

REVENUE RECEIPTS

4.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Union Territory of Puducherry during the year 2007-08 and the grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.		2003-04	2004-05	2005-06	2006-07	2007-08
I	Revenue raised by the Government					
	• Tax revenue	352.76	404.58	479.40	569.55	652.85
	• Non-tax revenue	454.34	500.72	510.99	549.92	625.82
	Total (I)	807.10	905.30	990.39	1,119.47	1,278.67
II	Receipts from the Government of India-Grants-in-aid	495.42	725.70	811.49	764.09	856.95
III	Total receipts of the Government (I + II)	1,302.52	1,631.00	1,801.88	1,883.56	2,135.62
IV	Percentage of I to III	62	56	55	59	60

The above table indicates that during the year 2007-08, the revenue raised by the Union Territory Government was 60 *per cent* of the total revenue receipts (Rs 2,335.62 crore) against 59 *per cent* in the preceding year. The balance 40 *per cent* of the receipts during 2007-08 was obtained from the Government of India.

4.1.1 The details of tax revenue raised during the year 2007-08 along with the figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+)/ decrease (-) in 2007-08 over 2006-07
1.	Taxes on sales, trade, etc.	203.19	246.48	304.22	364.89	354.98	(-) 2.72
2.	State excise	105.66	110.29	125.17	143.49	224.02	56.12
3.	Stamp duty and registration fees	20.27	23.52	23.97	31.01	41.37	33.41
4.	Taxes on vehicles	23.19	23.87	25.56	29.01	31.60	8.93
5.	Land revenue	0.29	0.29	0.31	0.91	0.54	(-) 40.66
6.	Others	0.16	0.13	0.17	0.24	0.34	41.67
	Total	352.76	404.58	479.40	569.55	652.85	14.63

The reasons for the variations in receipts during 2007-08 over those of 2006-07 as reported by the concerned departments are mentioned below:

State excise: The increase (56.12 per cent) was due to increase in the realisation of *kist* amount and more collection of excise duty due to levy of additional excise duty in lieu of sales tax with effect from 23 April 2007.

Stamp duty and registration fees: The increase (33.41 per cent) was due to increase in the cost of land mentioned in the guideline and registration of more documents.

Land revenue: The decrease (40.66 per cent) was due to grant of exemption from collection of land tax.

The other departments did not intimate (December 2008) the reasons for variations in receipts from that of previous year despite being requested in August 2008.

4.1.2 The details of major non-tax revenue raised during the year 2007-08 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) / decrease (-) in 2007-08 over 2006-07
1.	Power	430.30	464.48	486.88	508.95	570.36	12.07
2.	Interest receipts, dividends and profits	4.50	5.25	4.13	7.23	21.41	196.13
3.	Medical and public health	5.45	4.11	3.57	7.52	7.83	4.12
4.	Education, sports, art and culture	1.04	0.51	0.46	0.47	0.48	2.13
5.	Crop husbandry	0.34	0.28	0.53	0.43	0.34	(-) 20.93
6.	Other receipts	12.71	26.09	15.42	25.32	25.40	0.32
Total		454.34	500.72	510.99	549.92	625.82	13.80

The reasons for variations in receipts during 2007-08 over 2006-07, though called for from the concerned departments in August 2008, have not been received (December 2008).

4.2 Variations between the budget estimates and actual receipts

The variations between the budget estimates and actuals of revenue receipts for the year 2007-08 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)					
Sl. No.	Heads of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Taxes on sales, trade, etc.	394.00	354.98	(-) 39.02	(-) 9.90
2.	State excise	138.00	224.02	86.02	62.33
3.	Stamp duty and registration fees	26.00	41.37	15.37	59.11
4.	Taxes on vehicles	27.57	31.60	4.03	14.62
5.	Land revenue	0.27	0.54	0.27	100.00
6.	Power	530.00	570.36	40.36	7.62
7.	Interest receipts, dividends and profits	4.79	21.41	16.62	346.97
8.	Medical and public health	4.70	7.83	3.13	66.60
9.	Education, sports, art and culture	0.55	0.48	(-) 0.07	(-) 12.73
10.	Crop husbandry	0.30	0.34	0.04	13.33

The reasons for the variations as reported by the concerned departments are mentioned below:

State excise: The increase (62.33 *per cent*) was due to levy of additional excise duty on liquor in lieu of sales tax with effect from 23 April 2007.

Stamp duty and registration fees: The increase (59.11 *per cent*) was due to increase in the cost of land mentioned in the guideline and registration of more documents.

Interest receipts, dividends and profits: The increase (346.97 *per cent*) was on account of accrual of interest by investing cash balance in 14 days treasury bills, collection of interest from Fisheries Department through waiver of loans from Prime Minister's Relief Fund and receipt of dividend from Puducherry Power Corporation.

Medical and Public Health: The increase (66.60 *per cent*) was due to increase in hospital stoppages, collection of licence fees from food and drugs administration, increase in medical reimbursement of insured persons and more receipt of share from ESI.

The reasons for the variations in respect of the remaining heads, though called for from the concerned departments, have not been received (December 2008).

4.3 Analysis of collection

The break-up of total collection at pre-assessment stage and after regular assessment of sales tax under the Pondicherry General Sales Tax Act for the year 2007-08 and the corresponding figures for the preceding two years as furnished by the department are mentioned below:

(Rupees in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 2 to 6
1	2	3	4	5	6	7
2005-06	303.48	0.48	0.32	0.06	304.22	99.76
2006-07	364.31	1.07	0.35	0.84	364.89	99.84
2007-08	350.30	4.43	0.37	0.12	354.98	98.68

The above table shows that collection of revenue at the pre-assessment stage ranged between 98.68 *per cent* and 99.84 *per cent* during 2005-06 to 2007-08.

4.4 Arrears of revenue

The arrears of revenue pending for collection as on 31 March 2008 under the principal heads of revenue, as reported by various departments was Rs 199.09 crore as indicated below:

Sl. No.	Departments	Total arrears	Arrears outstanding for more than five years	Remarks
(1)	(2)	(3)	(4)	(5)
1.	Electricity	113.52	20.64	The arrears comprise of Rs 41.24 crore from high tension (HT) consumers and Rs 72.28 crore from low tension (LT) consumers. Of the HT arrears, Rs 9.91 crore is due from Government owned company; Rs 84.22 lakh is pending with Claim Commissioner, New Delhi; Rs 12.80 crore is covered under litigation and Rs 3.78 crore is proposed to be recovered through Revenue Recovery Act. Rupees 13.91 crore is due from other consumers/industries. Under LT category, Rs 18.58 crore is due from local bodies and Rs 3.51 crore from Government departments. Rupees 50.19 crore is due from other consumers/industries.

(1)	(2)	(3)	(4)	(5)
2.	State Excise	13.23	11.46	Arrears were mainly due to non payment of <i>kist</i> by the lessees of arrack and toddy shops.
3.	Commercial Taxes	65.80	4.68	Demands amounting to Rs 28 crore were covered by stay granted by High Court and other judicial authorities. Rupees 3.29 crore is covered by Revenue Recovery Act and Rs 34.51 crore is covered under various stages of recovery.
4.	Public Works	5.25	1.37	Arrears relate to water charges due from consumers.
5.	Revenue and Disaster Management	0.01	Nil	The stage at which arrears were pending was not made available to audit.
6.	Stationery and Printing	0.16	0.02	Arrears relate to payment due from Government departments.
7.	Town and Country Planning	0.14	0.14	Arrears are due to non-payment of enhanced plot costs by the allottees.
8.	Agriculture	0.18	0.08	Arrears mainly relate to rent due from UT/Government owned companies and the amount due from commune panchayats.
9.	Port	0.62	Nil	Arrears relate mainly to lease rent due from M/s. Concur (A Government of India undertaking).
10.	Judicial	0.05	0.04	In some cases, accused are undergoing imprisonment and in some cases, appeals are pending in Sessions Court, Puducherry and High Court, Chennai.
11.	Information and Publicity	0.11	0.09	Arrears are mainly due from Pondicherry Tourism and Development Corporation towards canteen rent.
12.	Fisheries and Fishermen Welfare	0.01	--	Reasons for arrears were not furnished by the department.
13.	Health and Family Welfare	0.01	--	Reasons for arrears were not furnished by the Department.
	Total	199.09	38.52	

The other departments *viz.*, Registrar of Co-operative Societies, Assembly Secretariat, Directorate of Collegiate Education, Commissioner of Hindu Religious Institutions, Chief Superintendent of Jails, Director of Industries, Director of Planning and Research, Director of Information Technology and Transport Department did not furnish the details of arrears of revenue.

4.5 Frauds and evasion of tax

The details of cases of fraud and evasion of the sales tax cases detected, cases finalised and the demands for additional tax and penalty levied as reported by the Commercial Taxes Department is mentioned below:

(Rupees in crore)

Cases pending as on 1 April 2007	Cases detected during 2007-08	Total	Number of cases in which assessment/investigation completed and additional tax and penalty levied		Number of pending cases as on 31 March 2008
			Number of cases	Amount demanded	
33	4	37	9	5.33	28

4.6 Failure to enforce accountability and protect interest of the Government

Accountant General (Commercial and Receipt Audit), Tamil Nadu arranges periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounts and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). Important irregularities are included in the IRs issued to the heads of offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of offices/Government are required to comply with the observations contained in theirs and rectify the defects and omissions promptly and report compliance to the office of the Accountant General within two months from the dates of issue of the IRs. Serious irregularities are also brought to the notice of the heads of the departments by the office of the Accountant General.

Inspection reports issued upto December 2007 disclosed that 627 paragraphs involving Rs 195.23 crore relating to 195 IRs remained outstanding at the end of June 2008. Department-wise break up of the IRs and audit observations outstanding as on 30 June 2008 is mentioned below:

(Rupees in crore)

Sl. No.	Tax heads	Outstanding		Amount involved
		Inspection reports	Audit observations	
1.	Sales tax	51	241	181.06
2.	Land revenue	26	53	1.76
3.	Stamp duty and registration fees	60	149	1.40
4.	Taxes on vehicles	29	127	4.37
5.	State excise	29	57	6.64
Total		195	627	195.23

4.7 Results of audit

Test check of the records of sales tax, state excise, stamp duty and registration fees, taxes on vehicles, land revenue, town and country planning conducted during the year 2007-08 revealed under assessment/short levy/loss of revenue amounting to Rs 26.31 crore in 53 audit observations. During the course of the year, the departments accepted Rs 14.35 lakh in 13 audit observations; of which, Rs 9.09 lakh was pointed out during 2007-08 and the rest in earlier years. Rupees 2.73 lakh was recovered by the department.

This report contains seven paragraphs relating to non/short levy of taxes, duties, interest and penalties and other audit observations involving revenue of Rs 9.49 crore. The departments/Government accepted audit observations involving revenue of Rs 1.30 crore (November 2008). In respect of the audit observations where departments' reply has been found at variance with the rules and regulations, suitable rebuttals have been included in the paragraphs.

4.8 Status of recovery against audit observations accepted by the Government

Review of the replies of the Government to the paragraphs of the Audit Reports for the last five years from 2002-03 to 2006-07 shows that against the revenue effect of Rs 22.35 crore of the audit observations accepted by the department, the actual recovery is Rs 11 lakh. A year-wise break up of the recovery of revenue till November 2008 is mentioned below:

(Rupees in crore)

Year of Audit Report	Revenue effect of chapter	Amount accepted by the department	Amount recovered
2002-03	0.22	0.22	0.11
2005-06	22.13	22.13	--
2006-07	1.13	--	--
Total	23.48	22.35	0.11

COMMERCIAL TAXES DEPARTMENT

4.9 Receipt, issue, custody and surrender of declaration forms

4.9.1 Introduction

The Central Sales Tax Act, 1956 (CST Act) stipulates that every dealer who in the course of inter-state trade or commerce sells to a registered dealer, goods of the class or classes specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at a concessional rate, if such sales are supported by declarations in form 'C' obtained from the purchaser. Transfer of goods claimed otherwise than by way of sale made by a registered dealer to any other place of his business located outside the state is exempted from tax on production of the prescribed declarations in form 'F' duly filled in and signed by the principal officer of the other place of his business or his agent as the case may be. The Pondicherry General Sales Tax Act, 1967 (PGST Act) provides for the concessional rate of tax on sale of raw materials to industries in the Union Territory of Puducherry to form part of the finished products of the goods manufactured by such industries subject to the furnishing of a declaration in Form XVII obtained from the purchaser.

The forms are printed at the Government Printing Press, Puducherry. The Commissioner, Commercial Taxes Department places indents for the supply of these forms required by the various assessing authorities. The allotment of serial numbers to the forms is done at the Government Press.

A study of the system/procedure relating to receipt, issue, custody and surrender of the declaration forms was undertaken in audit. The result of such study is discussed in the following paragraphs:

4.9.2 Inventory control of the declaration forms

Under Rule 15 of the CST (Pondicherry) Rules, declaration forms under the CST Act shall be printed in books of 25 forms and supplied to the dealers on application and on payment of the prescribed fees. It is incumbent upon the Commercial Taxes Department to ensure proper receipt, custody and issue of the forms so as to obviate the possibility of misuse of the forms and loss of revenue.

Scrutiny of the records relating to maintenance of the declaration forms revealed that four books containing 25 forms each bearing serial numbers 113276-113300, 142376-142400, 160676-160700 and 216476-216500 and one 'C' form bearing number 31155 were not received from the Government press. Similarly two 'C' forms books contained 24 forms each and one 'C' form book contained 26 forms instead of the standard 25 forms. However, no action was taken to invalidate these forms.

Whenever a dealer made indent for supply of less than 25 forms, one book was allotted in the name of the assessee, but only the actual number of forms indented was issued to the dealer. The balance forms available in the book were kept in the custody of the assessing officer concerned for future issue. However, in such event, no procedure was followed for accounting the forms held by the assessing officers. This defective system of receipt and issue of declaration forms leaves scope for misuse and makes tracking of the forms problematic.

The department did not have any mechanism for periodic review of the stock of forms held by it so as to ensure that unused or cancelled forms are either destroyed after obtaining the approval of the competent authority or otherwise secured so as to obviate the possibility of their misuse.

4.9.3 Misuse of ‘C’ form declarations

4.9.3.1 Rule 14(16) of the PGST Rules, provides that the Government may, by notification to be published in the official gazette, declare that declaration forms of a particular series, design or colour shall be deemed as obsolete and invalid with effect from such date as may be specified in the notification. The Government may also furnish information regarding such declaration to other State Governments for publication in their gazettes.

During September 1997, the Commercial Taxes (CT) Department, Puducherry declared 150 ‘C’ forms as invalid on the ground that they were lost while in custody of the department. However, scrutiny of the records revealed that no steps were taken by the department to notify these declarations as obsolete and invalid in the gazette. As such, misuse of these forms cannot be ruled out.

Audit further noticed that three ‘C’ forms, out of the above forms, were utilised by two dealers of Puducherry for effecting purchases in inter state trade during 2000-01 and 2001-02. The department did not detect the misuse of the forms that resulted in non-levy of tax and penalty of Rs 2.72 lakh.

After this was pointed out in June/July 2007, the department stated in October 2007 that investigation in one case was under progress while reply in the other case has not been received.

4.9.3.2 According to Rule 14(8) read with Rule 14 (13) of the PGST Rules, the declaration form obtained by a registered dealer shall be kept by him in safe custody and he shall be personally responsible for the loss, destruction or theft of any such form or the loss of Government revenue, if any, resulting directly or indirectly from such theft or loss and no registered dealer shall, either directly or through any other person, transfer the same to another person.

Cross check of records in audit revealed that two ‘C’ forms and a form XVII declaration issued to a dealer in Karaikal during February 2002 were used

by another dealer in Puducherry and by an unregistered dealer based in Karaikal for effecting purchases valued at Rs 1.36 crore at concessional rate of tax during 2002-03. The value of such purchases worked out to Rs 1.36 crore. These transactions revealed that the declaration forms were misused resulting in short levy of tax and penalty of Rs 5.32 lakh.

After the cases were pointed out in audit in November 2007, the department intimated that an amount of Rs 3.51 lakh has been recovered in one case while the reply of the department in the remaining cases has not been received (December 2008).

4.9.4 Irregular issue of the declaration form

Rule 5(1) of the CST (Registration and Turnover) Rules 1957, read with Rule 24(8) of the PGST Rules envisage that the registering authority before issuing the registration certificate should satisfy, after making such enquiry as it thinks necessary, that the particulars contained in the application for registration are correct and complete in all aspects.

Scrutiny of the records in Pondicherry-II assessment circle revealed that a dealer in kerosene was issued registration certificate in May 2003. In October 2003, the department cancelled the registration certificate for the reason that the dealer did not possess explosive licence issued by the Additional District Magistrate, Puducherry, licence from the Civil Supplies Department and there was no storage facilities essential for carrying out the business. Though the registration certificate was cancelled in October 2003 and the assessment for the year 2003-04 was finalised in May 2004, 'C' forms were erroneously issued to the dealer in May 2004 for purchase of kerosene for a value of Rs 5.17 crore at concessional rate of tax.

After this was pointed out, the department replied in November 2007 and June 2008 that the registration certificate was granted on the assurance of the dealer that the necessary licence would be obtained. The reply of the department is not tenable as under the rule, the registering authority was to issue registration certificate only after satisfying himself that the application was in order. Moreover the CST (Pondicherry) Rules provide for issue of declaration forms to a registered dealer. In this case, the issue of 'C' forms in May 2004 after cancellation of the registration certificate in October 2003 was not in order.

4.9.5 Non surrender of forms

Rule 14(11) and (12) of the CST (Pondicherry) Rules 1967, stipulate that the dealer who discontinues his business during the course of the year shall submit the details of utilisation of the declaration forms and any unused declaration forms remaining in stock with a registered dealer on the cancellation of his registration certificate shall be surrendered to the registering authority. Rule 22(2) of the PGST Rules provides that any unused declaration form remaining in stock with a dealer shall be

surrendered to the assessing authority on the discontinuance of the business by the dealer or cancellation of his registration certificate on his ceasing to be an assessee.

Scrutiny of the records of seven assessment circles in the Union Territory revealed that 810 dealers, after obtaining the forms discontinued their business. The details of forms utilised by the dealers and the unutilised forms, if any, surrendered to the department was sought by audit.

The assessing authority, Industrial assessment circle, Pondicherry replied in September 2007 that the dealers had stopped their business long back and their whereabouts were not known and it was proposed to invalidate the unused/unaccounted forms to avoid misuse. The assessing authorities of three¹ assessment circles replied that the files were to be traced out to find out the details of utilisation/surrender of forms. Reply from the remaining assessment circles has not been received (December 2008).

The reply of the department revealed that there was no proper mechanism to ensure and monitor surrender of the forms by the dealers who discontinued their business.

4.9.6 Use of fake form

Under the CST Act, transfer of goods claimed otherwise than by way of sale made by a registered dealer to any other place of his business located outside the state is exempted from tax on production of prescribed declaration in form 'F' duly filled in and signed by the principal officer of the other place of his business or his agent as the case may be.

The correctness of the exemption claimed by a dealer in Andhra Pradesh on a value of Rs 44.36 lakh as representing consignment sale of rice bran oil to his consignment agent at Puducherry was taken up for verification in audit. Scrutiny of the register relating to issue of forms revealed that the 'F' forms used for movement of goods from Andhra Pradesh otherwise than by way of sale were not at all issued to the concerned dealer. Thus the dealer had used fake form to evade the liability from payment of tax.

After this was pointed out in December 2007, the assessing authority replied that the dealer had closed business with effect from 31 March 2004 and action would be taken to levy tax and penalty after ascertaining the whereabouts of the dealer. Further report has not been received (December 2008).

4.9.7 Evasion of tax

To verify correctness of the transactions, certain norms have to be prescribed to cross check the transactions at the other end. However, when

¹ Karaikal, Mahe and Yanam assessment circles.

the norms were called for, the department did not produce any standing orders requiring the assessing authority/intelligence wing to carry out cross check of use of the forms. Similarly, the department did not provide complete details of cross checks done by them in respect of sale/purchase effected by the dealers.

4.9.7.1 Under the CST Act and Rule 3(1) of the CST (Pondicherry) Rules, every dealer shall maintain true and correct account of purchases made by him from other states against 'C' form declarations and if any dealer conceals any purchase or furnishes inaccurate particulars of his purchase, he shall be liable to pay penalty in addition to the amount of tax payable.

Cross verification of the assessment records of dealers in Tamil Nadu and in Gujarat with that of the records of dealers in Puducherry revealed that 16 dealers of five assessment circles had suppressed the purchase of soda ash amounting to Rs 9.78 crore effected by them by issue of 'C' form declarations during the years 1999-2000 to 2006-07. The corresponding sales turnover which had escaped assessment worked out to Rs 10.75 crore (after addition of gross profit of 10 *per cent*) involving tax and penalty of Rs 96.53 lakh.

Of the above, nine dealers had closed down their business and the misuse of the balance forms, if any, available with the dealers for such purchases cannot be ruled out. Eleven dealers, after obtaining 'C' forms from the department had not filed returns either under the PGST Act or under the CST Act. Had the assessing authorities exercised a close watch over the non-filing of returns by the dealers and called for the same or taken steps to make best of judgment assessment as provided in the Rules, such unaccounted purchases could have been avoided.

After this was pointed out, the assessing authorities in eight cases accepted the audit observation and stated that necessary action would be taken for recovery of the tax and penalty. The assessing authorities in five cases stated that the department was already seized of the matter and that investigation was under progress. The assessing authority in two cases involving tax and penalty of Rs 19.13 lakh stated that the assessments had become time barred and no further action was possible. The reply of the assessing authority in respect of the remaining one case has not been received (December 2008).

The department stated in June 2008 that in respect of seven dealers, criminal cases had been filed and in respect of others, investigation commenced by the department in the year 2003 was under progress. The reply is not tenable as the transactions pointed out in audit involve misuse of declaration forms other than those unearthed by the department. These cases were not known earlier to department and, therefore, had not been subject to investigation/legal proceedings.

4.9.7.2 By a notification issued in April 1993, the rate of tax on sale of raw materials to industries in the Union Territory of Puducherry to form part of the finished products of the goods manufactured by such industries was reduced to one *per cent*, where the rate of tax payable under the said section does not exceed four *per cent*. Such concessional rate of tax was subject to the furnishing of a declaration in Form XVII by the purchaser. Section 26 of the PGST Act provides for levy of penalty of a sum not exceeding one and half times the tax payable where the purchaser fails to make use of the goods for the declared purpose.

Scrutiny of the records of the Puducherry depot of Tamil Nadu Petro Products Ltd. (TPL), an assessee in the books of Pondicherry-I assessment circle, revealed sale of linear alkyl benzene to various dealers in Puducherry at concessional rate of one *per cent* against Form XVII declarations. Further scrutiny of the assessment records in three assessment circles revealed that nine dealers who had purchased linear alkyl benzene for Rs 29.82 crore at concessional rate during the years 2000-01 to 2002-03 had subsequently stopped their manufacturing activities and had not filed monthly returns to the assessing authorities concerned. The amount of tax and penalty leviable for such unaccounted purchases worked out to Rs 1.55 crore.

After this was pointed out between July 2007 and October 2007, the assessing authorities agreed to initiate action in respect of four dealers. The assessing authorities further replied that in respect of three dealers, the cases were time barred. The reply is not tenable as the dealers had not filed returns to the department and therefore the question of the cases becoming time barred does not arise. Reply in respect of the remaining two cases has not been received (December 2008).

4.9.8 Non-accounting of stock transfer

On verification of the transactions relating to stock transfer of a dealer, it was noticed that computer spares valued at Rs 70.70 lakh sent on branch transfer during the year 2000-01 from the head office at Chennai to the dealer's branch at Puducherry was not properly accounted for. The dealer had filed monthly returns upto the month of September 2000 only disclosing a turnover of Rs 27.68 lakh. In February 2005, the Inter state investigation cell, Chennai had intimated the details of stock transfer to the Commercial Taxes Department, Puducherry requesting them to take further action. However, the unaccounted transactions were not brought to assessment in the concerned assessment circle.

After this was pointed out in July 2007, the assessing authority replied in November 2007 that the whereabouts of the dealer would be traced and the assessment finalised. Further report has not been received (December 2008).

The matter was reported to the Government in July 2008; their reply has not been received (December 2008).

4.10 Incorrect grant of exemption from levy of tax

By the notifications issued in June 1974 and September 1986, industries in Puducherry and in Karaikal were granted exemption from sales tax for a period of five years and 10 years respectively in respect of their turnover from the sale of goods manufactured by such industries.

With effect from 21 July 2000, the above said exemptions were discontinued except to the then existing industries for the balance period of their eligibility and to the new industries that were in pipe line as on 21 July 2000, subject to the condition that the industries in the pipe line should have started production within two years from the date of issue of the notification.

Scrutiny of the records in the Industrial assessment circle, Pondicherry and Karaikal assessment circle revealed that the assessing authorities, while finalising the assessments of three dealers for the years 2001-02 to 2005-06 between December 2005 and December 2006, erroneously allowed exemption on a turnover of Rs 8.82 crore, though two industrial units were not in pipe line as on 21 July 2000 and one industrial unit had not commenced production within two years from 21 July 2000, i.e. before 21 July 2002. The erroneous admittance of exemption resulted in non-levy of tax of Rs 48.78 lakh.

After the cases were pointed out in audit in August 2006 and March 2008, the department revised the assessment in two cases in October 2007 and November 2007 and raised an additional demand of Rs 8.46 lakh; the collection particulars of which has not been received (December 2008). The department in the remaining case contended that the dealer was eligible for exemption as the industry had commenced production on 10 March 2002 as certified by the Director of Industries. The reply is not tenable as the date of production mentioned in the certificate was only trial production as evidenced by the meagre turnover of Rs 861 and the certificate also did not indicate the eligibility of the assessee for the sales tax exemption.

The matter was reported to the Government in July 2008; their reply has not been received (December 2008).

4.11 Application of incorrect rate of tax

Under the CST Act, inter state sale of goods not covered by valid declarations in form 'C' is assessable to tax at the rate of 10 *per cent* or at the rate applicable to sale of such goods inside the state, whichever is higher. By notifications issued under the CST Act, the rate of tax on inter state sale of machinery and inter state sale of computers, IT products and their accessories was reduced to one *per cent* and two *per cent* respectively. Consequent to the amendment of the CST Act, the reduced rates of tax would be applicable only if the transactions were covered by valid declaration forms. The Government of Puducherry by a notification issued in October 2003 had directed that the exemption/concessional rate of tax on inter state sales shall be allowed with effect from 1 October 2002 only if the transactions were covered by declaration forms.

In the Industrial assessment circle, Pondicherry and Pondicherry-I assessment circles, while finalising the assessments of two dealers for the years 2002-03 and 2004-05 in November 2005 and March 2007, the assessing authorities allowed concessional rate of tax on sale of hydraulic brakes and UPS systems valued Rs 39.72 crore, though the sales were either made to unregistered dealers or were not covered by 'C' form declarations. The application of incorrect rate of tax resulted in short levy of tax of Rs 3.36 crore.

After the cases were pointed out, the assessing authority, Pondicherry-I assessment circle, revised the assessment of the dealer in June 2007 and levied tax of Rs 8.51 lakh; the collection particulars of which has not been received (December 2008). The assessing authority, Industrial assessment circle replied that the sales were made to persons not falling under the category of dealers and were outside the ambit of the CST Act and hence there was no necessity for filing of the declaration forms. The reply is not tenable as consequent to the amendment of the CST Act, the concessional rate of tax can be granted only on furnishing of 'C' form declarations.

The matter was reported to the Government in July 2008; their reply has not been received (December 2008).

4.12 Incorrect computation of taxable turnover

According to Section 2(s) of the PGST Act, "turnover" means the aggregate amount for which goods are bought or sold and according to explanation 2 thereunder, the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before the delivery thereof.

In the Pondicherry-II and Industrial assessment circles, while finalising the assessment of three dealers for the assessment years 2001-02 to 2005-06 between March 2005 and March 2007, the assessing authorities failed to levy tax on the freight charges/handling charges of Rs 13.44 crore. This resulted in short levy of tax of Rs 1.85 crore.

After the cases were pointed out between December 2005 and December 2007, the assessing authority revised the assessments of a dealer for the years 2001-02 to 2003-04 in May 2006 and raised an additional demand of Rs 36.07 lakh; the collection particulars of which have not been received. The department in the remaining two cases relating to sale of industrial gas, contended that there was no contractual obligation that the transfer of title to goods would be at the place of delivery in the premises of the buyer and therefore, the freight charges was not eligible to tax. The reply is not tenable as it has been judicially held² that the freight charges, though shown separately in the invoices, are liable to tax as in the case of supply of liquid gas in safe containers, the consideration of price payable by the buyers includes the value of gas as well as the freight charges incurred for dispatch of the gas cylinders and to get back the empty cylinders.

The matter was reported to the Government in July 2008; their reply has not been received (December 2008).

REGISTRATION DEPARTMENT

4.13 Excess allocation of surcharge to local bodies

According to Schedule VII under Section 158 of the Pondicherry Municipalities Act, 1973 and Schedule IV under Section 149 of the Pondicherry Village and Commune Panchayat Act, 1973 read with notifications in G.O.Ms.No.275 and 278 dated 16 September 1976, a transfer duty in the form of surcharge along with the duty imposed by the Indian Stamp Act, 1899 is collected on the instruments of sale, exchange, gift, etc. The rate of surcharge is five *per cent* of the market value of the property. The surcharge so collected is required to be allocated to the local bodies.

4.13.1 Scrutiny of the records in the office of the Sub Registry, Thirukkanur in October 2007 revealed that for the month of May 2006, a transfer duty surcharge of Rs 38.87 lakh was allocated instead of Rs 5.89 lakh due to clerical error. This resulted in excess allocation of Rs 32.98 lakh.

² Ram Oxygen (P) Ltd. Vs. Joint Commissioner (CT) 134 STC P.240 (TNTST)
Indian Oxygen Ltd. Vs. CTO, Central Assessment Circle-I, Chennai 132 STC P.337 (TNTST)

4.13.2 Similarly, it was noticed in the offices of Sub-Registries, Karaikal and Villianur in October 2007 that in respect of 14 documents, though only a sum of Rs 41,525 was collected as transfer duty surcharge, Rs 2.35 lakh was allocated to the local bodies due to clerical error. This resulted in excess allocation of Rs 1.93 lakh.

After this was pointed in November 2007, the Registering Officers concerned replied that the excess allocation would be adjusted. Report on recovery/adjustment of the amount has not been received (December 2008).

The matter was reported to the Government in December 2007; their reply has not been received (December 2008).

4.14 Short collection of stamp duty

According to Article 35(b) of Schedule I to the Indian Stamp Act, 1899, where lease is granted for premium or money advanced and where no rent is reserved, stamp duty shall be levied at the rate of five *per cent* of the premium paid or amount advanced as set forth in the lease agreement.

It was noticed in the office of the Sub-Registry, Villianur in October 2007 that through two lease deeds registered in May 2006, a land was leased for 99 years and an advance of Rs 22 lakh as premium was paid in lumpsum. However, it was seen that though stamp duty of Rs 1.10 lakh was leviable, only Rs 9,240 was levied. This resulted in short collection of stamp duty of Rs 1.01 lakh.

After this was pointed out in November 2007, the Sub-Registrar, Villianur replied (July 2008) that stamp duty was collected at the rate of five *per cent* of the amount equal to four times of average annual rent. The reply is not tenable because the entire lease rent was paid as premium in lumpsum and no monthly or annual rent was payable and as such stamp duty should have been levied under Article 35 (b) instead of on the average annual rent under Article 35 (a)(vi).

The matter was reported to the Government in December 2007; their reply has not been received (December 2008).

**DEPARTMENT OF REVENUE AND DISASTER
MANAGEMENT**

4.15 Short collection of licence fees

According to Rule 28 of the Pondicherry Excise Rules 1970, as amended with effect from 31 May 2002, the fee for grant of a licence or renewal of a licence is Rs 1.25 lakh per year for the distilleries having production capacity upto five lakh cases per year and Rs 75,000 per year for every additional capacity of one lakh cases or part thereof in a year.

It was noticed in the offices of the Deputy Collector (Excise), Puducherry and Excise Officer, Pondicherry Distilleries Ltd that in respect of M/s. Vinbros and Company and M/s. Pondicherry Distilleries Ltd. for the years from 2002-03 to 2006-07, licence fee of Rs 17.50 lakh and Rs 6.25 lakh respectively was collected as against Rs 63.25 lakh and Rs 51.25 lakh resulting in short collection of licence fee of Rs 90.75 lakh as mentioned below:

Year	M/s. Vinbros and Company		M/s. Pondicherry Distilleries Ltd.	
	Production capacity (in lakh of cases)	Licence fee payable (Rupees in lakh)	Production capacity (in lakh of cases)	Licence fee payable (Rupees in lakh)
2002-03	8.14	4.25	16.72	10.25
2003-04	26.84	17.75	16.72	10.25
2004-05	26.84	17.75	16.72	10.25
2005-06	18.71	11.75	16.72	10.25
2006-07	18.71	11.75	16.72	10.25
Total		63.25		51.25
Amount collected		17.50		6.25
Short collection		45.75		45.00
Grand total			90.75	

After this was pointed out between August 2004 and June 2007, the department stated (March 2008) that a sum of Rs 18.75 lakh has been collected as deficit licence fees for the years 2002-03 to 2004-05 in respect of M/s. Pondicherry Distilleries Ltd based on the actual production and in respect of M/s. Vinbros and Company, a demand of Rs 23.25 lakh was raised (February 2007) as deficit licence fees for the years 2002-03 to 2004-05. Further, it was replied (September 2007) that for the years 2005-06 and 2006-07, the units were not permitted to produce more than the quantity mentioned in the licence and therefore collection of excess licence fee on the installed capacity did not seem to be correct. The reply is not tenable because as per the rules, licence fee is leviable on the production capacity and not on the actual production or licenced capacity. Hence the balance amount of Rs 72 lakh should be collected from the two distilleries for the said years.

The matter was reported to the Government in February 2008; their reply has not been received (December 2008).