the State whichever is higher. In Meghalaya 'Lime' sold in any form is taxable at the rate of **25 per cent** inside the State.

6.21.2 During the course of audit of records of Purchase Tax Circle, Shillong it was noticed (October 2000) that a registered dealer sold lime and lime products valued at Rs.18.75 lakh in inter-State trade or commerce to un-registered dealers for the period from October 1996 to September 1999. The dealer was assessed between September 1997 and November 1999 and levied tax at the rate of 10 **per cent** instead of 25 **per cent**. This resulted in under assessment of tax of Rs.2.81 lakh.

6.21.3 In Sales Tax Unit Office (Circle-6) of Shillong, it was noticed (September 2000) in audit that a registered dealer of paints was assessed (September 1999) to tax at the concessional rate of 4 **per cent** on the inter-State sales turnover of Rs.153.89 lakh, of which only Rs.117.27 lakh was supported by prescribed declaration either in form 'C' or 'D'. This resulted in under-assessment of tax of Rs.2.20 lakh on the balance turnover of Rs.36.62 lakh not supported by prescribed declaration.

6.21.4 On these being pointed out (November 2000, February and June 2001) the Government in the later case directed (August 2001) the assessing officer to reopen the case. The report on recovery of the under-assessed tax has however not been received (December 2001). The reply of the Department/Government in the former case was awaited (December 2001).

TRANSPORT DEPARTMENT

6.22 Non levy of fine

Failure of the Enforcement Wing to detect offence cases for carrying load in excess of maximum permissible limit led to non-levy of fine of Rs.1109.14 lakh.

6.22.1 In the State of Meghalaya, all commercial load-carrying trucks are registered by District Transport Officers with a maximum permissible pay load of 10 metric tonnes (MT) on which road tax is payable under 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.2000 and an additional amount of Rs.1000 per tonne of excess load so carried.

6.22.2 Cross check of records of the Directorate of Mineral Resources check gate at Mookyndur disclosed (August 2000) that 10,333 commercial load-carrying trucks carried 1,93,578 MT of coal against the maximum permissible limit of 1,03,330 MT during 14 February – 10 March 2000. The excess

90,248 MT carried in excess escaped notice of the Enforcement Wing of the Transport Department, Meghalaya and resulted in non-levy of fine of Rs.1109.14 lakh leviable in these cases.

6.22.3 The matter was reported (September 2000) to the Department/Government; their reply has not been received (December 2001) despite reminder.