

## CHAPTER-VI REVENUE RECEIPTS

### 6.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Sikkim during the year 2007-08, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year 2007-08 and the corresponding figures for the preceding four years are mentioned below :

**Table - 6.1**

*(Rupees in crore)*

Sl. No.		2003-04	2004-05	2005-06	2006-07	2007-08
<b>I.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	108.00	116.95	147.23	173.18	197.86
	• Non-tax revenue	537.29	992.47	990.10	1,085.04	1,413.74
	<b>Total</b>	<b>645.29</b>	<b>1,109.42</b>	<b>1,137.33</b>	<b>1,258.22</b>	<b>1,611.60</b>
<b>II.</b>	<b>Receipts from the Government of India</b>					
	• State's share of divisible Union taxes	112.33	107.35	182.13	222.78	345.12
	• Grants-in-aid	583.56	675.63	644.90	635.54	742.71
	<b>Total</b>	<b>695.89</b>	<b>782.98</b>	<b>827.03</b>	<b>858.32</b>	<b>1,087.83</b>
<b>III.</b>	<b>Total receipts of the State</b>	<b>1,341.18</b>	<b>1,892.40</b>	<b>1,964.36</b>	<b>2,116.54</b>	<b>2,699.43</b>
<b>IV.</b>	<b>Percentage of I to III</b>	<b>48</b>	<b>59</b>	<b>58</b>	<b>59</b>	<b>60</b>

Thus, during the year 2007-08, the State Government raised 60 per cent of the total revenue receipts against 59 per cent in the preceding year. The balance 40 per cent of receipts during 2007-08 was from the Government of India.

#### 6.1.1 Tax revenue

The following table presents the details of tax revenue raised during the period from 2003-04 to 2007-08:

**Table - 6.2**

*(Rupees in crore)*

Sl. No.	Head of Revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+)/ decrease (-) in 2007-08 over 2006-07
1.	Sales tax	48.87	48.18	56.65	74.66	81.32	(+) 8.92
2.	Taxes on income other than corporation tax	26.76	29.09	47.82	46.71	49.10	(+) 5.12
3.	State excise	25.25	32.69	32.96	33.31	37.94	(+) 13.9
4.	Stamps and registration fees	1.14	1.43	2.27	2.52	4.26	(+) 69.05
5.	Taxes on vehicles	2.74	3.24	4.24	5.95	6.22	(+) 4.54
6.	Other taxes and duties on commodities and services	3.06	1.88	2.68	9.25	16.26	(+) 75.78
7.	Land revenue	0.18	0.44	0.61	0.78	2.75	(+) 252.56
	<b>Total</b>	<b>108.00</b>	<b>116.95</b>	<b>147.23</b>	<b>173.18</b>	<b>197.85</b>	(+) 14.25

The following reasons for variations were reported by the concerned departments:

**Sales tax:** Increase was due to proper monitoring for collection of tax and more realisation under Trade Tax (VAT) and State Sales Tax Act.

**Income tax:** Increase was due to increase in tax deducted at source (TDS) in Pay and Accounts Office (PAO) and proper monitoring for collection of tax.

**State excise:** Increase was due to better management.

**Stamps and registration:** Increase was due to more realisation under fees for registering documents.

**Other taxes and duties on commodities and services:** Increase was due to more realisation from cesses under other Acts.

**Land revenue:** Increase was due to more realisation under land revenue.

The Transport Department did not inform reasons for variation under “Taxes on vehicles” despite being requested (September 2008).

### 6.1.2 Non-tax revenue

The following table presents the details of non-tax revenue raised during the period from 2003-04 to 2007-08:

Table - 6.3

*(Rupees in crore)*

Sl. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+)/ decrease (-) in 2007-08 over 2006-07
1.	Interest receipts	2.73	8.03	6.31	5.34	15.10	(+) 182.77
2.	Road transport	17.33	21.52	13.67	14.86	15.62	(+) 5.11
3.	Plantations	1.92	1.63	2.01	1.95	2.10	(+) 7.69
4.	Dividends & profits	0.74	0.92	1.14	0.76	0.68	(-) 10.53
5.	Forestry and wild life	7.24	7.92	9.97	9.50	10.95	(+) 15.26
6.	Tourism	0.79	0.78	0.81	0.87	1.18	(+) 35.63
7.	Crop husbandry	0.31	0.31	0.36	0.50	1.64	(+) 228.00
8.	Power	13.67	21.41	28.00	58.16	97.66	(+) 67.92
9.	Printing & stationery	1.04	1.07	1.65	1.69	1.98	(+) 17.16
10.	Medical and public health	0.44	0.98	0.91	0.60	1.14	(+) 90.00
11.	Village & small industries	0.58	0.08	0.14	0.10	0.23	(+) 130.00
12.	Public works	1.64	2.46	3.09	3.74	4.32	(+) 15.51
13.	Police	10.20	4.38	14.14	13.90	14.64	(+) 5.32
14.	Animal husbandry	0.23	0.31	0.41	0.39	0.43	(+) 10.26
15.	Industries	0.02	0.01	0.19	0.02	0.01	(-) 50.00
16.	State lotteries <sup>1</sup>	473.72 (31.47)	912.27 (31.16)	898.35 (22.19)	963.30 (50.01)	1,232.55 (30.84)	(+) 27.95
17.	Others	4.69	8.39	8.95	9.36	13.51	(+) 44.34
	<b>Total</b>	<b>537.29</b>	<b>992.47</b>	<b>990.10</b>	<b>1,085.04</b>	<b>1,413.74</b>	

The following reasons for variations were reported by the concerned departments:

**Interest receipts:** Increase was due to more realisation on investment of cash balances and other receipts.

**Road transport:** The revenue increased due to increase in traffic flow at the later part of the year, as a result of which the collections of supervision charges rose up.

**Forestry and wild life:** Increase was due to more receipt of crop compensations under the Forest Conservation Act (FCA) 1980.

**Crop husbandry:** Increase was due to the receipt of sale proceeds for the sale of Agri Farm at Marchak.

<sup>1</sup> Figures in brackets represent net receipts

**Power:** Increase was due to more realisation on other receipts.

**Public works:** Increase was because sale proceeds of tender documents were more during the year compared to previous year and floating of more tenders.

**Industries:** Decrease was due to less realisation of other receipts.

**State lotteries:** Increase was due to introduction of more lotteries as per the market trend.

The other departments did not inform (September 2008) the reasons for variations despite being requested.

### 6.1.3 Variations between the budget estimates and actuals

The variations between the budget estimates (BE) 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:

**Table - 6.4**

*(Rupees in crore)*

Sl. No.	Head of revenue	BE	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
<b>A</b>	<b>Tax revenue</b>				
1.	Corporation tax	99.28	109.53	(+) 10.25	(+) 10.32
2.	Customs	64.68	65.23	(+) 0.55	(+) 0.85
3.	Union excise duties	63.55	62.27	(-) 1.28	(-) 2.01
4.	Sales tax	56.00	81.32	(+) 25.32	(+) 45.21
5.	Taxes on income other than corporation tax	40.00	121.76	(+) 81.76	(+) 204.40
6.	Service tax	34.19	34.46	(+) 0.27	(+) 0.79
7.	State excise	29.00	37.94	(+) 8.94	(+) 30.83
8.	Other taxes and duties on commodities and services	13.66	16.26	(+) 2.6	(+) 19.03
9.	Taxes on vehicles	4.00	6.22	(+) 2.22	(+) 55.50
10.	Stamps and registration	2.13	4.26	(+) 2.13	(+) 100
11.	Other taxes on income and expenditure.	2.00	0.85	(-) 1.15	(-) 57.50
12.	Land Revenue	0.92	2.75	(+) 1.83	(+) 198.91
<b>B.</b>	<b>Non-tax revenue</b>				
13.	Miscellaneous general services	1,243.29	1,236.71	(-) 6.58	(-) 0.53
14.	Power	80.00	97.66	(+) 17.66	(+) 22.08
15.	Police	15.17	14.64	(-) 0.53	(-) 3.49
16.	Road transport	14.00	15.62	(+) 1.62	(+) 11.57
17.	Forestry and wildlife	7.50	10.95	(+) 3.45	(+) 46
18.	Interest receipts	7.10	15.10	(+) 8	(+) 112.68
19.	Public works	2.15	4.32	(+) 2.17	(+) 100.93
20.	Other administrative services	2.15	2.59	(+) 0.44	(+) 20.47
21.	Water supply and sanitation	1.90	2.11	(+) 0.21	(+) 11.05
22.	Stationery and printing	1.30	1.98	(+) 0.68	(+) 52.31
23.	Medical and Public Health	0.97	1.14	(+) 0.17	(+) 17.53
24.	Tourism	0.82	1.18	(+) 0.36	(+) 43.90
25.	Dividends and profits	0.75	0.68	(-) 0.07	(-) 9.34
26.	Urban Development	0.74	1.27	(+) 0.53	(+) 71.62
27.	Education, Sports, Art and Culture	0.70	1.18	(+) 0.48	(+) 68.57

The following reasons for variations between BE and actuals were reported by the concerned departments:

**Other taxes and duties on commodities and services:** The increase was stated to be due to better renewal initiatives.

**Miscellaneous general services:** Introduction of more lotteries as per the market trend.

**Road transport:** Increased traffic flow in the later part of the year resulting in rise of supervision charges.

**Forestry and wildlife:** Receipt of crop compensation under the FCA 1980.

**Public works:** (i) settlement of pending final bills and use of the road machineries more than projected, (ii) more tender work than anticipated and (iii) credit of agency charges of sanctioned NEC funding works amounting to Rs. 1.50 crore in the marginal revenue head during the year.

**Medical and public health:** Receipt of lease charges against the grants-in-aid to Sikkim Manipal University, Tadong.

**Urban development:** Regularisation of long pending proposals.

The other departments did not inform (September 2008) the reasons for variation despite being requested.

#### 6.1.4 Analysis of collection

The break-up of total collection at the pre-assessment stage and after regular assessment for the year 2007-08 and the corresponding figures for the preceding two years as furnished by the departments is as follows:

Table - 6.5

*(Rupees in crore)*

Head of revenue	Year	Amount collected at pre-assessment state	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection <sup>2</sup>	Percentage of column 3 to 7
1	2	3	4	5	6	7	8
Sales Tax	2005-06	30.62	0.65	0.05	3.99	27.33	112.04
	2006-07	1.31 <sup>3</sup>	0.17	0.02	0.004	1.49	87.92
	2007-08	1.63	1.72	1.25	Nil	4.60	35.43
Sikkim Income Tax	2005-06	Nil	1.93	Nil	0.05	1.88	-
	2006-07	0.35	2.06	Nil	0.029	2.38	14.71
	2007-08	Nil	3.84	Nil	0.22	3.62	-

#### 6.1.5 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2005-06, 2006-07 and 2007-08 along with the relevant all India average percentage of expenditure on collection to gross collection for 2006-07 was as follows:

<sup>2</sup> Net collection reported by departments did not tally with the Finance Accounts and needs reconciliation.

<sup>3</sup> The department did not inform the reasons for wide variation vis-à-vis the previous year despite being requested

Table - 6.6

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2006-07
1.	Sales tax	2005-06	56.65	1.66	2.93	0.82
		2006-07	74.66	1.57	2.10	
		2007-08	81.32	1.72	2.12	
2.	State excise	2005-06	32.96	1.76	5.34	3.30
		2006-07	33.31	1.90	5.70	
		2007-08	37.94	1.97	5.19	
3.	Taxes on vehicles	2005-06	4.24	0.58	13.68	2.47
		2006-07	5.95	0.56	9.41	
		2007-08	6.22	0.60	9.65	

Thus, the percentage of expenditure on collection during 2007-08 as compared to the corresponding all India average percentage for 2006-07 was high in the cases of sales tax, state excise and taxes on vehicles which the Government needs to look into.

### 6.1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue as furnished by the departments amounted to Rs. 36.73 crore of which Rs. 3.98 crore was outstanding for more than five years as mentioned in the following table:

Table - 6.7

(Rupees in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2008	Amount outstanding for more than five years as on 31 March 2008
1.	Road transport (SNT)	2.76	Nil
2.	Non-ferrous mining and metallurgical industries	3.30	2.31
3.	Sales tax	0.61	0.3
4.	Income tax	14.53	0.87
5.	Police	9.18	Nil
6.	Public Works	6.35	0.50
<b>Total</b>		<b>36.73</b>	<b>3.98</b>

### 6.1.7 Arrears in assessments

The details of pending assessment cases at the beginning of the year, cases becoming due for assessment during the year, cases disposed during the year and number of cases pending at the end of the year 2007-08 as furnished by the departments are mentioned below:

Table - 6.8

Name of tax	Opening balance	New cases due for assessment during 2007-08	Total assessments due	Cases disposed during 2007-08	Balance at the end of the year	Arrears in percentage against total cases
Sales Tax	439	338	777	380	397	51.09
Sikkim Income Tax	1,107	1,054	2,161	1,244	917	42.43
<b>Total</b>	<b>1,546</b>	<b>1,392</b>	<b>2,938</b>	<b>1,624</b>	<b>1,314</b>	<b>44.72</b>

Thus, the percentage of cases pending disposal at the end of 2007-08 was 51 and 42 *per cent.* Immediate action needs to be taken to finalise the pending

assessment cases in a definite time frame. The department informed (August 2008) that the pending assessment cases were related to firms, companies and house property dealers only and many of the firms were presently not in operation.

#### **6.1.8 Evasion of tax**

There was no case of evasion of tax detected by the Finance, Revenue and Expenditure Department in respect of sales tax during the year as per information furnished by the department.

#### **6.1.9 Write off and waiver of revenue**

There was no case of write off and waiver of revenue in respect of sales tax, income tax and state excise as per information furnished by the respective departments.

#### **6.1.10 Refunds**

The number of refund cases pending at the beginning of the year 2007-08, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2007-08, as reported by the departments are mentioned below:

**Table-6.9**

*(Rupees in lakh)*

Sl. No.	Particulars	State Excise		Sales tax		Income tax	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	Nil	Nil	Nil	Nil	Nil	Nil
2.	Claims received during the year	2	4.53	6	73.27	44	41.66
3.	Refunds made during the year	2	4.53	6	73.27	44	41.66
4.	Balance outstanding at the end of the year	Nil	Nil	Nil	Nil	Nil	Nil

#### **6.1.11 Results of audit**

Test check of the records of income and commercial tax, state excise, transport, state lotteries, mines & geology, urban development and housing, forest department etc. conducted during the year 2007-08 revealed loss/non-collection of revenue/royalty/penalty, non/incorrect assessment, wrong imposition of rate, incorrect assessment of excise duties, irregular waiver etc. aggregating Rs. 151.84 crore in 43 cases. The department/Government accepted audit observations in 43 cases and recovered Rs. 4.20 crore in one case.

This chapter contains four paragraphs involving Rs. 1.33 crore out of which Rs. 31.83 lakh has been accepted by the department.

#### **6.1.12 Compliance with the earlier Audit Reports**

During the years from 2002-03 to 2006-07, the departments/Government accepted audit observations involving Rs. 109.46 crore of which only Rs. 50 lakh had been recovered till March 2008 as mentioned below:

Table – 6.10

*(Rupees in crore)*

Year of Audit Report	Total money value	Accepted money value	Recovery made
2002-03	9.06	1.81	--
2003-04	9.75	9.75	--
2004-05	85.71	85.71	0.02
2005-06	9.95	6.80	0.48
2006-07	22.31	5.39	--
<b>Total</b>	<b>136.78</b>	<b>109.46</b>	<b>0.50</b>

The above table indicated the amount recovered was only 0.45 per cent of the accepted amount.

### 6.1.13 Failure to enforce accountability and protect interest of the Government

Audit observations on the loss of revenue/short levy of demand and energy charges irregular waiver etc. noticed during local audit are intimated through inspection reports (IRs) to the departmental officers, heads of departments and also to the Government where necessary. The points mentioned in the IRs are to be settled as expeditiously as possible and first replies are to be sent within four weeks from the date of receipt of IRs by the departments.

The position of IRs (with money value) in respect of the following revenue heads issued upto the end of December 2007 but remaining outstanding as at the end of June 2008 is as mentioned below:

Table - 6.11

*(Rupees in crore)*

Sl. No.	Head of revenue	No. of IRs	No. of audit objections	Amount
1.	State lotteries	05	10	16.33
2.	Mines, Minerals and Geology	02	03	3.33
3.	Urban development and housing	07	13	2.59
4.	Motor vehicles	03	07	0.20
5.	Sales tax	08	32	10.83
6.	Income tax	11	41	10.49
7.	Forest	26	45	5.48
8.	State excise	03	07	1.89
9.	Land revenue	14	15	0.52
10.	Energy and power	10	29	128.77
	<b>Total</b>	<b>89</b>	<b>202</b>	<b>180.43</b>

The above indicates the failure of the departmental officers in initiating rectificatory action for defects, omissions and irregularities pointed out in the IRs by the Accountant General. The Principal Secretaries/Secretaries of the departments, who were informed of the position through half-yearly reports, also failed to ensure that the concerned officers took prompt and timely action.

### 6.1.14 Departmental Audit Committee Meetings

During 2007-08, two Audit Committee meetings were held and 16 IRs and 43 paras were discussed out of which six IRs and 22 paras were settled.

#### **6.1.15 Response of the departments to draft audit paragraphs**

Draft audit paragraphs are issued to the concerned heads of the departments with a copy to the Finance, Revenue and Expenditure Department, the replies to which are to be communicated to the Accountant General within six weeks of the date of their receipt.

Ten draft paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended March 2008 were forwarded to the Secretaries of the respective departments between April 2008 and June 2008 through demi-official letters. The administrative secretaries responded to all the four paragraphs featuring in this chapter.

#### **6.1.16 Follow up on Audit Reports – summarised position**

The administrative departments are required to submit explanatory notes on paragraphs and reviews included in the Audit Reports after its presentation in the State Legislature.

As at the end of 2006-07, Audit Reports for the period upto the year 2003-04 were discussed and recommendations made. During the year 2007-08, Audit Report for the year 2004-05 and 2005-06 were discussed and recommendations were made for 2004-05 as of September 2008.

### **ENERGY AND POWER DEPARTMENT**

#### **6.2 Revenue foregone due to non-realisation of energy charges**

**Due to failure in taking action for recovery of energy charges on a regular basis, the unrealised revenue amounted to Rs. 7.96 crore in 30 closed industrial units over a period of six to 18 years.**

The transmission, distribution, imposition and collection of energy charges are regulated by the Energy and Power Department through revision of Tariff Schedules from time to time. The concerned Revenue Inspectors (RIs), Junior Engineers (JEs), Assistant Engineers (AEs) of sub-divisions responsible for meter reading, raising of bills, realisation of revenue, issue of notice for connection/disconnection and Executive Engineers (EEs) of divisions responsible for countersignature on arrears statement etc. are to ensure timely realisation of revenue.

Scrutiny of the records of Gangtok and five revenue sub-divisions located in the State revealed (June-July 2007) that arrears of electricity charges amounting to Rs. 7.96 crore were lying unrealised since prior to 1991 from 30 closed industrial units with default period ranging from six to 18 years as of March 2008. Failure of the concerned RIs, JEs, AEs and EEs responsible for timely recovery of arrears resulted in non-realisation of revenue. Age-wise analysis of the arrears was as under:



**Table: 6.12**

Period of pendency	No. of cases
Arrears pending for more than 20 years	Nil
Arrears pending for more than 15 years	15
Arrears pending for more than 10 years	05
Arrears pending for more than five years	06
Arrears pending for more than one year	Nil

A mention was made in the Audit Report 1999-2000 regarding four similar cases of non-realisation of energy charges on which Public Accounts Committee (PAC) took a serious view and recommended (February 2005) to expedite the realisation. In its Action Taken Report, the department stated that it had initiated timely action for realisation of revenue receipt against which the PAC further recommended (February 2005) for expeditious realisation of revenue. Despite these recommendations, the department failed to realise Rs. 7.96 crore.

After the cases were pointed out, the department stated (September 2008) that it is pursuing the matter vigorously and also it would take legal action for recovery. While the reply is in the line of the assurance given earlier by the department to the PAC, it has failed to take any remedial measure to recover the revenue remaining unrealised nearly for 18 years. To ensure speedy recovery of arrears, the department may take time bound action by invoking Sub-section (1) of Section 24 of Indian Electricity Act and also by bringing the defaulters under the provision of the Sikkim Public Demand Recovery Act, 1988.

The matter was reported to the Government (June 2008); their reply has not been received (September 2008).

### **6.3 Short realisation of revenue**

#### **Levy of energy charges at old rates to industrial units despite revision of tariff and continued supply of electricity free of cost to rural consumers led to non-realisation of revenue of Rs. 88.08 lakh.**

Energy and Power Department revised the tariff for consumption of electricity by consumers from time to time, the last revision having been made during March 2006 in supersession of all earlier notifications. According to the revised tariff (March 2006), all reading taken on or after 1 April was liable to be charged at the revised rate of tariff. Further, in the revised notification, there was no provision for any free supply of power to any category of consumer.

**6.3.1** Scrutiny of the records in respect of 22 HTIS and 14 Bulk Supply (BS) units under Gangtok and Topakhani revenue sub-divisions during June 2007, revealed, that though the meter reading for energy consumption for the month of March 2006 was taken in April 2006, the energy charges and the demand charges were raised at the old rates. This resulted in short realisation of revenue of Rs. 31.83 lakh.

After the cases were pointed out, the department stated (September 2008) that the revised bills, based on the difference between the new and old tariff, have been issued to the consumers and details of recovery effected would be furnished to Audit. A report on recovery has not been received (September 2008).

**6.3.2** Scrutiny of the records revealed (June 2007) that the Assistant Engineers of nine<sup>4</sup> revenue sub-divisions continued to supply power free of cost, upto 50 units, to domestic consumers in the rural areas as per the earlier notification of November 2003. As the revised notification of March 2006 superseded the earlier notification of November 2003, grant of electricity free of cost to the consumers of rural areas of the State was irregular. This resulted in non-realisation of Rs. 56.25 lakh during 2006-07.

After the cases were pointed out, the department stated (September 2008) that supply of electricity free of cost, to rural poor was the policy of the Government and approval of the Government has been obtained. However, the fact remains that the approval obtained in April 2008 was from the Chief Secretary and not from the Cabinet, nor was it followed by a gazette notification. Further report has not been received (September 2008).

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

#### **6.4 Non- realisation of revenue**

##### **Levy of energy and demand charges at rate lower than those prescribed in the Tariff Schedule resulted in non-realisation of Rs. 45.16 lakh.**

The distribution, imposition and collection of energy charges in the State are regulated through Tariff Schedules issued by the Energy and Power Department. As per the Tariff Schedule, while raising the bills on HTIS units, installed capacity of the transformer as per KVA capacity plus actual energy consumed by the unit as per prescribed rate in the Tariff Schedules is to be taken into consideration.

Scrutiny of the records revealed (June 2007) that in respect of eight HTIS units in Gangtok and Topakhani revenue divisions<sup>5</sup>, the concerned Revenue Officer raised bills on energy and demand charges during 2005-06 and 2006-07 at rates lower than those prescribed in the Tariff Schedule. This resulted in non-realisation of Rs. 45.16 lakh.

After the cases were pointed out, the department stated (September 2008) that the KVA charges to the HTIS units were previously being levied as per the connected load. However, after it was pointed out by audit, it was decided to levy the demand charges on the basis of installed capacity and the revised bills

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<sup>4</sup> Gangtok I, Gangtok IV, Geyzing, Jorethang, LLHP Ranipool, Namchi, Pakyong, Rongli and Topakhani.

<sup>5</sup> Gangtok = 1. Kanchanjunga Flour Mill, 2. Denzong Auto Pvt. Ltd. 3. Food processing Plant and 4. Hotel Royal Plaza, Syari  
Topakhani = 1. Sr. Manager (Electricity), NHPC, Balutar, Singtam, 2. Indian Oil Corporation (IOC), Baghekhola, Rangpo, 3. Sikkim Distilleries, Rangpo and 4. IOC Bottling Plant, Baghekhola.

were issued for differential amount from January 2007. A report on recovery has not been received (September 2008).

The matter was report to the Government in June 2008; their reply has not been received (September 2008).

## EXCISE (ABKARI) DEPARTMENT

### 6.5 Loss of revenue

**Irregular action of the Commissioner, Excise Department to allow wastages from retrospective date led to foregoing of excise duty of Rs. 26.10 lakh for the period 2004-05 to 2005-06.**

The Medicinal and Toilet Preparation (Excise Duties) Act 1955 envisaged levy of excise duty by the State Government at the rate of 16 *per cent ad valorem* from 1 March 2003 and Rs. 20 per alcoholic litre for allopathic and homeopathic medicinal preparations. The Act required the State Government to notify the percentage of wastage in the production of a particular medicinal and toilet preparation from time to time. The Excise (Abkari) Department prescribed percentage of wastage upto a limit of 20 *per cent* in August 2006 with retrospective effect from 1 April 2003.

It has been judicially held (in a number of high court cases) that the executive Government, while exercising subordinate powers, cannot accord retrospective effect to a piece of legislation. It has to be done by the legislature. Thus the notification issued in August 2006 was irregular.

Scrutiny of the records revealed (January 2007) that two assessees, were allowed under the above mentioned notification benefit of wastages of 3,59,714 units (Rs. 17.68 lakh) and 42,076 litres (Rs. 8.42 lakh) on their production during 2004-05 and 2005-06. The action of the Department to allow wastages from retrospective effect resulted in loss of Rs. 26.10 lakh towards excise duty.

After the cases were pointed out, the department stated (June 2007) that the notification was issued with retrospective effect to regularise the procedure and in similar cases, the Government of India have provided for three *per cent* wastage. The contention of the department is not tenable as the notification should have been issued with the approval of the legislature in view of the judicial pronouncements. Further report has not been received (September 2008).

The matter was report to the Government in April 2008; their reply has not been received (September 2008).