

CHAPTER V : REVENUE RECEIPTS

5.1 General

5.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Meghalaya during the year 2003-04, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

Table 5.1

Sl. No.	Particulars	1999-2000	2000-01	2001-02	2002-03	2003-04
		(Rupees in crore)				
I.	Revenue raised by the State Government –					
	(a) Tax Revenue ^(a)	102.99	118.62	135.98	144.87	177.68
	(b) Non-Tax Revenue	83.86	86.66	94.09	92.78	128.95
	Total : I	186.85	205.28	230.07	237.65	306.63
II.	Receipts from the Government of India –					
	(a) State's share of divisible Union taxes	341.76	164.20	164.83	176.11	225.08
	(b) Grants-in-aid	415.04	762.68	728.48	875.17	867.12
	Total : II	756.80	926.88	893.31	1051.28	1092.20
III.	Total receipts of the State Government	943.65	1132.16	1123.38	1288.93	1398.83
IV	Percentage of I to III	19.80	18.13	20.48	18.44	21.92

The position of non-plan grants given to the State by the Government of India during the five year period ending March 2004 is as under:

Table 5.2

(Rupees in crore)

Year	Amount of Non-Plan grants
1999-2000	23.19
2000-01	320.31
2001-02	317.17
2002-03	407.74
2003-04	329.33

^(a) Excluding share of net proceeds of taxes and duties assigned to State.

The share of non-plan grants during 2003-04 was 37.98 *per cent* of the total grants-in-aid received from the Government of India. Compared to 1999-2000, non-plan grants of the State increased by over 14 times mainly due to grants received by the State to cover deficit on non-plan revenue account (Rs.304.70 crore).

The details of tax revenue during the year 2003-04 along with the figures for the preceding four years are given below:

Table 5.3

(Rupees in crore)

Sl. No.	Head of Revenue	1999-2000	2000-01	2001-02	2002-03	2003-04	Percentage of increase (+) or decrease (-) in 2003-04 over 2002-03
1.(a)	Sales Tax	34.20	32.95	59.78	71.67	83.37	(+) 16
(b)	Central Sales Tax	19.33	31.76	21.11	15.53	26.76	(+) 72
2.	State Excise	39.51	41.09	41.69	44.95	52.80	(+) 17
3.	Stamps and Registration Fees	2.66	3.01	3.49	2.95	3.37	(+) 14
4.	Taxes and Duties on Electricity	0.02	0.46	0.01	0.02	0.03	(+) 50
5.	Taxes on Vehicles	3.79	4.66	4.72	4.62	5.52	(+) 19
6.	Taxes on Goods and Passengers	1.40	1.42	1.61	1.63	2.02	(+) 24
7.	Other Taxes on Income and Expenditure – Taxes on Professions, Trades, Callings and Employments	0.39	0.38	0.90	0.92	0.97	(+) 5
8.	Other Taxes and Duties on Commodities and Services	1.52	1.79	2.00	2.26	2.35	(+) 4
9.	Land Revenue	0.17	1.10	0.67	0.32	0.49	(+) 53
		102.99	118.62	135.98	144.87	177.68	

Increase under serial 1 above was mainly due to more receipt under Central sales tax and taxes on sale of motor spirit and lubricants. Reasons for variations in receipts during 2003-04 over those of 2002-03 under the other heads of revenue had not been furnished (November 2004).

The details of the major non-tax revenue raised during the year 2003-04 along with the figures for the preceding four years are given below:

Table 5.4

(Rupees in crore)

Sl. No.	Head of revenue	1999-2000	2000-01	2001-02	2002-03	2003-04	Percentage of increase (+) or decrease (-) in 2003-04 over 2002-03
1.	Interest Receipts	8.38	9.26	5.26	4.66	5.61	(+) 20
2.	Dairy Development	0.66	0.71	0.97	1.09	1.18	(+) 8
3.	Forestry and Wild life	6.17	5.44	7.82	8.56	11.77	(+) 38
4.	Non-ferrous Mining and Metallurgical Industries	49.75	50.22	63.36	56.11	86.18	(+) 54
5.	Miscellaneous General Services (including lottery receipts)	1.10	1.15	0.57	6.18	8.55	(+) 38
6.	Education, Sports, Arts and Culture	0.42	0.55	0.62	0.76	0.80	(+) 5
7.	Medical and Public Health	0.33	0.33	0.41	0.55	0.62	(+) 13
8.	Co-operation	0.79	0.02	0.46	1.13	0.84	(-) 26
9.	Public Works	3.57	3.62	4.16	3.63	3.66	(+) 1
10.	Police	1.08	1.89	1.41	1.53	1.42	(-) 7
11.	Other Administrative Services	5.23	1.10	4.11	3.41	0.91	(-) 73
12.	Other Agricultural Programme	0.90	0.42	0.32	0.72	0.69	(-) 4
13.	Crop Husbandry	1.90	2.33	1.71	1.40	1.57	(+) 12
14.	Animal Husbandry	1.29	1.10	1.04	1.09	1.23	(+) 13
15.	Others	2.29	8.52	1.87	1.96	3.92	(+) 100
		83.86	86.66	94.09	92.78	128.95	

Increase under the heads mentioned at serial 3, 4 and 5 was mainly due to more receipts on sale of timber, other forest produce, mineral concession fees, State lotteries, *etc.* Shortfall in receipts under the heads mentioned at serial 8, 10 and 11 was mainly due to less receipt of fees, fine, *etc.* Reasons for variations in receipts during 2003-04 over those of 2002-03 relating to other heads of revenue had not been furnished (November 2004).

5.1.2 Commitments made in budget speech

Following commitments made in the budget speech remained unfulfilled:

- Documentation and inventorisation of State's valued natural resources, i.e., land including minerals and forests.
- Granting of road permits to private operators for encouraging road transport services to interior places.

- (c) Close co-ordination between the Transport Department and the Taxation Department for strict enforcement of Goods and Passengers Tax.

To mobilise additional resources during 2003-04 it was committed in the budget speech that driving licence fee for all categories of licences and registration fee for all categories of motor vehicles would be enhanced by 15 per cent. But no action was initiated for fulfilment of these commitments (November 2004).

5.1.3 Variations between Budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2003-04 in respect of the principal heads of tax and non-tax revenue are given below:

Table 5.5

(Rupees in crore)

Sl. No.	Head of Revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Sales Tax	96.00	110.13	(+) 14.13	15
2.	State Excise	71.00	52.80	(-) 18.20	26
3.	Stamps and Registration Fees	3.90	3.37	(-) 0.53	14
4.	Taxes and Duties on Electricity	0.30	0.03	(-) 0.27	90
5.	Taxes on Vehicles	5.96	5.52	(-) 0.44	7
6.	Forestry and Wildlife	8.70	11.77	(+) 3.07	35
7.	Non-ferrous Mining and Metallurgical Industries	82.30	86.18	(+) 3.88	5

The Taxation Department stated (November 2004) that excess collection was due to increase in number of dealers and upward revision of rates of taxes on certain items. Reply in other cases, though called for (October 2004), had not been received (November 2004).

5.1.4 Cost of collection

The gross collection under principal revenue receipt heads, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2001-02 to 2003-04 along with all India average percentage of expenditure on collection to gross collection for 2002-03 were as under:

Table 5.6

(Rupees in crore)

Sl. No.	Head of Revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2002-03
1.	Sales Tax	2001-02	80.89	2.34	2.89	-
		2002-03	87.20	2.36	2.71	1.18
		2003-04	110.13	2.48	2.25	-
2.	State Excise	2001-02	41.69	3.00	7.20	-
		2002-03	44.95	2.99	6.65	2.92
		2003-04	52.80	Not available	-	-
3.	Taxes on Vehicles	2001-02	4.72	2.53	53.60	-
		2002-03	4.62	2.00	43.29	2.86
		2003-04	5.52	1.78	32.25	-

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

5.1.5 Collection of sales tax per assessee

Table 5.7

(Rupees in crore)

Year	Number of assessees	Sales Tax revenue	Revenue/assessee
1999-2000	5,369	53.52	0.01
2000-01	5,442	64.71	0.01
2001-02	5,875	80.89	0.01
2002-03	5,883	87.20	0.01
2003-04	14,696	110.14	0.01

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

5.1.6 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2003-04, cases due for assessment during the year and cases pending finalisation at the end of the year 2003-04 as furnished by the department in respect of sales tax, purchase tax, taxes on motor spirits are as under:

Table 5.8

Names of tax	Opening balance of cases for pending assessments	Cases due for assessments during the year	Total assessments due	Cases finalised during the year	Balance cases pending at the end of the year	Percentage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales Tax/Central Sales Tax	65,128	25,707	90,835	7,953	82,882	9
Purchase Tax	14,588	7,012	21,600	2,326	19,274	11
Motor Spirits Tax	2,506	640	3,146	244	2,902	8
Total	82,222	33,359	1,15,581	10,523	1,05,058	9

It would appear from above that the percentage of final assessments ranged from 8 to 11 *per cent* of the total assessments due up to 2003-04. The Government had not fixed any norm quantifying the number of assessments to be completed by each Assessing Officer during a particular period.

5.1.7 Arrears of revenue

The arrears of revenue as on 31 March 2004 in respect of some principal heads of revenue amounted to Rs.24.68 crore, of which Rs.23.47 crore was outstanding for more than five years as detailed in the table below:

Table 5.9

(Rupees in crore)

Serial number	Head of Revenue	Amount outstanding as on 31 March 2004	Amount outstanding for more than five years as on 31 March 2004
1.	Sales Tax	9.70	9.70
2.	Motor Spirits	2.63	1.98
3.	Electricity Duty	1.80	1.80
4.	Amusement and Betting Tax	1.10	1.10
5.	Passengers and Goods Tax	0.03	0.03
6.	Geology and Mining	7.83	7.83
7.	Forest and Environment	1.59	1.03
	Total	24.68	23.47

Particulars of arrears of revenue as on 31 March 2004 relating to State excise and motor vehicles taxes, though called for (October 2004), have not been received (November 2004).

5.1.8 Results of audit

Test-check of records of sales tax, state excise, motor vehicles tax, other tax receipts, forest receipts and other non-tax receipts conducted during the year

2003-04 revealed under-assessment/short/non-levy/loss of revenue amounting to Rs.382.58 crore in 433 cases. During the course of the year the departments accepted under-assessments, short/non-levy/loss of revenue of Rs.16.97 crore in 78 cases pointed out during 2003-04 and in earlier years, and recovered Rs.0.31 crore. Reply had not been received in respect of the remaining cases.

This chapter contains 29 paragraphs involving Rs.276.79 crore. The departments/Government have accepted 10 cases involving Rs.3.20 crore of which Rs.0.26 crore had been recovered up to November 2004 and six cases involving Rs.22.95 crore had not been accepted. Reply had not been received (November 2004) in other cases.

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

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

IRs issued up to December 2003 pertaining to offices under sales tax, State excise, land revenue, motor vehicles tax, passengers and goods tax, other taxes, forest, geology and mining departments disclosed that 609 observations relating to 168 inspection reports involving money value of Rs.556.84 crore remained outstanding for settlement at the end of June 2004. Of these, 64 inspection reports containing 160 observations involving money value of Rs.13.75 crore had not been settled for more than five years. The year-wise position of old outstanding inspection reports and paragraphs is given in Appendix XXXI.

In respect of 96 observations relating to 29 inspection reports involving money value of Rs.362.30 crore issued up to March 2004, even first reply required to be received from the Department/Government had not been received (November 2004).

Report regarding position of old outstanding IRs/observations was reported to the Government in July and August 2004; their reply had not been received (November 2004).

5.1.10 Departmental Audit Committee Meetings

Two hundred fifty-eight outstanding audit observations relating to 100 old IRs involving money value of Rs.38.55 crore relating to Taxation Department were discussed in the Audit Committee Meeting held in October – December 2003. Of these, 198 paragraphs and 45 IRs involving money value of Rs.27.66 crore were settled. The remaining outstanding cases could not be settled for want of follow up action by the department/Government.

5.1.11 Response of the Departments to Draft Paragraphs

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

Out of 29 audit paragraphs included in this chapter, the Secretaries of the concerned departments did not send replies to 13 paragraphs in compliance to the request (June to August 2004) of Audit (November 2004). As such these paragraphs have been included without the response of the Government.

5.1.12 Follow up on Audit Report – Summarised position

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

Review of outstanding ATNs as of November 2004 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 140 paragraphs of Audit Reports for the years from 1992-93 to 2002-03 in respect of revenue receipts.

Table 5.10

Year of Audit Report	Date of presentation of the Audit Report to the Legislature	Number of paragraphs/ reviews included in the Audit Report		Number of paragraphs/reviews for which <i>suo motu</i> replies are awaited	
		Para-graphs	Reviews	Para-graphs	Reviews
1992-93	16 September 1994	6	...	6	...
1993-94	08 September 1995	8	...	8	...
1994-95	29 September 1996	10	...	4	...
1995-96	07 April 1997	14	2	3	2
1996-97	12 June 1998	21	1	18	1
1997-98	09 April 1999	8	1	1	...
1998-99	12 April 2000	8	1	8	1
1999-2000	07 December 2001	23	2	23	2
2000-01	01 April 2002	20	1	20	1
2001-02	20 June 2003	25	...	11	...
2002-03	11 June 2004	30	1	30	1
Total		173	9	132	8

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

Table 5.11

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

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

PARAGRAPHS

EXCISE DEPARTMENT

5.2 Loss of revenue due to erroneous exemption of excise duty

Erroneous exemption of excise duty on 18,000 cases of spirit imported for use in manufacture of India Made Foreign Liquor led to loss of revenue of Rs.90 lakh.

Under the Meghalaya Excise Act and Rules framed thereunder, excise duty is realisable at the rate of Rs.500 per case of India Made Rectified Spirit (IMRS) and alcohol imported for use in manufacture of India Made Foreign Liquor (IMFL) with effect from June 1999. However, the Government exempted the excise duty on IMRS imported for use in manufacture of IMFL from 14 January 2000.

Test-check of records of the Commissioner of Excise, Shillong revealed that a local manufacturer of IMFL imported 18,000 cases of Extra Natural Alcohol (ENA) between September 2002 and May 2003 for use in manufacture of IMFL. As excise duty on imported IMRS only other than ENA was exempted with effect from 14 January 2000, excise duty on 18,000 cases of imported ENA should have been levied and collected but this was not done. This erroneous exemption resulted in loss of revenue of Rs.90 lakh.

After this was pointed out in audit, the Department while admitting the facts stated between May and September 2004 that the Government was moved for modification of notification dated 14 January 2000 but modification in this regard has not been made by the Government (September 2004).

The case was reported to the Government in September 2003 and August 2004; reply had not been received (November 2004).

5.3 Loss of revenue

Failure of the Department to initiate action for recovery of excise duty on 16,864 cases of IMFL/Beer from two licencees of bond led to loss of revenue of Rs.72.18 lakh.

Under the Assam Bonded Warehouse Rules, 1965 (as adopted by the Government of Meghalaya) the stock of IMFL/Beer in a closed bond shall be taken over by the Commissioner of Excise for recovery of excise duty either from the licensee or by sale through auction. Further, every bond shall be under joint lock and key system, i.e., one key with the licensee and the other with the Excise Officer of the bond. The Superintendent of Excise or the Excise Officer of a bond shall conduct physical verification of stock of IMFL/Beer on the last day of March, June, September and December of each year. In case if any quantity of IMFL/Beer is found short and if the licensee fails to account for such shortage to the satisfaction of the Commissioner of Excise (CE) he shall pay to the Government excise duty on that quantity.

(a) Test-check of records of the CE, Shillong revealed that a Shillong based bond was closed in July 2002 with a stock of 15,952 cases of IMFL/Beer as per the excise register. The Department took over the stock in July 2002 and conducted physical verification in August 2002 when only 3,646 cases of IMFL/Beer were found in stock. No action was initiated to recover the excise duty on the quantity of 12,306 cases of IMFL/Beer found short. Thus, failure of the Department to initiate action as envisaged in the Rules, *ibid*, led to loss of revenue of Rs.66.83 lakh.

(b) Similarly, a Khanapara based bond was closed since 1999. The physical verification of stock was neither conducted nor was the stock taken over immediately after closure of the bond. However, the Excise Officer of the bond verified (November 2001) the stock and reported (January 2002) that 912 cases of IMFL involving excise duty of Rs.5.35 lakh were missing. In August 2002, the Excise Officer submitted another report wherein he contradicted his earlier report by stating that the quantity reported missing in January 2002 was found intact but unfit for human consumption. Based on chemical analysis reports declaring the IMFL unfit, the Department destroyed the entire quantity in October 2002. Thus, failure to verify the stock at regular intervals and delay in taking over the stock of this closed bond led to loss of revenue of Rs.5.35 lakh.

In reply, the Government while admitting facts stated in October 2004 that the proprietor of bond at 'a' was served with notice for payment of dues. In respect of 'b' it was stated that even if timely stock taking as stated by audit was done, sedimentation could not be prevented. The reply is not tenable as

early stock taking would have led to early disposal of the liquor before sedimentation.

5.4 Short-realisation of excise duty

Realisation of excise duty of Rs.1 lakh against Rs.31.75 lakh led to short-realisation of excise duty of Rs.30.75 lakh.

Under Section 35 of the Assam Excise Act, 1910 (as adopted by the Government of Meghalaya) all excise revenue including any loss that may accrue due to default by any person shall be recovered from the person primarily liable to pay the same either by sale of his moveable property or as an arrear of land revenue.

Test-check of records of the Commissioner of Excise (CE), Shillong revealed that the Government of Meghalaya, Excise Department directed (June 1998) the CE, Shillong to realise excise duty of Rs.31.75 lakh within six months from the licence of a Nongpoh based bonded warehouse as he failed to furnish the account of India Made Foreign Liquor imported against permits. But the CE recovered only Rs.1 lakh in March 2000 and the balance amount of Rs.30.75 lakh was not recovered without any recorded reason. Thus, failure to initiate any action as per the provision of the Act *ibid*, resulted in short-realisation of excise duty of Rs.30.75 lakh.

After this was pointed out in September 2003 in audit the CE, Shillong stated (September 2004) that demand notice was served on the proprietor of the bond for payment of dues. The report on recovery has not been received (September 2004).

The case was reported to the Government in September 2003 and August 2004; their reply had not been received (November 2004).

5.5 Loss of revenue due to non-realisation of share of licence fee from owners of country spirit vends under local chiefs

Failure to realise 50 per cent share of licence fee from the owners of 466 country spirit vends under the local chiefs led to loss of revenue of Rs.26.80 lakh.

The Government of Meghalaya, Excise, *etc.* Department through notification (July 1975) appointed the Syiems, Lyngdohs and other local Chiefs as Excise Officers and authorised them to issue licence for manufacture and sale of country spirit within their respective 'elakas' (territories). It was further instructed (July 1975) that 50 per cent licence fee collected from the licences by the Syiems, Lyngdohs and local Chiefs could be retained by them and the balance 50 per cent should be deposited with the Government.

Test-check of records of the Commissioner of Excise, Shillong revealed that 466 manufacturers cum sellers of country spirit were functioning under the jurisdiction of five Syiems, two Lyngdohs and two Sirdars in East Khasi Hills District since April 1997. However, 50 per cent of licence fee payable to Government for the period between April 1997 and March 2004 was neither paid by the aforesaid local Chiefs nor was any action initiated by the Department to realise the same. Thus, failure of the Department to realise 50 per cent licence fee from these local Chiefs led to loss of revenue of Rs.26.80 lakh.

After this was pointed out in September 2003 in audit, the Department while admitting the facts stated in August 2004 that demand notices were served on the local Chiefs to deposit the dues. The report on recovery has not been received (November 2004).

The matter was reported to the Government in September 2003, June and July 2004; reply had not been received (November 2004).

5.6 Loss of revenue due to non-realisation of licence fee

Failure of the Department to realise licence fee before cancellation of three licences led to loss of revenue of Rs.2.27 lakh.

Under the Assam Excise Act, 1910 and Rules framed thereunder (as adopted by the Government of Meghalaya), every licensee dealing in India Made Foreign Liquor (IMFL) shall renew his licence on payment of the prescribed

licence fee in advance. Further, no licensee shall be allowed to function unless the licence is renewed on payment of the prescribed licensee fee in advance.

Test-check of records of the Commissioner of Excise (CE), Shillong revealed that the owner of a bonded warehouse of Shillong renewed licence up to March 2001 on payment of the prescribed licence fee in advance. However, on expiry of the validity period, the owner did not renew the licence but continued to operate. The Department cancelled (July 2002) the licence of the bond without realising the prescribed licence fee. This resulted in a loss of revenue of Rs.1.05 lakh.

Similarly, test-check of records of the Superintendent of Excise, Jowai revealed that two retail vends did not renew their licences for different periods between April 2002 and March 2004 but the Department did not initiate any action to realise the licence fee. Further scrutiny revealed that both the licensees closed down their business and were not traceable. Thus, inaction on the part of the Department resulted in a loss of revenue of Rs.1.22 lakh.

After this was pointed out, the Government stated in October 2004 that licences were cancelled in these cases as the licensees failed to pay the renewal fee. Further, to safeguard the revenue on licence fee Government is contemplating to increase security deposit from Rs.2,000 and Rs.5,000 to Rs.1 lakh and Rs.5 lakh in case of retail and bond licences respectively. The notification in this regard has not been issued.

FOREST AND ENVIRONMENT DEPARTMENT

5.7 Unauthorised lifting of timber

5060.084 cum of timber was unauthorisedly allowed to be lifted by Meghalaya Forest Development Corporation on part payment of Rs.58.75 lakh against full royalty of Rs.1.60 crore.

Under the Meghalaya Forest Regulation, 1973 no forest produce shall be extracted/lifted from forest area unless written permission is granted by the Forest Department and the prescribed royalty is realised in full.

Test-check of records of the Divisional Forest Officer, Tura revealed that the Forest Development Corporation of Meghalaya (FDCM) was allowed to lift

timber of mixed species measuring 5060.084 cum on part payment of royalty of Rs.58.75 lakh against full royalty of Rs.1.60 crore between February 2001 and April 2003. The balance royalty of Rs.1.01 crore was neither paid by the FDCM nor was any action initiated by the Forest Department to realise the same as required under the Forest Act. This led to unauthorised lifting of timber.

The matter was reported to the department and the Government in December 2003 and August 2004; their reply had not been received (November 2004).

5.8 Loss of revenue

Non-inclusion of clause regarding the quantity of *phul-jharu* to be extracted during operation period of *mahal* in the agreement led to loss of revenue of Rs.22.45 lakh.

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

Test-check of records of the Divisional Forest Officer, Tura revealed that the Government of Meghalaya, Forest and Environment Department settled (December 2002) *phul-jharu mahals* of Garo Hills with the Forest Development Corporation of Meghalaya (FDCM) at a lump sum of Rs.0.35 lakh for the working period between July 2002 and June 2003 without including any clause regarding the stipulated quantity of *phul-jharu* to be extracted during the working period of *mahals*. However, the FDCM extracted and sold 7.50 lakh kilograms of *phul-jharu* outside the state from the *mahals*, the royalty value inclusive of export fee of which was Rs.22.88 lakh and paid only Rs.0.43 lakh (lump sum: Rs.0.35 lakh + export fee: Rs.0.08 lakh). Thus, failure to include the quantity clause in the settlement order as required under the rules *ibid*, led to loss of revenue of Rs.22.45 lakh.

The case was reported to the department and the Government in December 2003 and August 2004; their reply had not been received (November 2004).

5.9 Short realisation of royalty due to application of incorrect rate

Incorrect application of rate on 55727.82 cum of stone resulted in short realisation of royalty of Rs.22.29 lakh.

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

Cross check of records of the Executive Engineer (EE), Public Works Department (PWD) (Roads), North Eastern Council (NEC) Division, Jowai disclosed that 55727.82 cum of stone was extracted and utilised by the contractors for execution of works between June 2000 and March 2001. However, the EE deducted royalty of Rs.22.29 lakh at pre-revised rate from the contractors' bills instead of Rs.44.58 lakh at revised rate. The differential royalty was neither collected by the EE, PWD (Roads), NEC Division, Jowai nor was any action initiated by the Divisional Forest Officer, Jowai to recover the same. This resulted in short realisation of royalty of Rs.22.29 lakh.

After this was pointed out in December 2003 in audit the Government stated in November 2004 that the revised rate of royalty could not be deducted at source by the user agency as the old rate of royalty was mentioned in the agreements for recovery from the contractors. Government further stated that Divisional Forest Officers were instructed to recover the differential royalty from the contractors. Report on recovery has not been received (November 2004).

5.10 Unauthorised extraction of forest produce without payment of royalty

Extraction of 6234.82 cum of sand and 10343.79 cum of stone without permit led to non-realisation of royalty of Rs.10.15 lakh.

Under the Meghalaya Forest Regulation (Application and Amendment) Act, 1973 no forest produce shall be extracted/removed from a forest area unless a permit/pass is granted by the Forest Officer on realisation of royalty in full.

Cross check of records of the North Eastern Hill University (NEHU), Shillong revealed that two contractors extracted and utilised 6234.82 cum of sand and 10343.79 cum of stone for construction of NEHU's building during April 2000 to September 2003 without obtaining any permit/pass and without payment of royalty as required under the Act, *ibid*. The royalty on the aforesaid quantity of sand and stone was neither collected by the NEHU authority nor was any action initiated by the Forest Department to realise the royalty from these contractors. This led to un-authorized extraction of forest produce without payment of royalty of Rs.10.15 lakh.

After this was pointed out between January and June 2004, the Government stated in November 2004 that steps were being taken to recover the dues. Report on recovery has not been received (November 2004).

MINING AND GEOLOGY DEPARTMENT

5.11 Short realisation of royalty due to delay in implementation of revised rate of royalty

Delay in implementing the revised rate of royalty from Rs.120 per MT to Rs.165 per MT led to short realisation of royalty of Rs.18.56 crore on 41.23 MT of coal.

Under Section 9 (3) of the Mines and Minerals (Development and Regulations) Act, 1957 the Government of India is empowered to enhance/reduce the royalty on any mineral by issue of notification in the official gazette with effect from such date as may be specified in the notification. This has been upheld by the Hon'ble Apex Court and the Hon'ble Gauhati High Court on numerous occasions ^(a).

^(a) West Khasi Hills Coal Owners and Producers Association Vs Government of Meghalaya (1995) 258/95-40(SH)/95.

State of Madhya Pradesh Vs Mahalaxmi Fabrics Mills Ltd., and others.

The Government of India, Ministry of Coal and Mines enhanced (August 2002) the rate of royalty on run of mine coal from Rs.120 to Rs.165 per Metric Tonne (MT) with effect from 16 August 2002. However, the Government of Meghalaya, Mining and Geology Department notified (May 2003) the applicability of the revised rates of royalty within the state with effect from 2 June 2003.

Test-check of records of the Director of Mineral Resources (DMR), Meghalaya, Shillong disclosed that royalty of Rs.49.47 crore was realised at pre-revised rate of Rs.120 per MT against Rs.68.03 crore at revised rate of Rs.165 per MT for sale of 41.23 lakh MT of run of mine coal during the period 16 August 2002 to 01 June 2003. Thus, inordinate delay on the part of the State Government to implement the revised rate of royalty from 2 June 2003 instead of 16 August 2002 resulted in short-realisation of royalty of Rs.18.56 crore.

After this was pointed out in audit the Government stated in September 2004 that the revised rate of royalty was implemented from 2 June 2003 due to (i) late receipt of Government of India's order of 16 August 2002, (ii) pressure from various trade organisations and (iii) strike of the truck owners. The reply is not tenable as the Government of India's order of 16 August 2002 was received in time by the Government of Meghalaya, Taxation Department from where it was collected belatedly by the DMR Shillong in April 2003. Further, as per the provision of the Act, the Government of India is competent for fixing the rate of royalty whereas State Government is to collect and appropriate the revenue. Wilful deferment of the collection of enhanced rate of royalty adversely affected the revenue, apart from giving undue benefit to the private producer/trader.

5.12 Short/non realisation of royalty/dead rent/interest/penalty

Realisation of dead rent of Rs.1 lakh only against royalty inclusive of cess and dead rent of Rs.51.91 lakh from three lessees led to short/non-realisation of royalty, cess and dead rent of Rs.50.91 lakh besides, non-levy of interest and penalty of Rs.1.18 crore.

Under Section 9-A of the Mines and Minerals (Development and Regulation) Act, 1957, a lessee is liable to pay either the prescribed royalty on any mineral removed/consumed or dead rent in respect of the leased area whichever is greater. Further, Rule 64-A of the Mineral Concession Rules, 1960 provides that in case the dues payable by a lessee are not paid to the State Government within the time specified for such payment, simple interest at the prescribed rate shall be charged on any amount of dues remaining unpaid from the

sixtieth day of the expiry of the date fixed for payment of such dues. In Meghalaya, cess on limestone is payable at Rs.5 per Metric Tonne (MT) with effect from April 1992.

The Government of Meghalaya executed three mining lease agreements with lessees 'A' 'B' and 'C' on 23 December 1988, 17 January 1986 and 27 November 1990 respectively for extraction of limestone from Tohsniang/Latyrke, Darrang Era Aning and Siju Damukgittim comprising areas of 11.83, 86 and 384 hectares of land respectively. The terms and conditions of these agreements stipulated that the lessees should pay either royalty on mineral removed/consumed or dead rent in respect of the leased areas whichever is greater within July and January for every half year ending June and December each year. Further, in the event of failure to pay the dues despite notices, the lessees should be liable to pay penalty not exceeding twice the amount of dues remaining unpaid.

(a) Cross check of records of the Registrar of Companies, Shillong with those of the Director of Mineral Resources (DMR), Shillong disclosed that the lessee 'A' extracted 1.24 lakh MT of limestone involving royalty of Rs.39.36 lakh for manufacture of cement between April 1998 and March 2002 and paid dead rent of Rs.0.10 lakh only. As the royalty (Rs.39.36 lakh) in this case was greater than the dead rent (Rs.0.10 lakh), the lessee was liable to pay royalty including cess and not dead rent. Thus, realisation of dead rent instead of royalty resulted in short/non-realisation of royalty of Rs.45.46 lakh inclusive of cess. Besides, for non-payment of balance royalty (Rs.39.26 lakh) interest of Rs.12.84 lakh and maximum penalty of Rs.90.92 lakh was leviable but not levied.

(b) Further, the remaining two lessees 'B' and 'C' did not extract limestone from the leased areas. As such, these lessees were liable to pay dead rent of Rs.6.35 lakh for the period from April 1998 to December 2002 against Rs.0.90 lakh paid belatedly. The balance dead rent of Rs.5.45 lakh was not paid by these lessees and no action was initiated by the Department to realise the dues till the date of audit (April 2003). Thus, for belated and non-payment of balance dead rent, interest of Rs.3.22 lakh and maximum penalty of Rs.10.90 lakh was realisable but not realised.

The cases were reported to the Department and the Government in June 2003 and July 2004; reply had not been received (November 2004).

5.13 Non/Short realisation of royalty and penalty

Non/short realisation of royalty inclusive of penalty of Rs.1.51 crore on 1.21 lakh MT of excess coal despatched through four mineral check gates.

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 prescribed rates should be collected at the Mineral check gates in addition to the royalty on the quantity of coal on which advance royalty was not paid.

(a) Test-check of records of three Mineral check gates^(c) functioning under the Director of Mineral Resources, Meghalaya, Shillong disclosed that 23.36 lakh Metric Tonne (MT) of coal was despatched outside the State on payment of prescribed royalty and penalty on different dates between October 2000 and February 2003. However, records of the Taxation check gates functioning under the Commissioner of Taxes and located at the same exit points revealed that 24.31 lakh MT of coal was actually despatched outside the State on payment of prescribed security (advance tax) during the aforesaid period. Thus, despatch of excess quantity of 0.95 lakh MT of coal outside the State escaped the notice of the authorities of Mineral check gates resulting in short realisation of royalty including penalty of Rs.1.43 crore.

(b) Test-check of records in Dainadubi Mineral Check Gate under the DMO, Williamnagar revealed that 9075 trucks after depositing Rs.1.63 crore as advance royalty to transport 1.36 lakh MT of coal, actually transported 1.62 lakh MT of coal during April and May 2001. The balance royalty of Rs.31.54 lakh on 0.26 lakh MT of coal was collected at the check gate during the aforesaid period. But penalty of Rs.7.88 lakh for non-payment of advance royalty though leviable in terms of the notification *ibid*, was not levied.

The cases were reported to the Department/Government in June, September and December 2003 and July 2004; reply had not been received (November 2004).

^(c) Byrnihat, Mookyndur and Umkiang.

5.14 Unauthorised extraction of limestone without payment of royalty and cess

Failure of the Department to detect unauthorised extraction of 2.59 lakh MT of limestone by seven firms led to non-realisation of royalty of Rs.1.05 crore including cess, besides, penalty of Rs.1.75 lakh.

Sections 4(1) and 4(1-A) of the Mines and Mineral (Development and Regulation) Act, 1957 provides that no person shall undertake any mining operation in any area or transport or store any mineral unless a prospecting licence or lease is granted by the State Government. Further, the Government of Meghalaya, Mining and Geology Department notified (May 1997 and September 2000) that royalty on limestone shall be paid at Rs.32 and Rs.40 per Metric Tonne (MT) with effect from 11 April 1997 and 12 September 2000 respectively. Besides, cess at Rs.5 per MT was also leviable from 1 April 1992. Further, under Section 21(1) of the Act, whoever violates the provision of Section 4(1) or 4(1-A) shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs.25,000 or with both.

Cross check of records of the Hindustan Paper Corporation, Panchgram and Jagiroad (Assam) and the Registrar of Companies, Shillong disclosed that six firms extracted and supplied 1.59 lakh MT of Meghalaya lime to this Corporation. Another Garo Hills based firm extracted and utilised one lakh MT of limestone for manufacture of cement in his factory for the period from April 1997 to March 2002. But as per the records of the Director of Mineral Resources, Meghalaya, Shillong no prospecting licence or lease was granted to any of these seven firms for extraction/sale/use of limestone from any area of the State and no action was initiated by the Department to realise royalty and cess for such unauthorised extraction of limestone (2.59 lakh MT). This resulted in unauthorised extraction of limestone without payment of royalty and cess of Rs.1.05 crore. Besides, maximum penalty of Rs.1.75 lakh was to be levied but not levied.

The matter was reported to the department and the Government in June 2003 and August 2004; their reply had not been received (November 2004).

5.15 Short deposit of revenue

Unauthorised adjustment of Government dues towards Bank charges led to short deposit of revenue of Rs.2.67 lakh.

Under the Meghalaya Finance Rules, Government revenue shall be directly deposited into the Consolidated Fund (CF) of the State through treasury *challan* either by the Government Officer who receives such dues or by the person who tenders such dues. Further, the Constitution of India provides that no money out of the Consolidated Fund of the State shall be appropriated except in accordance with the law enshrined in the Constitution.

Test-check of records of Mineral Check Gates, Dawki and Umkiang under the Divisional Mining Officer, Jowai revealed that a total revenue of Rs.14.14 crore collected at these check gates was deposited into the State Bank of India (SBI) branches there during April 2001 to March 2003 instead of depositing directly into the CF of the State as required under the Rules *ibid.* Subsequently, Rs.14.11 crore was credited into the CF of the State through 275 treasury *challans* by withdrawing the entire amount of Rs.14.14 crore from the Bank through 275 demand drafts during the aforesaid period. The differential revenue of Rs.2.67 lakh was adjusted by the Bank towards service charges for these drafts without any authority. This had not only resulted in unauthorised adjustment of Government revenue but also led to short deposit of revenue of Rs.2.67 lakh.

After this was pointed out in February 2004 the Government stated in March 2004 that current account was opened in SBI with the concurrence of Finance Department for depositing the revenue. The reply is not tenable as the procedure is violative of the Meghalaya Financial Rules.

TAXATION DEPARTMENT

5.16 Non-levy of interest

Interest of Rs.7.01 crore due from five dealers could not be recovered due to non-inclusion of up-to-date interest in the requisition sent to the Bakijai Officer.

Under Section 36(3) of the Meghalaya Sales Tax Act, where a dealer is in default, the amount due shall be recoverable as an arrear of land revenue. The

Act further provides that where an order is passed under the provision of the Act *ibid* in respect of any dues, any interest related to the same dues up to the date of such order and any further interest accruing after such date shall also be recovered in the course of proceedings initiated in accordance with the provision of the Act *ibid* in respect of the said dues.

Test-check of records of the Superintendent of Taxes, Purchase Tax Circle, Shillong disclosed that an amount of Rs.4.25 crore in respect of five dealers pertaining to the period from April 1994 to March 1997 was included in the requisitions sent (between February 2002 and November 2002) to the Bakijai Officer (BO) to recover the amount as an arrear of land revenue without incorporating their up-to-date interest leviable thereon up to the date(s) of referring the cases to the BO. The interest of Rs.7.01 crore leviable in these cases became irrecoverable due to non-inclusion of the amount in the requisitions sent by the assessing officer.

After this was pointed out between March and August 2004 the Government stated in November 2004 that the matter was under examination. Further reply has not been received (November 2004).

5.17 Short realisation of additional security

Failure of the officers in-charge of the Taxation check gates to detect actual quantity of coal carried in excess of 15 MT per truck led to short realisation of additional security (advance tax) of Rs.3.80 crore.

In Meghalaya, security (advance tax) for sale of coal in course of inter-State trade or commerce is fixed (February 1999) at Rs.1,200 per truck carrying 15 Metric Tonnes (MT) of coal. Further, the Commissioner of Taxes Meghalaya, Shillong notified (September 2000) that coal traders carrying coal in excess of 15 MT per truck in course of inter – State trade or commerce shall pay at the check gate additional security (advance tax) on the excess quantity at the rate of Rs.80 per MT with effect from 1 October 2000.

Test-check of records of three Taxation check gates* under the Superintendents of Taxes, Byrnihat, Williamnagar and Jowai revealed that advance tax on 3.38 lakh MT of coal carried in excess of the permissible limit of 15 MT of coal per truck, was realised in these check gates during different periods between October 2000 and March 2003. However, as seen from the records of Mineral check gates functioning in the same locations under the Director of Mineral Resources for collection of coal royalty, 2,18,073 trucks carried 8.13 lakh MT of coal in excess of the permissible limit of 15 MT of

* Byrnihat, Dainadubi and Umkiang.

coal per truck during the same period. Thus, failure of the authorities of these Taxation check gates to detect the differential quantity of 4.75 lakh MT of excess coal transported in these trucks resulted in short-realisation of advance tax of Rs.3.80 crore.

The Taxation and Mining and Geology Departments did not prescribe any procedure to reconcile the information available with one another in the best interest of the State.

After this was pointed out between September and December 2003 the Government stated *inter alia* (September 2004) that huge quantity of coal crossed the Taxation check gates in course of export outside the country where no tax was leviable. The reply is not tenable as the coal exported outside the country is not included in these cases as contended.

5.18 Concealment of turnover

Thirteen registered dealers concealed turnover of Rs.6.41 crore and evaded tax of Rs.75.44 lakh besides maximum penalty of Rs.1.13 crore.

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

(a) Cross check of records of the Director of Mineral Resources, Shillong and the Superintendent of Taxes, Jhalukbari, Assam with those of the Superintendent of Taxes, Circle-5, Shillong disclosed that two dealers sold coal valued at Rs.8.82 crore in course of inter-State trade or commerce between April 1999 and March 2002. The dealers disclosed turnover of only Rs.4.59 crore and were assessed accordingly on different dates between October 1999 and June 2002. They had concealed turnover of Rs.4.23 crore and evaded tax of Rs.33.82 lakh. Further, maximum penalty of Rs.50.73 lakh leviable for such wilful concealment of turnover had not been levied.

(b) Similarly, cross check of records of the Industries Department, Meghalaya, Shillong, the Taxation Check Gate, Umkiang and the Hindustan Paper Mills, Jagiroad and Panchgram, Assam with those of the Purchase Tax Circle, Shillong revealed (December 2002 and January 2004) that four dealers

sold taxable goods valued at Rs.8.79 crore in course of inter-State trade during different periods between April 1994 and March 2001 but disclosed turnover of only Rs.7.83 crore and were assessed (between September 2000 and September 2003) accordingly. Thus, the dealers concealed turnover of Rs.96.42 lakh and evaded tax of Rs.29.38 lakh. Further, maximum penalty of Rs.44.07 lakh leviable for deliberate concealment of turnover had not been levied.

(c) Further cross check of records of the Taxation Check Gate, Byrnihat with those of the Superintendent of Taxes, Byrnihat disclosed that seven dealers sold bamboo and sand valued at Rs.1.76 crore^(a) in course of inter-State trade between October 1999 and September 2002 but disclosed turnover of only Rs.54.09 lakh on which assessment was made. Thus, the dealers concealed turnover of Rs.1.22 crore and evaded tax of Rs.12.24 lakh. Besides, maximum penalty of Rs.18.36 lakh for deliberate concealment of turnover was leviable but not levied.

After these were pointed out in audit, the Government stated between August and September 2004 that two dealers at para ‘a’ were asked to produce their books of accounts for assessment and out of four dealers at para ‘b’, two were re-assessed while the other two dealers sought for extension of time for assessment. In case of para ‘c’ it was stated in September 2004 that all the dealers were re-assessed. The report on recovery in these cases had not been received (November 2004).

5.19 Loss of revenue

Non-completion of assessment in respect of a registered dealer on best judgement basis led to loss of revenue of Rs.57.52 lakh.

Under the Meghalaya Sales tax Act, every registered dealer is required to file a prescribed return along with payment of admitted tax as per return through treasury *challan* within a month of the close of each quarter. If the dealer fails to file such return along with payment of tax despite notice, the assessing officer shall assess the dealer on best judgement basis and determine the tax payable by him. This provision of the State Act, applies *mutatis mutandis* in case of assessment/reassessment under the Central Sales Tax Act, 1956.

^(a) No. of dealers	Name of goods sold	Quantity of goods sold	Value of goods sold (Rupees in lakh)
2	Bamboo	3000 trucks	89.46
5	Sand	19336 trucks (96680 cum)	87.01
Total	7		176.47

Cross check of records of the Hindustan Paper Corporation, Jagiroad and Panchgram (Assam) and Taxation Check Gate, Umkiang disclosed that a registered dealer under the jurisdiction of the Superintendent of Taxes, Purchase Tax Circle, Shillong sold 13361.38 MT of lime valued at Rs.2.63 crore in course of inter-State trade between April 1999 and October 2002. But the dealer filed return showing turnover of Rs.32.95 lakh for the period between April 1999 and March 2000 and was assessed accordingly in October 2001. Thereafter, the dealer neither filed any return along with payment of tax nor was any action initiated by the assessing officer to assess the dealer on best judgement basis. In the meantime, the dealer closed his business since October 2002. Thus, inaction on the part of the assessing officer to assess the dealer on best judgement basis resulted in loss of revenue of Rs.57.52 lakh on the differential turnover of Rs.2.30 crore.

After this was pointed out between March and July 2004 in audit the Government stated in September 2004 that the dealer had sought for extension of time to produce his books of accounts for completion of assessments. The report on assessments and recovery of dues had not been received (November 2004).

5.20 Evasion of tax by unregistered coal dealers

The department allowed inter-State trade to four unregistered coal dealers which led to evasion of tax of Rs.48.16 lakh.

Under the Central Sales Tax Act, 1956, no dealer shall carry on business in course of inter-State trade or commerce unless he is registered and possesses a certificate of registration. Further, on inter-State sale of goods to registered dealers, tax is leviable at a concessional rate of 4 *per cent*, if such sales are supported by valid declarations in Form 'C'. On inter-State sale of declared goods that are not covered by valid declaration in Form 'C' tax is leviable at twice the rate applicable to the sale of such goods inside the appropriate State. In Meghalaya, coal is taxable at the rate of 4 *per cent* at the point of first sale within the State.

Test-check of records of the Superintendent of Taxes, Jowai revealed that four unregistered dealers were allowed to transport and sell 57,195 MT of coal valued at Rs.6.02 crore in course of inter-State trade or commerce between November 1999 and March 2003. Thus, failure of the assessing officer to get

the dealers registered and irregularly allowing them to transport and sale taxable goods resulted in evasion of tax of Rs.48.16 lakh.

After this was pointed out in March 2004 in audit the Government stated in September 2004 that these dealers were subsequently registered and not liable to pay tax as they were exporters. The reply is not tenable as no evidence in support of export of coal outside the territory of India was submitted by any of these dealers as contended.

5.21 Loss of revenue due to non-finalisation of assessment

Delay in completion of assessment in respect of nine registered dealers led to loss of revenue of Rs.29.57 lakh.

Under Section 16 of the Meghalaya Sales Tax Act and Rules framed thereunder, every registered dealer is required to file a prescribed return along with payment of admitted tax through treasury *challan* as per return within 30 days of the close of each six monthly period. If the dealer fails to file such return along with payment of admitted tax despite notice, the assessing officer shall assess the dealer on best judgement basis and determine the tax payable by him. The provision of the State Act applies *mutatis mutandis* in case of assessment/reassessment under the Central Sales Tax Act, 1956.

(a) Cross verification of records of the Umkiang Taxation Check Gate and the Director of Mineral Resources, Shillong disclosed that three registered dealers under the jurisdiction of the Purchase Tax Circle Shillong sold 4,740 tonnes of processed lime valued at Rs.93.62 lakh involving tax effect of Rs.23.41 lakh in course of inter-State trade or commerce during different periods between April 1999 and March 2000. But these dealers neither filed any return along with payment of admitted tax nor were they assessed by the assessing officer on best judgement basis to realise the tax as required under the Act *ibid*. Further test-check disclosed that these dealers had closed down their businesses since April 2000. Thus, failure to assess these dealers on best judgement basis in time resulted in loss of revenue of Rs.23.41 lakh.

(b) Similarly, cross check of records of the Divisional Forest Officer, Tura disclosed that six registered dealers under the jurisdiction of the Superintendent of Taxes, Williamnagar sold 487.442 cum timber, 1.23 lakh Kgs broom stick and 1.16 lakh bamboos involving royalty value of Rs.21.70 lakh with tax effect of Rs.6.16 lakh in course of inter-State trade or commerce between October 1998 and April 2002. But these dealers neither filed any return along with payment of admitted tax nor was any action initiated by the assessing officer to assess these dealers on best judgement basis to realise the

tax as required under the Act. Thus, failure to assess these dealers on best judgement basis led to loss of revenue of Rs.6.16 lakh.

After these were pointed out between February and December 2003 in audit the Government stated in September 2004 that out of three dealers at 'a' two were assessed accordingly and tax of Rs.0.16 lakh was recovered (December 2003) and notice was served on the other dealer for filing return. In case of 'b' it was stated that two dealers were assessed and tax of Rs.0.06 lakh was recovered and efforts were being made to assess four dealers in co-ordination with Forest Department. The report on recovery of balance dues had not been received (November 2004).

5.22 Evasion of tax

Disclosure of less turnover resulted in evasion of tax of Rs.9.48 lakh besides, interest of Rs.7.88 lakh and penalty of Rs.14.22 lakh.

Under the Meghalaya Finance (Sales Tax) Act, if upon information which has come to his possession, the Commissioner of Taxes is satisfied that the sale of any taxable goods has escaped assessment in any period or has been under-assessed, he may at anytime, within eight years of the end of the aforesaid period, serve on the dealer a notice and may proceed to re-assess the dealer accordingly. If the Commissioner of Taxes, in course of any proceeding is satisfied that a dealer has evaded in any way the liability to pay tax, he may direct that such dealer shall pay penalty, in addition to the tax, a sum not exceeding one and a half times of the tax due. Further, if any dealer fails to pay the full amount of tax by the due date he shall be liable to pay interest at the prescribed rates for the period of default on the amount by which tax paid falls short.

(a) Cross check of records of the Taxation Check Gate, Umkiang and the Registrar of Companies, Shillong with those of the Superintendents of Taxes, Circles 3 and 6, Shillong revealed that two registered dealers imported and sold liquified petroleum gas and appliances valued at Rs.3.24 crore between April 1998 and March 2001. However, the dealers disclosed turnover of only Rs.2.31 crore and were assessed between June 2000 and February 2002 accordingly. The dealers thus, evaded tax of Rs.7.44 lakh on the concealed turnover of Rs.93 lakh. Further, maximum penalty of Rs.11.16 lakh for such evasion of tax and interest of Rs.5.59 lakh was leviable but not levied.

(b) Similarly, test-check of records of the Superintendent of Taxes, Circle – 6, Shillong revealed that a registered dealer disclosed turnover of Rs.6.89 crore in his returns during April 1996 to March 1999 and was assessed (May 2001) accordingly. However, scrutiny of assessment records revealed that the dealer actually sold safety matches valued at Rs.7.18 crore^(a) during the aforesaid period. This resulted in concealment of turnover of Rs.29 lakh having tax effect of Rs.2.04 lakh. Besides, maximum penalty of Rs.3.06 lakh and interest of Rs.2.29 lakh was leviable but not levied.

After these were pointed out in April 2003, the Government stated in September 2004 that both the dealers at ‘a’ were assessed and dues recovered accordingly. In respect of ‘b’ it was stated (September 2004) that the dealer was assessed and dues of Rs.1.31 lakh was recovered. The report on recovery of balance dues of Rs.6.08 lakh in case of ‘b’ had not been received (November 2004).

5.23 Evasion of tax by unregistered dealers

Failure of the department to register nine dealers led to evasion of tax of Rs.17.38 lakh.

Under the Central Sales Tax Act, 1956, no dealer shall carry on business in course of inter-State trade or commerce unless he is registered and possesses a certificate of registration. Further, on inter-State sale of goods other than declared goods, tax is leviable at the rate of 10 *per cent* or at the rate applicable to sale or purchase of such goods inside the State whichever is higher. In Meghalaya, lime and stone/boulder are taxable at the rate of 25 and 8 *per cent* respectively within the State.

Cross check of records of the Hindustan Paper Corporation Ltd. (HPC), Panchgram (Assam) and the Divisional Forest Officer (DFO), Jowai (Meghalaya) with those of the Superintendent of Taxes, Jowai revealed that an unregistered dealer sold 3,382 MT of processed lime and another eight unregistered dealers sold 8,100 cum of stone/boulder valued at Rs.65.96 lakh and Rs.8.91 lakh respectively in course of inter-State trade between April 1999 and July 2003. Thus, failure of the assessing officer to get the dealers registered and irregularly allowing them to despatch taxable goods resulted in evasion of tax of Rs.17.38 lakh.

^(a) **Opening stock + Stock received – Free sale – Damaged/gutted by fire – Closing stock = Sale**
Rs.0.35 lakh + Rs.7.99 crore - Rs.63.96 lakh - Rs.12.05 lakh - Rs.5.17 lakh = Rs.7.18 crore

After this was pointed out in audit in May 2004, the Government stated in November 2004 that efforts were being made to trace out eight dealers of stone/boulder for registration and payment of dues. Further, in respect of dealer of processed lime, the Government stated that there was no registered dealer named M/s HPC, Panchgram, Assam. The reply in this case is not tenable as the objection is against a Lad-Rymbai (Meghalaya) based unregistered dealer and not against the HPC, Panchgram, Assam as contended. The reason for not registering the dealer of lime and the report on registration and recovery of dues from the other eight dealers of stone/boulder have not been received (November 2004).

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

Application of incorrect rate of 4 per cent instead of 8 per cent on the inter-State sales turnover of Rs.3.47 crore led to under-assessment of tax of Rs.13.89 lakh.

Under the Central Sales Tax Act, 1956 every registered dealer who in the course of inter-State trade sells declared goods to a registered dealer, shall pay tax at a concessional rate of 4 per cent if the purchasing dealer furnishes a declaration in Form 'C' or 'D'. Otherwise, tax shall be leviable at twice the rate applicable to sale of declared goods inside the State.

Test-check of records of the Superintendent of Taxes, Jowai revealed that a registered dealer made inter-State sale of coal (declared goods) valued at Rs.3.47 crore supported by declaration forms to two registered dealers during April to September 2002. However, scrutiny of 'C' Forms of the purchasing dealers revealed that these dealers were registered in February and July 2003 respectively. Thus, the declaration forms submitted were invalid and tax should have been levied at the rate of 8 per cent instead of 4 per cent. This resulted in under assessment of tax of Rs.13.89 lakh.

After this was pointed out in March 2004 in audit, the Government stated in September 2004 that the case was under re-assessment. The report on assessment and recovery of dues had not been received (November 2004).

5.25 Incorrect deduction

Incorrect deduction of taxable turnover of Rs.0.46 crore resulted in short levy of tax of Rs.3.64 lakh.

Schedule – II of Meghalaya Sales Tax Act, stipulates that sales turnover of food or other articles or any drink whether or not intoxicating, served for consumption in any eating house, restaurant or hotel is taxable at the rate of 8 *per cent*.

Test-check of records of the Superintendent of Taxes (Circle – 2) Shillong revealed that two registered hoteliers disclosed sales turnover of cooked food and India Made Foreign Liquor (IMFL) valued at Rs.0.72 crore for different periods between April 2000 and March 2002 and claimed deduction of Rs.0.46 crore being non-taxable sales of IMFL. The assessing officer also assessed (between April 2000 and November 2002) these hoteliers accordingly. However, the deduction claimed in these cases was not admissible as the turnover of IMFL was not exempted from tax. This incorrect deduction resulted in short levy of tax of Rs.3.64 lakh.

After this was pointed out in audit in April 2003 the Government stated in September 2004 that two hoteliers of IMFL were allowed deduction for sale of IMFL in their hotels as per order No. 1 of 1998 passed by the Meghalaya Board of Revenue (MBR) in the appeal case of M/s Eeecee Enterprise vrs. Commissioner of Taxes, Shillong. The reply is not tenable as the MBR's order *ibid*, relates to sale of IMFL in hotel during October 1991 to March 1992 when IMFL was exempted from tax. But the IMFL was again brought under tax net vide Government notification of December 1999. Hence both the cases are not identical and no deduction for sale of IMFL in these hotels is admissible as contended.

5.26 Non-levy of penalty for mis-use of 'C' forms

Purchase of unspecified goods at concessional rate from outside the State by a registered dealers led to non-levy of penalty of Rs.3.89 lakh.

Under Section 8 of the Central Sales Tax Act, 1956, inter-State sale of goods are taxable at a concessional rate of four *per cent* if the purchaser furnishes to the seller a declaration in Form 'C' certifying that the goods are of the classes specified in his certificate of registration. When a dealer purchases goods not specified in his certificate of registration but claims the concessional rate, he is

deemed to have falsely represented that goods are specified in his certificate of registration. Such a violation attracts imposition of penalty not exceeding one and a half times of the tax due in lieu of prosecution.

Test-check of records of the Superintendent of Taxes (Circle 2) Shillong disclosed that a registered dealer purchased *Khukri* valued at Rs.43.20 lakh on different dates between October 1999 and April 2001 from dealers in Uttar Pradesh at concessional rate through 'C' forms even though these items were not specified in his certificate of registration. For such mis-use of 'C' Forms, maximum penalty of Rs.3.89 lakh was leviable but was not levied.

After this was pointed out in audit in April 2003 the Government while admitting the facts stated in August 2004 that due to ignorance the dealer did not get his registration certificate amended in time for inclusion of '*Khukri*' which was subsequently included by amending his certificate of registration. The reply is not tenable as date of application for amendment is to be taken as date of effectiveness of the amendment as held judicially*.

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

Application of incorrect rate of 10 per cent against 12 per cent on the inter-State sales turnover of Rs.1.56 crore of two dealers led to under-assessment of tax of Rs.3.12 lakh.

Under the Central Sales Tax Act, 1956, sale of goods in course of inter-State trade or commerce is taxable at the rate of 4 per cent if such sale is supported by declaration in Form 'C'. Otherwise such sale is 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, cement and plastic goods are taxable at 12 per cent inside the State.

Test-check of records of the Superintendent of Taxes, Byrnihat disclosed that two dealers sold plastic goods and cement valued at Rs.1.56 crore in course of inter-State trade or commerce, not supported by declaration in Form 'C' during September 1995 to September 2002. Hence 12 per cent tax amounting to Rs.18.75 lakh was to be levied. However, the assessing officer levied (January and February 2003) tax at 10 per cent only amounting to of Rs.15.63 lakh for the aforesaid sale. This resulted in under-assessment of tax of Rs.3.12 lakh as tabulated below:

* Orient Paper Mills Ltd. Vs. CST(1959) 23 STC 308 MP.

Table 5.12

(Rupees in lakh)

Name of dealer	Period of sale	Name of goods sold not supported by declaration in Form 'C'	Value	Tax leviable	Tax levied	Tax under assessed
A	1 January 2000 to 31 March 2002	Plastic goods	28.07	3.37	2.81	0.56
B	1 April 1995 to 30 September 2002	Cement	128.17	15.38	12.82	2.56
Total			156.24	18.75	15.63	3.12

After this was pointed out in August 2003 in audit, the Government stated in September 2004 that both the dealers were assessed to tax accordingly. The report on recovery had not been received (November 2004).

TRANSPORT DEPARTMENT

5.28 Non-levy of fine on trucks carrying excess load of coal

Failure of the Enforcement Wing to detect offence committed by 2,48,184 commercial trucks carrying excess load beyond maximum permissible limit led to non-levy of fine of Rs.234.97 crore.

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

Cross check of the records of the Commissioner of Transport, Meghalaya, Shillong with those of the Directorate of Mineral Resources Check gates* revealed that 2,48,184 commercial trucks carried 43,35,327 MT of coal against the maximum permissible limit of 24,81,840 MT for different periods between April 1999 and February 2003. But the excess load of 18,53,487 MT carried by these trucks beyond the maximum permissible limit escaped the

* Mookyndur, Umkiang, Dainadubi and Gasuapara.

notice of the enforcement wing of the Transport Department, Meghalaya, resulting in non-realisation of fine of Rs.234.97 crore leviable in these cases.

The cases were reported to the department/Government in July 2003 and August 2004; reply had not been received (November 2004).

5.29 Short realisation of composite tax

Realisation of composite tax of Rs.3.30 lakh against Rs.40.32 lakh from 84 Tourist Permit holders of neighbouring States led to short realisation of composite fee of Rs.37.02 lakh.

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

Test-check of records of the STA, Meghalaya, Shillong revealed that in 84 cases CT of Rs.3.30 lakh was realised and remitted to STA, Shillong instead of Rs.40.32 lakh by the STA's of Assam, Arunachal Pradesh and Nagaland on vehicles plying under tourist permits in the State of Meghalaya during the different periods between April 2001 and 31 March 2003. The matter was not taken up by the STA, Shillong with his counterparts of the three States. Instead the vehicles were allowed to ply in the State. This resulted in short realisation of CT of Rs.37.02 lakh.

The matter was reported to the department/Government in May 2003 and August 2004; reply had not been received (November 2004).

5.30 Loss of revenue

Non-accountal and non-deposit of sale proceed of 564 tickets for Helicopter Services resulted in loss of revenue of Rs.4.09 lakh.

The Government of Meghalaya (Transport Department) introduced Helicopter Services of M/s Pawan Hans Helicopters Limited (PHHL) to operate between

Shillong, Guwahati and Tura and appointed the Meghalaya State Transport Corporation (MTC), Shillong as an agent for operating the Helicopter Services including selling of tickets and other ancillary works on the basis of commission payable at the rate of 9 *per cent* of sale proceeds of tickets. To monitor day to day running of Helicopter services, the MTC was required to submit fortnightly reports showing the details of number of flights operated, total flying hours, number of tickets sold, amount collected, *etc.*

A cross verification of records of the Commissioner of Transport, Meghalaya, Shillong and the fortnightly reports submitted by the MTC, Shillong on Helicopter services with the daily flight manifests of PHHL revealed that as per MTC's fortnightly reports 4,062 passengers had travelled during the period from April 2001 to March 2003 whereas as per the flight manifests of the PHHL 4,626 passengers had actually travelled resulting in a discrepancy of 564 passengers. Thus, 564 tickets were not accounted for by the MTC authorities though the flight manifests were available with them. This had led to loss of revenue of Rs.4.09 lakh calculated at the minimum approved fare of Rs.725 per passenger.

The matter was reported to the department/Government in July 2003 and August 2004; reply had not been received (November 2004).