

CHAPTER – VI

REVENUE RECEIPTS

GENERAL

6.1 Trend of revenue receipts

The tax and non tax revenue raised by the Government of Mizoram during the year 2005-06, the State's share of divisible Union taxes and grants in aid received from Government of India during the year and the corresponding figures for the preceding four years are given below:

Table: 6.1

(Rupees in crore)

Particulars of revenue receipts	2001-02	2002-03	2003-04	2004-05	2005-06
I. Revenue raised by the State Government					
Tax revenue	19.12	27.96	33.85	39.55	55.05
Non tax revenue	44.87	52.63	58.01	75.60	120.09
Total:	63.99	80.59	91.86	115.15	175.14
II. Receipt from the Government of India					
State's share of divisible Union taxes	43.73	94.60	130.33	155.79	225.83
Grants in aid	760.07	846.42	1,148.76	1,230.92	1,252.68
Total:	803.80	941.02	1,279.09	1,386.71	1,478.51
III. Total receipt of the State	867.79	1,021.61	1,370.95	1,501.86	1,653.65
IV. Percentage of I to III	7.37	7.89	6.70	7.66	10.59

6.1.1 The details of tax revenue raised during the year 2005-06 alongwith the figures for the preceding four years are given below:

Table: 6.2

Sl. No.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase(+) or decrease (-) in 2005-06 over 2004-05
		(Rupees in crore)					
1	2	3	4	5	6	7	8
1.	Sales tax	9.85	18.20	23.32	28.08	41.59	(+) 48
2.	State excise	1.36	1.29	1.36	1.40	1.46	(+) 4
3.	Stamps and registration fee	0.08	0.08	0.13	0.10	0.17	(+) 70
4.	Taxes on vehicles	2.10	2.56	3.38	3.80	4.35	(+) 14
5.	Taxes on goods and passengers	0.53	0.57	0.61	0.69	0.99	(+) 43
6.	Other taxes on income and expenditure, tax on professions, trades, callings and employment	3.62	3.96	4.08	4.37	4.53	(+) 4
7.	Other taxes and duties on commodities and services	0.34	0.33	0.25	0.25	0.37	(+) 48
8.	Land revenue	1.24	0.97	0.72	0.86	1.59	(+) 85
	Total	19.12	27.96	33.85	39.55	55.05	

The reasons for variation though called for have not been furnished (November 2006).

6.1.2 The details of major non tax revenue raised during the year 2005-06 alongwith the figures for the preceding five years are given below :

Table: 6.3

Sl. No.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase(+) or decrease (-) in 2005-06 over 2004-05
		(Rupees in crore)					
1.	Interest receipts	1.45	2.44	3.27	3.66	6.94	(+) 90
2.	Other non tax receipts	10.14	10.31	12.55	11.52	15.42	(+) 34
3.	Forestry and wild life	1.63	3.80	3.16	2.74	4.15	(+) 51
4.	Miscellaneous general services (including lottery receipts)	5.00	7.01	6.27	9.03	6.45	(-) 29
5.	Power	23.04	18.21	26.14	40.81	81.80	(+) 100
6.	Medical and public health	0.39	0.40	0.33	0.46	0.47	(+) 2
7.	Co-operation	0.02	0.81	0.16	2.01	0.67	(-) 67
8.	Public works	0.50	2.04	3.68	2.90	1.04	(-) 64
9.	Police	0.26	0.39	0.28	0.22	0.38	(+) 73
10.	Other administrative services	2.44	7.22	2.17	2.25	2.77	(+) 23
Total		44.87	52.63	58.01	75.60	120.09	

Reasons for variations though called for have not been furnished (November 2006).

6.2 Variations between budget estimates and actuals

The variations between budget estimates and actuals of revenue receipts for the year 2005-06 in respect of principal heads of tax and non tax revenue are given below:

Table: 6.4

Sl. No.	Head of revenue	Budget estimates	Actuals	Variations excess (+) shortfall (-)	Percentage of variation
		(Rupees in crore)			
Tax revenue :					
1.	Sales tax	25.00	41.59	(+)16.59	(+)66
2.	State excise	1.36	1.46	(+) 0.10	(+)7
3.	Taxes on vehicles	3.25	4.35	(+) 1.10	(+) 34
4.	Taxes on goods and passengers	0.65	0.99	(+) 0.34	(+) 52
5.	Other taxes & duties on commodities and services	0.30	0.37	(+) 0.07	(+) 23
6.	Land revenue	0.85	1.59	(+) 0.74	(+) 87
Non tax revenue :					
1.	Interest receipts	2.00	6.94	(+) 4.94	(+) 247
2.	Forestry and wild life	2.60	4.15	(+) 1.55	(+) 60
3.	Medical and public health	0.40	0.47	(+) 0.07	(+)17
4.	Co-operation	0.02	0.67	(+) 0.65	(+) 3250
5.	Public works	2.00	1.04	(-) 0.96	(-) 48

Increase under serial no. 1, 2 and 6 was stated to be due to introduction of Value Added Tax (VAT), increased import of liquor by security forces and upgradation of different taxes respectively.

The other Departments have not furnished the reasons for variation (November 2006).

6.3 Commitment made in budget speech

Following commitments made by the Finance Minister in the budget speech for the year 2005-06 remained unfulfilled:

- computerisation with networking of the tax administration to ensure a more effective and transparent administration
- introduction of entry tax, luxury tax on hotels and lodging houses and other luxury items to mobilise additional revenue of Rs.5 crore per annum.

6.4 Cost of collection

The gross collection under principal receipt heads, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2003-04 to 2005-06 along with all India average percentage of expenditure on collection to gross collection were as under:

Table: 6.5

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue ³¹	Percentage of expenditure on collection	All India average percentage for 2004-05
1.	Sales tax	2003-04	23.32	2.46	10.55	0.95
		2004-05	28.08	2.68	9.54	
		2005-06	41.59	3.30	7.93	
2.	Taxes on vehicles	2003-04	3.38	1.97	58.28	2.74
		2004-05	3.80	1.99	52.37	
		2005-06	4.35	2.11	48.51	

It would be seen from above that expenditure on collection under sales tax and taxes on vehicles was higher as compared to all India average.

6.5 Collection of sales tax per assessee

The number of assessees, sales tax revenue and sales tax revenue per assessee for the period from 2001-02 to 2005-06 was as follows:

³¹ Figures as furnished by the Department

Table: 6.6

(Rupees in lakh)

Year	Number of assessees	Sales tax revenue	Revenue/assessee
2001-02	460	985.00	2.14
2002-03	558	1,820.00	3.26
2003-04	596	2,332.00	3.91
2004-05	536	2,808.21	5.24
2005-06	1,873	4,159.06	2.22

Prior to April 2005, sales tax was realisable on 15 selected items. However, with the introduction of VAT, the number of small and medium assessees has gone up leading to variation in revenue collected per assessee.

6.6 Arrears in assessment

The details of cases pending assessment at the beginning of 2005-06, cases due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year as furnished by the Department are given below:

Table: 6.7

Name of tax	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Arrears in percentage against total cases
Sales tax/ Central sales tax	414	506	920	405	515	56
Motor spirit tax	5	120	125	38	87	70
Total	419	626	1,045	443	602	58

The above table reveals that percentage of cases pending disposal at the end of financial year 2005-06 was significantly high. Government had not fixed any norm quantifying the number of assessments to be completed by each assessing officer during a specified period.

6.7 Arrears of revenue

The arrears of revenue as on 31 March 2006 in respect of some principal heads amounted to Rs.93.03 lakh as detailed in the following table:

Table: 6.8

(Rupees in lakh)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2006	Amount outstanding for more than 4 years as on 31 March 2006
1.	Sales tax etc.	92.25	-
2.	Land revenue	0.78	-
3.	Forest	11.11	-

6.8 Result of audit

Test check of records of sales tax, state excise, motor vehicles taxation, land revenue, forest and other taxation Departments conducted during 2005-06 revealed under assessments/short/non levy/loss of revenue amounting to Rs.14.66 crore in 53 cases. During the course of the year, the Department accepted under assessments/short/non levy/loss of revenue of Rs.9.48 crore in 22 cases pointed out during 2005-06 and in earlier years and recovered Rs.5.98 lakh.

This report contains 25 paragraphs involving money value of Rs.9 crore. The Department/ Government accepted points raised in eight paragraphs involving money value of Rs.3.41 crore of which Rs.0.08 crore had been recovered upto November 2006 and 15 cases involving Rs.2.65 crore had not been accepted. No reply has been received in respect of two paragraphs (November 2006).

6.9 Failure of senior officials to enforce accountability and protect interests of Government

The Principal Accountant General (Audit), Meghalaya, Arunachal Pradesh and Mizoram, Shillong conducts periodical inspection of various offices of Government/Departments to test check the correctness of assessments, levy and collection of tax receipts and non tax receipts and verify the accuracy in maintenance of accounts and records as per Acts, Rules and procedures prescribed by Government/Departments from time to time. 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 Government/heads of the Departments, by the office of the Principal Accountant General (Audit), Meghalaya, Arunachal Pradesh and Mizoram, Shillong.

A half yearly report regarding IRs pending settlement is sent to the secretaries of the concerned Departments to facilitate monitoring and settlement of audit objections raised in these IRs.

IRs issued upto December 2005 pertaining to offices under sales tax, state excise, land revenue, motor vehicle tax and forest Departments disclosed that 225 objections relating to 79 IRs involving money value of Rs.32.78 crore remained outstanding for settlement at the end of June 2006. Of these, 30 IRs containing 49 objections involving money value of Rs.2.87 crore had not been settled for more than three years. The yearwise position of old outstanding IRs and paragraphs is detailed in *Appendix – 6.1*.

In respect of 19 paragraphs relating to 11 IRs involving money value of Rs.3.17 crore issued upto June 2006, even first reply required to be received from the Department/Government has not been received (November 2006).

Report regarding position of old outstanding IRs/paragraphs was sent to Government in July and August 2006; their reply has not been received (November 2006).

6.10 Follow up on Audit Reports - Summarised position

With a view to ensure accountability of the executive in respect of all the issues dealt with in various Audit Reports, the Public Accounts Committee (PAC), issued (May 2000) instructions for submission of *suo motu* replies on all paragraphs and reviews featured in the Audit Report within three months of its presentation to the legislature. As regards action taken notes (ATNs) on the recommendations of the PAC, the committee specified the time frame for submission as six months.

Review of follow up on submission of *suo motu* replies and of ATNs as of 30 September 2006 on paragraphs included in the Reports of the Comptroller and Auditor General of India disclosed that:-

Departments of the State Government had not submitted *suo motu* replies on 34 paragraphs featured in the Audit Reports for the years 1998-1999 to 2004-2005 in respect of revenue receipts as detailed below:

Table: 6.9

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 <i>suo motu</i> replies are awaited	
		Paragraphs	Reviews	Paragraphs	Reviews
1998-99	13.4.2000	3	---	---	---
1999-2000	17.10.2001	3	---	---	---
2000-01	26.3.2002	7	1	6	---
2001-02	17.7.2003	8	1	6	---
2002-03	23.3.2004	15	---	12	---
2003-04	26.9.2005	16	---	---	---
2004-05	23.3.2006	10	2	10	2
Total		62	4	34	2

Thus, due to failure of the respective Departments to comply with the instructions of the PAC the objective of ensuring accountability of the executive remained unfulfilled.

PARAGRAPHS**TAXATION DEPARTMENT****6.11 Non levy of interest****Assessing officer failed to levy and realise interest of Rs.21.31 lakh in respect of three dealers for delayed/non payment of tax of Rs.104.56 lakh.**

Under the provisions of the Mizoram Sales Tax Act (MST Act) 1989, if a registered dealer fails to pay the full amount of admitted tax due within specified time, he shall be liable to pay simple interest at 12 *per cent* for delay of first 30 days and 24 *per cent* for subsequent delay on the amount by which tax paid falls short.

6.11.1 Test check of records of the Superintendent of Taxes (ST), Kolasib in March 2005, revealed that a registered dealer was assessed in November 2004 to tax of Rs.62.31 lakh for the year 2002-03 and 2003-04. The dealer paid admitted tax belatedly in March 2005. The Department did not levy interest amounting to Rs.15.06 lakh for delayed payment of tax. This resulted in non levy of interest of Rs.15.06 lakh.

6.11.2 Similarly, in respect of two other dealers registered in the same unit office, tax of Rs.42.25 lakh was assessed between July 2002 and September 2004 for the years 2001-02 to 2003-04 out of which these dealers paid Rs.4.04 lakh within the due date and Rs.28.93 lakh belatedly between November 2002 and January 2005 leaving a balance of Rs.9.28 lakh unpaid till date of audit (March 2005). Due to default in payment of tax, interest of Rs.6.25 lakh was leviable but not levied and realised.

After this was pointed out, Government stated in November 2006 that interest of Rs.2.22 lakh was levied considering due date for payment of tax as specified in notice of demand in form VIII. The reply is not tenable as interest is leviable on tax remaining unpaid from the date prescribed for submission of return, whereas form VIII is notice for calculating further interest in addition to interest already calculated on the date of assessment if a dealer fails to pay assessed tax within due date.

6.12 Irregular grant of exemption

Irregular allowance of exemption of Rs.112.30 lakh to a works contractor resulted in underassessment of tax of Rs.4.49 lakh.

Under Section 7(4) of the MST Act, the State Government may grant relief to any class of industries by way of full or partial exemption of tax payable under the Act on raw materials or other input purchased within the State or on the manufactured goods sold by the dealers. In Mizoram, building materials and iron and steel are taxable at the rate of eight and four *per cent* respectively.

Test check of records of the ST , Kolasib in March 2005 revealed that a registered dealer doing works contract, disclosed gross turnover of Rs.3.70 crore in his return during the period 2003-04 out of which the dealer claimed exemption of Rs.1.12 crore being sale of goods exempted under Section 7(4) of the MST Act. In September 2004, the assessing officer (AO) accepted it and assessed the dealer accordingly. Since the dealer was a works contractor and did not engage in any manufacturing activities, the grant of exemption by AO was irregular and inadmissible. This resulted in underassessment of tax of Rs.4.49 lakh.

After this was pointed out, Government stated in November 2006, that sale of non taxable goods was shown under Section 7(4) of the MST Act by mistake but was identified during assessment. The reply is not tenable as assessment was completed on the basis of return furnished by the dealer and the AO did not mention anything about any mistake in the return while finalising the assessments.

6.13 Underassessment of tax due to irregular grant of exemption

Grant of incorrect exemption of freight charge of Rs.27.68 lakh led to underassessment of tax of Rs.2.21 lakh.

Under the provisions of the MST Act, 'sale price' means the amount payable to a dealer as consideration for sale of goods and will not include the cost of 'freight' where such cost is separately charged. It was judicially held³² by the honourable Supreme Court that, where a dealer transports goods from his factory to his place of business and sells them at a price which is arrived at after taking into account freight and handling charges incurred by him in transporting the goods, the amount of freight and handling charges would be part of the 'sale price'. It was also held that character of the payment would remain same even if the freight and handling charges are shown separately in the bills. In Mizoram, cement is taxable at the rate of eight *per cent*.

Test check of records of the ST, Kolasib in March 2005 revealed that a consignment agent received 69,195 bags of cement by way of stock transfer from a manufacturer in Assam during the period between July 2001 and March 2003

³² *Dyer Meakin Breweries Limited Vs State of Kerala (1970) 26 STC 248 SC*

and incurred expenditure on freight of Rs.27.68 lakh. The dealer sold them on commission basis at price fixed by the manufacturer after taking into account freight. The dealer, however, charged cost of freight separately in the bill and claimed exemption from payment of tax. The AO while finalising assessment between July 2002 and June 2003 accepted the claim accordingly. The exemption granted was irregular as freight charges in this case represents expenditure incurred by the dealer in making the goods available to the purchasers at the place of sale and thus forms part of sale price as per aforesaid judgment. This resulted in underassessment of tax of Rs.2.21 lakh.

After this was pointed out, Government stated in November 2006 that the dealer charged cost of freight separately and hence this could not be added to sale price. The reply is not tenable as cost of freight in this case would be part of sale price even if such charges are shown separately in the bill as per aforesaid judgment.

6.14 Concealment of turnover

A registered dealer concealed turnover of Rs.30.24 lakh and evaded tax of Rs.3.63 lakh and penalty of Rs.5.54 lakh.

Under the provisions of the MST Act, every registered dealer is required to file the return of his total taxable turnover within the due date. The Act further provides that, if any dealer conceals the particulars of his turnover or deliberately furnishes inaccurate particulars of such turnover, he is 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.

Test check of records of the ST, Kolasib in March 2005 revealed that a registered dealer disclosed net taxable turnover of Rs.20.29 lakh for the periods 2001-02 and 2002-03 and was assessed between July 2002 and July 2003. Scrutiny of records, however, revealed that the actual turnover of the dealer during the same periods was Rs.50.52 lakh. This resulted in concealment of turnover of Rs.30.24 lakh which led to evasion of tax of Rs.3.63 lakh. Besides, maximum penalty of Rs.5.54 lakh was also leviable for wilful concealment of taxable sale.

After this was pointed out, Government stated in November 2006 that the dealer procured goods valued at Rs.36.51 lakh and accepted concealment of turnover of Rs.3.49 lakh only. The reply is not tenable as purchase particulars revealed that the dealer actually purchased goods valued at Rs.50.52 lakh and not Rs.36.51 lakh as contended.

6.15 Non levy of penalty

Due to wilful and deliberate evasion of entertainment tax by a proprietor of cable television network, penalty of Rs.5.23 lakh was leviable but not levied.

Under the Assam Amusement and Betting Tax Act, 1939 (as adopted by Government of Mizoram), every proprietor of a cable television network, shall, with effect from 1 April 1996, pay tax at the rate of 20 *per cent* on the amount received by him per connection per month. Further, under Section 12A of the Act *ibid*, if the Commissioner is satisfied that any proprietor liable to pay tax has in any way evaded liability to pay tax, he may direct such proprietor to pay a sum not exceeding twice the amount of tax evaded or Rs.1,000 whichever is greater in addition to the tax payable.

Test check of records of the ST, Kolasib in March 2005 revealed that a proprietor of cable television network did not pay entertainment tax of Rs.2.62 lakh for the period from January 2001 to February 2004 inspite of several notices issued to him. The AO referred the case between February 2002 and March 2004 to the bakijai officer³³ for recovery of Rs.2.62 lakh as arrears of land revenue without imposing maximum penalty of Rs.5.23 lakh for deliberate evasion of tax. This resulted in non levy of penalty of Rs.5.23 lakh.

After this was pointed out, Government while admitting the fact stated in November 2006, that penalty of Rs.5.23 lakh had been imposed. Report on recovery has not been received (November 2006).

6.16 Evasion of tax by unregistered dealers

32 unregistered contractors carried out works contract valued at Rs.26.19 crore and evaded tax of Rs.1.35 crore.

Under the MST Act, no dealer liable to pay tax shall carry on business unless he is registered and possesses a certificate of registration. The Act further provides that, if any dealer evades in any way liability to pay tax, he shall be liable to pay penalty of a sum not exceeding one and a half times the tax due in addition to the tax payable by him. As per Schedule IV attached to the MST Act, works contract is taxable at rates varying from four to 12 *per cent* against goods utilised as specified in Schedule II. COT, Mizoram instructed (September 2000) all the Government Departments to deduct two *per cent* from the total amount payable to any contractor for execution of works contract wherein transfer of property in taxable goods was involved.

Test check of records of the COT, Mizoram, Aizawl in May 2005 revealed that 32 contractors carried out works contract valued at Rs.26.19 crore under different Government Departments involving sale of taxable goods at rates varying from

³³ Arrear recovery officer

four to eight *per cent*. The concerned Government Departments did not deduct tax at source as per instruction of the COT. The AOs also failed to get these contractors registered and bring them under tax net. This resulted in evasion of tax of Rs.1.35 crore by unregistered dealers. Besides, penalty of Rs.2.03 crore was also leviable for wilful evasion of tax.

After this was pointed out, Government stated in November 2006, that clearance certificates were issued to contractors pointed out in audit and thus, they were not liable to pay tax. The reply is not tenable as clearance certificates are issued for execution of works contract and do not exonerate a dealer from liability of registration and payment of tax.

6.17 Irregular exemption of tax

Underassessment of tax of Rs.9.06 lakh due to irregular exemption on sale of 'Amul butter'.

As per entry 14 of Schedule II attached to the MST Act, 'butter' is taxable at the rate of eight *per cent* excluding butter which is produced/ manufactured locally.

Test check of records of the ACT, Aizawl North Zone, Aizawl in June 2005 revealed that a dealer sold Amul butter amounting to Rs.1.13 crore between April 2001 and March 2004. The AO exempted the entire sale of butter from payment of tax treating Amul butter as an exempted item. Such irregular exemption resulted in underassessment of tax of Rs.9.06 lakh.

After this was pointed out, Government stated in November 2006, that the entire sale of butter was exempted from payment of tax as per entry 10 of schedule I of the MST Act. The reply is not tenable as entry 10 of Schedule I which deals with non taxable goods, covers the item 'butter cream' and not 'butter' as contended. Amul butter being produced/manufactured outside the state was taxable at the rate of eight *per cent* as per entry 14 of Schedule II.

6.18 Mistake in computation of tax

Turnover of Rs.35.59 lakh escaped assessment due to mistake in computation resulting in underassessment of tax of Rs.2.85 lakh.

Under the provision of the MST Act, the authority which made an assessment may at any time within three years from the date of such assessment, rectify any mistake apparent from the record of the case and when any such rectification has the effect of enhancing the assessment, a notice of demand shall be issued for the sum payable.

Test check of records of the ACT, Aizawl North Zone, Aizawl in June 2005 revealed that a dealer disclosed net taxable turnover of Rs.5.13 crore after

deducting element of tax from the gross turnover during the period between July 2001 and March 2002. The AO, however, at the time of assessment determined (January 2005) net taxable turnover of Rs.4.77 crore. Thus, due to mistake in computation, turnover of Rs.35.59 lakh escaped assessment and there was underassessment of tax of Rs.2.85 lakh.

After this was pointed out, Government stated in November 2006 that deduction of tax element was allowed from gross turnover and hence there was no mistake. The reply is not tenable as the element of tax was not included in the gross turnover.

6.19 Loss of revenue due to non registration of dealers

Failure of the Department to register four dealers resulted in loss of revenue.

Under the provisions of the MST Act, the COT is empowered to register a dealer, who is liable for registration, but has not made an application in this behalf. Further, in terms of the instruction of the COT, tax is to be deducted at source by all the drawing and disbursing officers. As per entry 12 of Schedule II of the Act *ibid*, building materials are taxable at the rate of eight *per cent* at the stage of first sale within the State.

Cross check of records of the ACT, Aizawl North Zone, Aizawl with those of the Deputy Conservator of Forests (DCF), wildlife division (WLD), Aizawl in June 2005 revealed that four unregistered dealers sold building materials amounting to Rs.43.49 lakh to the division during the period between October 2003 and March 2004. The DCF, WLD failed to deduct tax at source and the registering authority also failed to get these dealers registered resulting in loss of revenue of Rs.3.48 lakh.

After this was pointed out, Government stated in November 2006, that the dealers were not registered because they did not make the first sale of notified goods in the state of Mizoram. The reply is not acceptable as Section 9(1) of the MST Act envisages that no dealer shall, being liable to pay tax, carry on business as a dealer unless he has been registered and possesses a certificate of registration. Further, Section 3 (1) of the Act imposes the burden on the dealer to prove that a particular sale is not the first sale within the state to the satisfaction of the AO.

6.20 Non levy of penalty on misuse of 'C' form

Non levy of penalty of Rs.9.45 lakh on goods purchased at concessional rate by false declaration that goods were specified in certificate of registration.

Under Section 8 of the Central Sales Tax Act (CST Act), on interstate sale of goods, tax is leviable at a concessional rate of four *per cent* provided the purchaser furnishes to the seller a declaration in form 'C', certifying that the

goods are of the class specified in his certificate of registration. Further, under Section 10A of the CST Act, when the goods are not specified in the registration certificate, it attracts penalty of a sum not exceeding one and a half times the tax due. It was judicially held³⁴ that the object of Section 10A is not to reward those who violate the law by imposing as penalty an amount which taken along with the amount paid with 'C' forms would still be less than the amount payable had 'C' forms not been used.

Test check in June 2005 of records of the ACT, North Zone, Aizawl revealed that a registered dealer purchased cosmetics valued at Rs.63.01 lakh between July 2002 and August 2004 from outside the State at concessional rate by utilising 24 declarations in form 'C', even though such goods were not covered by his certificate of registration. The ACT, however, failed to levy and realise penalty not exceeding Rs.9.45 lakh for such misuse of 'C' forms.

After this was pointed out, Government while accepting the facts stated in November 2006 that penalty of Rs.500 was imposed and recovered. The action is not justified as levy of negligible amount of penalty is contrary to the provisions of the Act and aforesaid judicial pronouncement.

6.21 Evasion of Tax

Concealment of turnover of Rs.43.54 lakh by a dealer led to evasion of tax of Rs.9.95 lakh including interest and penalty.

Under the provisions of the MST Act, if the Commissioner is satisfied that any dealer has concealed the particulars of his turnover or deliberately furnished inaccurate particulars of such turnover, he may direct that such dealer shall pay by way of penalty in addition to the tax payable by him a sum not exceeding one and a half times the tax due. Further, Section 40 of the Act provides that, if a registered dealer fails to pay the full amount of the admitted tax by the due date, he is liable to pay interest at prescribed rates, ranging between 12 and 24 *per cent* for the period of default on the amount by which tax paid falls short. In Mizoram, cement is taxable at the rate of eight *per cent*.

Test check of records of the ACT, South Zone, Aizawl in June 2005 revealed that a cement dealer 'A' in his return for the year 2003-04 disclosed sale of cement valued at Rs.14.18 lakh which was enhanced to Rs.20.28 lakh by the AO while assessing the dealer in August 2004. Cross verification of assessment records of dealer 'B', a construction dealer registered in the same circle, however, revealed that 'A' sold cement valued at Rs.63.82 lakh to 'B' during the same period. Thus, the dealer 'A' concealed turnover of Rs.43.54 lakh and evaded tax of Rs.3.48 lakh which escaped notice of the AO. Maximum penalty of Rs.5.22 lakh and interest of Rs.1.25 lakh was also leviable.

³⁴ *Bhuvaneshwari Traders Vs State of Tamil Nadu (2006) 143 STC 608 (Mad).*

After this was pointed out, Government stated in November 2006 that the assessment order has been rectified in view of audit observation and demand notice has been issued. Report on recovery is awaited (November 2006).

6.22 Evasion of tax due to non registration of dealer under local Act

Failure of the Department to register a dealer under MST Act led to evasion of tax of Rs.2.52 lakh.

Under the provisions of the MST Act, no dealer shall carry on business in taxable goods unless he is registered and possesses a certificate of registration. The Act empowers the COT to register any dealer who fails to apply for registration. In Mizoram, electronic goods such as microphones, speaker sets and amplifiers are taxable at the rate of four *per cent* with effect from 1 July 2001.

Test check of records of the ACT, South Zone, Aizawl in June 2005 revealed that a dealer imported taxable goods (microphones, speaker sets, amplifiers *etc.*) valued at Rs.63.11 lakh from outside the State between November 2001 and March 2004 at concessional rate by utilising declaration in form 'C' issued by the AO. Though the dealer was registered under the CST Act and obtained form 'C', the Department did not initiate any action to register the dealer under the MST Act although the imported goods were taxable under the MST Act. Thus, laxity of the AO to register the dealer resulted in evasion of tax of Rs.2.52 lakh.

After this was pointed out, Government while admitting the facts stated in November 2006, that the dealer was directed to produce books of accounts for verification. Report on assessment and recovery of tax has not been received (November 2006).

6.23 Evasion of tax due to concealment of turnover

A registered dealer concealed turnover of Rs 95.70 lakh and evaded tax of Rs 3.83 lakh.

Under the provisions of the MST Act, if a dealer conceals the particulars of turnover or deliberately furnishes inaccurate particulars in his return, he shall be liable to pay penalty in addition to the tax payable by him, a sum not exceeding one and a half times the tax due.

Test check of records of the ACT, South Zone, Aizawl in June 2005 revealed that the AO while finalising assessment for the period 2003-04 in October 2004 determined the sale of iron and steel at Rs.23.96 lakh and also recorded that the dealer had no closing stock of iron & steel as on 31 March 2004. Cross verification of the dealer's declaration in form 'XX' submitted at the Vairengte taxation check gate, revealed that the dealer imported iron and steel valued at Rs.119.66 lakh during the aforesaid period. Thus, the dealer concealed turnover

of atleast Rs.95.70 lakh which escaped notice of the AO resulting in evasion of tax of Rs.3.83 lakh calculated at the rate of four *per cent*. The tax effect would be more if opening stock and element of profit could be ascertained. Besides, maximum penalty of Rs.5.74 lakh was also leviable.

After this was pointed out, Government while accepting the facts intimated in November 2006 that the assessments had been revised and tax of Rs.2.13 lakh recovered. Report on recovery of balance tax is awaited (November 2006).

6.24 Underassessment of tax due to erroneous revision of assessment order

Underassessment of tax of Rs.5.25 lakh due to erroneous orders for assessing taxable turnover of Rs.65.58 lakh as non taxable by the revisional authority.

Under the provisions of the MST Act, the COT may either of his own motion or on a petition by a dealer for revision, call for the records of any proceedings under this Act and pass such orders thereon as he thinks fit. It was judicially held³⁵ that the commissioner's revisional power is not an arbitrary one to be exercised according to his fancy. In Mizoram, building materials and Kinetic bike are taxable goods.

Test check of records of the ACT, South Zone, Aizawl in June 2005 revealed that a dealer of building materials and Kinetic bike disclosed turnover of Rs.15.98 lakh in his return for the period from July 2001 to March 2003. Since the dealer failed to produce books of accounts, the AO determined taxable turnover of the dealer at Rs.92.09 lakh and assessed the dealer *ex parte* in March 2004 and levied tax of Rs.6.64 lakh.

Being aggrieved, the dealer filed a revision petition in April 2005. The revisional authority directed the AO in May 2005 to make the assessment afresh after taking 50 *per cent* of the opening stock and purchases made during the year as non taxable and add eight *per cent* profit. The AO accordingly revised the assessment and levied tax of Rs.4.01 lakh on taxable turnover of Rs.52.28 lakh. It was, however, noticed that goods in opening stock and goods imported in form XX were all building materials and thus, taxable under MST Act. Therefore the order of the revisional authority treating taxable goods as non taxable was in contravention of the MST Act and judicial pronouncement resulted in underassessment of tax of Rs.5.25 lakh.

After this was pointed out, Government stated in November 2006 that it was not possible to identify taxable and non taxable goods from entries in form XX and hence revisional authority's order appeared to be more than reasonable. The reply is not tenable as goods imported *viz.* paints, tiles, roofing material (white, plain or corrugated sheets) *etc.*, were clearly mentioned in the form XXs and taxable as per Schedule II attached to the MST Act.

³⁵ *Ministry of National Revenue Vs Wright Canadian Ropes Limited (1947) ITR Suppt. 104 PC.*

6.25 Underassessment of tax due to misclassification of goods

Underassessment of tax of Rs.4.48 lakh due to misclassification of taxable goods of Rs.56.04 lakh as non taxable.

As per Schedule IV attached to the MST Act, in any works contract, the execution of which involves sale of notified goods, tax is leviable at the rate as specified against each goods in Schedule II of the Act after deducting labour charges from the gross turnover. Further, in Mizoram, building materials are taxable at the rate of eight *per cent* with effect from 1 October 2001.

Test check of records of ACT, South Zone, Aizawl in May 2004 revealed that a construction contractor disclosed gross taxable turnover of Rs.1.43 crore during 2002-03 and claimed an amount of Rs.56.04 lakh being sale of non taxable goods (stone, timber, sand). The AO also accepted the claim and assessed the dealer accordingly in September 2003. Since sand, stone and timber are integral part of building construction and the dealer is registered for construction of building only, the exemption granted by the AO was inadmissible. Such misclassification of taxable goods as non taxable resulted in underassessment of tax of Rs.4.48 lakh calculated at the rate of eight *per cent*.

After this was pointed out in August 2004, Government stated in November 2006 that the objection was not acceptable as there was no evidence to prove that sand, timber and stones were used for building works. The reply is misleading as the dealer was registered for a period of two years to construct Government housing complex at Khatla, Aizawl and the AO while finalising assessment clearly mentioned about exemption on account of sales of sand, timber and stones.

ENVIRONMENT AND FOREST DEPARTMENT

6.26 Non levy of penalty for unauthorised extraction of bamboo

Non levy of penalty of Rs.13.50 lakh for illegal extraction of 2.25 lakh bamboos from the *mahal* area.

Under the Mizoram Forest Produce Mahal Rules (MFPMR) 2002, term of the *mahal* shall be for the period as advertised in the notice inviting tender (NIT). As regards the stipulated quota of the *mahal* materials, any quantity remaining unremoved within the *mahal* period shall automatically belong to Government after expiry of the advertised mahal period and no claim of the mahaldar on the same shall be entertained. Further, Principal Chief Conservator of Forests (PCCF), Mizoram ordered in April 1994 that to check and discourage forest offences, cases of unauthorised or illegal operation of forest produce should be

compounded by imposing minimum six times the existing royalty of the forest produce.

Test check of records of the Divisional Forest Officer (DFO), Kolasib in December 2004 revealed that NIT for sale of two bamboo *mahals* (Bulung and Bairabi) for the year 2003-04 was floated on 18 June 2003 for extraction of 10 lakh and three lakh bamboos respectively with working period from 1 October 2003 to 30 June 2004. The highest bids of Rs.7.64 lakh and Rs.2.55 lakh were duly accepted and work orders issued accordingly. It was, however, noticed that 9.10 lakh and 1.65 lakh bamboos were extracted from the *mahals* upto 30 June 2004 leaving a balance of 0.90 lakh and 1.35 lakh respectively. Further, scrutiny revealed that these standing bamboos (2.25 lakh) were felled and transported by the mahaldar beyond 30 June 2004. The DFO neither confiscated the bamboos nor initiated penal action as per PCCF orders of April 1994. This resulted in non levy of penalty of Rs.13.50 lakh calculated at the minimum rate of six times the existing royalty.

After this was pointed out, the DFO Kolasib stated in June 2005, that the bamboos were not collected from the *mahal* and hence no action was taken against the mahaldar. The reply is not acceptable as is evident from the monthly report (June 2004) of the Range Officer.

The case was reported to Government in February 2005; their reply had not been received (November 2006).

6.27 Non realisation of monopoly fee

Monopoly fee of Rs.34.34 lakh was not realised on transportation of 34.34 lakh bamboo through 155 permits

The PCCF, Mizoram vide his circular of 4 July 1989 clarified that, monopoly fee (MF) is a fee to be realised when permits are issued without auction giving a monopoly to the permit holders and directed that in all cases where permits are issued to individual applicants MF at the rate of 100 *per cent* of existing royalty on all forest produces shall be levied and realised. Government of Mizoram, Environment and Forest Department on 6 August 2001, fixed the rate of royalty of Mautak species of bamboo³⁶ at Rupee one per bamboo for sale outside Mizoram for commercial purposes.

Test check of records of DFO, Kolasib in December 2004 revealed that in 155 cases of individual permits, 34.34 lakh bamboos were transported outside the state for commercial purposes between April 2002 and March 2004 by realising royalty of Rs.34.34 lakh without realising MF as stipulated by Government. This resulted in non levy of MF of Rs.34.34 lakh being 100 *per cent* of the royalty.

³⁶ Melaconna Baciferra

After this was pointed out, the DFO, Kolasib stated in November 2005, that there was no mention of 100 *per cent* MF in the order of August 2001 which superseded the earlier rate of royalty of Rs.8 per hundred bamboos plus 100 *per cent* MF and as such MF was not realised. The reply is not tenable as the order of August 2001 only revised the rate of royalty notified in August 1994 and did not mention MF at all. MF was leviable by the order of PCCF issued in July 1989 and is still in force.

The case was reported to Government in February and December 2005; their reply had not been received (November 2006).

6.28 Loss of revenue due to illegal removal of timber from reserved forest

Loss of revenue of Rs.10.47 lakh due to illicit felling and removal of 376.9054 cum of timber from reserve forest.

Under the Mizoram Forest Act (MF Act) 1955, felling of trees and removal of forest produce from a reserve forest area without a valid pass constitutes a forest offence. Forest produce felled/removed illegally are to be seized, confiscated and brought to safer places/forest designated depots and reported to the appropriate court of law prior to disposal. To prevent illegal felling/removal of forest produce, deployment of forest protection force and erection of forest check gate at all vital points is the responsibility of the Forest Department. In Mizoram, royalty rate of A II and B II category of round logs varies between Rs.7,413 and Rs.530 per cum.

Test check of records of the DFO, Kolasib in December 2004 revealed that in 10 cases, 376.9054 cum of timber of different species was illegally felled during 2003-04 and removed by miscreants from the reserve forest area. Illegal removal of such a large volume of timber from the state reserve forest indicates inadequate surveillance and enforcement of protection measures. This resulted in loss of revenue of Rs.10.47 lakh.

After this was pointed out, the DFO in June 2005 while admitting rampant illegal felling in Government plantations, attributed illegal removal of timber to absence of allotment of fund for protection of forest. The reply is not tenable as there is a separate Protection Division to arrest such illegal felling from forest areas.

The case was reported to Government in February 2005; their reply had not been received (November 2006).

6.29 Short realisation of royalty

Incorrect application of rate resulted in short realisation of royalty of Rs.6.48 lakh on 342.203 cum of sawn timber.

Under the provision of the MF Act, Government of Mizoram, Environment and Forests Department in their notification of December 1998 fixed the rate of royalty on A-II and B-II category of sawn timber at Rs.3,530 and Rs.2,471 per cum respectively.

Test check of records of the DFO, Kolasib in December 2004 revealed that 342.203 cum of sawn timber were supplied to North Eastern Electric Power Corporation (NEEPCO) Limited by contractors between May 2003 and November 2003. As per rate fixed by Government, although royalty of Rs.9.11 lakh was realisable, the Department levied only Rs.2.63 lakh (at the rate leviable on round log). This resulted in short realisation of royalty of Rs.6.48 lakh.

After this was pointed out, the DFO stated in December 2005, that the royalty was realised as per rate fixed by Government and hence there was no short realisation. The reply was not tenable as the rate of royalty applied was the one applicable to round logs and not to sawn timber.

The case was reported to Government in August and December 2005; their reply had not been received (November 2006).

6.30 Non levy of penalty

Non levy of minimum penalty of Rs.2.77 crore due to excess collection of 20,640 cum of *mahal* materials by two mahaldars beyond stipulated quota.

The MFPMR, provide that any excess collection beyond the stipulated quota of the *mahal* materials shall be penalised by charging at least three times the rate quoted for entire *mahal*.

Test check of records of the DFO, Aizawl forest division in November 2005 revealed that Sairanghat sand *mahal* for the year 2003-04 and 2004-05 was settled with mahaldars 'A' and 'B' at their bid value of Rs.60.20 lakh and Rs.32.25 lakh with the stipulation to extract 10,000 cum and 11,250 cum of sand respectively during the working periods from October to May of the respective years. The mahaldars, however, extracted a minimum of 17,500 cum and 24,390 cum of sand from the *mahal* area with the help of *batial*³⁷ books supplied by the Department. The Department failed to levy a minimum penalty of Rs.2.77 crore for excess collection of *mahal* materials beyond the stipulated quota.

³⁷ A form of transit pass used to transport *mahal* materials

The case was reported to the Department/Government in December 2005; their replies had not been received (November 2006).

6.31 Loss of revenue

Failure of the Department to protect and salvage 51.905 cum sawn timber and 14.485 cum logs seized by protection division led to loss of revenue of Rs.2.71 lakh.

Under Section 29(1) of the MF Act, when there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce shall be seized and brought to safe custody after reporting the matter to the court for trial. Forest protection force is deployed to prevent illicit felling and removal of trees from forest areas. In Mizoram, royalty rate in respect of A-II and B-II category round logs varies between Rs.7,413 and Rs.530 and for A-I and C category sawn timber between Rs.9,890 and Rs.712.

Test check of records of the DFO, Aizawl in November 2005 revealed that the forest protection division detected and seized 51.905 cum sawn timber and 14.485 cum logs of different species between April 2002 and March 2004 and handed over the same along with seizure list and offence report to the range officers of Aizawl division. The seized materials were left unprotected in the forest floor instead of transporting to safer places/forest depot. The timber was subsequently removed by miscreants and the Department failed to apprehend the offenders and recover the timber. Thus, failure of the Department to protect removal of timber from forest area led to loss of royalty of Rs.2.71 lakh.

The case was reported to the Department/Government in December 2005 and April 2006; their replies had not been received (November 2006).

TRANSPORT DEPARTMENT

6.32 Short realisation of composite fees

In 113 cases, composite fee of Rs.8.40 lakh was realised by the home States instead of Rs.16.80 lakh which led to short realisation of composite fee of Rs.8.40 lakh.

Composite fee (CF) is to be realised by the Secretary, State Transport Authority (STA) of the home State which issues national/tourist permit as the case may be and remitted to the concerned STA by way of bank draft. Government of Mizoram, Transport Department in their notification of March 1995, revised CF on maxi cabs and mini buses (14-35 seater) plying with tourist permit to

Rs.12,000 and Rs.48,000 respectively per annum per permit with effect from 01 April 1995.

Test check of records of the Secretary, STA, Mizoram in March 2006 revealed that in 104 cases of maxi cabs, CF was realised by the States of Assam and Meghalaya from these vehicles for plying in the State of Mizoram at Rs.6,000 per annum instead of Rs.12,000 per annum and sent to Secretary, STA, Mizoram. Similarly, in nine cases of mini buses (14-35 seater) of Assam and Meghalaya, CF was realised at the rate of Rs.24,000 instead of Rs.48,000 per annum during the same period. The difference in rate was neither paid by the vehicle owners nor was the matter pursued by the STA, Mizoram with the counterparts in Assam and Meghalaya for realisation. This resulted in short realisation of CF of Rs.8.40 lakh.

After this was pointed out, the Department in June 2006 while reporting realisation of Rs.6.24 lakh stated that the matter was being taken up with the STA, Assam for expeditious recovery of outstanding composite fees. Report on recovery of balance amount is awaited (November 2006).

The case was reported to Government in April 2006; their reply had not been received (November 2006).

6.33 Loss of revenue due to non realisation of minimum fine

Failure of the enforcement staff to detect 272 transport vehicles with excess load of 1,417.45 MT led to non levy of fine and loss of revenue of Rs.11.17 lakh.

Under Rule 53 of the Mizoram Motor Vehicles (Taxation) Rules (MMVT Rules), no motor vehicle, the laden or unladen weight of which exceeds 15 tonne shall be used on any road maintained by Government or any public authority. Further, Government of Mizoram, Transport Department in their notification of 11 December 1995 fixed the rates of minimum fine for driving vehicle exceeding permissible weight at Rs.1,500 and Rs.500 for every tonne of excess load. Transport check gates are erected at the entry point of the state to ensure compliance of provisions of MV Act and Rules.

Cross verification of records of the ST, taxation check gate, Vairengte with those of the Directorate of Transport and Secretary, STA, Mizoram in March 2006 revealed that during the period December 2002 to March 2005, 272 transport vehicles carried 1,417.45 tonne of excess load over and above the permissible limit of 15 MT. The enforcement staff of the Transport Department, however, failed to detect the overloaded vehicles and levy fine at the prescribed rate for carrying excess load although all the vehicles passed through the checkgate at the interstate border manned by them. This resulted in non realisation of minimum fine of Rs.11.17 lakh.

After this was pointed out, the Department while admitting the facts attributed (June 2006) short realisation for carrying excess load to non installation of weighbridge for administrative reasons. But the reply is not acceptable as overloaded vehicles could have been detected by the enforcement staff from the weighment slips issued by other states.

The case was reported to Government in April 2006; their reply had not been received (November 2006).

6.34 Loss of revenue

Failure of the Department to arrange apparatus for smoke emission test led to plying of vehicles without pollution under control certificates and also loss of revenue of Rs.2.99 crore.

Government of Mizoram in June 1999 notified that every motor vehicle shall comply with the standard of vehicle smoke emission as prescribed by Central Government as laid down under rule 115 and 116 of the Central Motor Vehicles Taxation Rules, 1989. Accordingly, all vehicle owners were required to produce their vehicles for test in the offices of respective DTO and obtain pollution under control certificate valid for six months on payment of fee of Rs.150 per vehicle with effect from 28 May 2002.

Test check of records of the Directorate of Transport, Mizoram in March 2006 revealed that despite issue of notification, not a single test could be conducted during the year 2004-05 and 2005-06 by the Departmental officers for want of apparatus. Thus, failure on the part of Government to arrange apparatus for emission test not only resulted in plying of 49,826 vehicles without 'pollution under control certificate' during the years 2004-05 and 2005-06, but also led to loss of revenue of Rs.2.99 crore. Besides, there is also an attendant risk of environment pollution.

After this was pointed out, the Department while accepting the facts in June 2006, attributed the loss to non availability of apparatus and stated that steps are being taken to acquire the same.

The case was reported to Government in April 2006; their reply had not been received (November 2006).

LAND REVENUE DEPARTMENT

6.35 Non levy of penalty

Realisation of arrear land revenue without imposing penal provisions resulted in non levy of penalty of Rs.3.34 lakh

Under the Mizo District (Land and Revenue) Act, 1956 and Rules framed thereunder, land revenue is to be paid annually by the end of each financial year. If any land revenue remains unpaid after the closure of a particular financial year and the defaulter fails to pay the arrear within one month from the date of receipt of the demand notice, an equal amount of the arrear shall be levied on him by way of penalty. This penalty shall be paid with the arrear within three months from the date of receipt of such order.

Test check of records of the Assistant Settlement Officer (ASO), Aizawl in October 2003 revealed that an amount of Rs.3.34 lakh was realised after delay ranging from two to 10 months as arrears of land revenue for the years 2000-01 and 2001-02. But penalty though leviable for delayed payment of arrears was neither levied by the ASO nor was paid by the defaulters. No further action was initiated by the Department in terms of above Act and Rules. This resulted in non levy of penalty of Rs.3.34 lakh.

After this was pointed out, the Department while accepting the audit findings stated in October 2004, that prompt action was being taken to follow the provisions of the Act and Rules while realising arrears of land revenue in compliance with audit observations. Report on recovery of penalty, however, has not been received (November 2006).

The case was reported to Government in December 2003 and December 2005; their reply had not been received (November 2006).