

## CHAPTER-VI

### REVENUE RECEIPTS

#### GENERAL

#### 6.1 Trend of revenue receipts

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

*(Rupees in crore)*

	2001-02	2002-03	2003-04	2004-05	2005-06
I. Revenue raised by the State Government					
• Tax revenue	970.88	1,018.87	1,225.96	1,444.36	1,784.69
• Non tax revenue	162.06	374.85	370.41	547.70	650.09
<b>Total</b>	<b>1,132.94</b>	<b>1,393.72</b>	<b>1,596.37</b>	<b>1,992.06</b>	<b>2,434.78</b>
II. Receipts from Government of India					
• State's share of divisible Union taxes	151.40	372.14	435.03	519.97	1,009.82 <sup>1</sup>
• Grants in aid	1,323.85	1,450.25	1,568.68	1,573.57	2,092.42
<b>Total</b>	<b>1,475.25</b>	<b>1,822.39</b>	<b>2,003.71</b>	<b>2,093.54</b>	<b>3,102.24</b>
III. Total receipts of the State (I+II)	2,608.19	3,216.11	3,600.08	4,085.60	5,537.02
IV. Percentage of I to III	43.44	43.34	44.34	48.76	43.97

**6.1.1** The details of tax revenue for the year 2005-06 along with the figures for the preceding four years are given in the following table:

*(Rupees in crore)*

Revenue head	2001-02	2002-03	2003-04	2004-05	2005-06	Increase (+) or decrease (-) in 2005-06 with reference to 2004-05	Percentage of increase or decrease with reference to 2004-05
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1. Trade tax	486.13	548.84	661.96	793.51	1014.33	(+) 220.82	(+)27.83
2. State excise	232.04	245.86	273.37	292.01	292.75	(+) 0.74	(+)0.25
3. Stamp duty and registration fees	89.45	123.35	168.94	207.80	333.39	(+)125.59	(+)60.44

<sup>1</sup> For details see statement No.11 - Detailed accounts of revenue by minor heads in the Finance Accounts of Government of Uttarakhand for the year 2005-06. Figures under the major heads 0020- Corporation tax, 0021 Taxes on income other than corporation tax, 0028- other taxes on income and expenditure, 0032-Taxes on wealth, 0037- Customs, 0038-Union excise duties and 0044- Service tax which entail share of net proceeds assigned to States booked in the Finance Accounts under A- Tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
4. Taxes on vehicles, goods and passengers	67.41	71.68	86.12	98.91	114.85	(+) 15.94	(+)16.11
5. Taxes and duties on electricity	7.94	18.10	16.45	37.49	12.24	(-) 25.25	(-) 67.35
6. Land revenue	3.28	2.52	12.64	7.74	9.18	(+) 1.44	(+)18.60
7. Other taxes and duties on commodities and services	82.89	6.70	6.04	4.04	4.39	(+) 0.35	(+)8.66
8. Others	1.66	1.82	0.45	2.86	3.56	(+) 0.70	(+)24.48
<b>Total</b>	<b>970.80</b>	<b>1,018.87</b>	<b>1,225.97</b>	<b>1,444.36</b>	<b>1,784.69</b>	<b>(+) 340.33</b>	<b>(+)23.56</b>

Reasons for variations though called for from the departments / Government have not been received. (November 2006).

**6.1.2** The details of non tax revenue for the year 2005-06 along with the figures for the preceding four years are exhibited in the following table:

*(Rupees in crore)*

Revenue head	2001-02	2002-03	2003-04	2004-05	2005-06	Increase (+) or decrease (-) in 2005-06 with reference to 2004-05	Percentage of increase/ decrease with reference to 2004-05
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
1. Interest receipts	3.15	3.92	30.22	21.96	34.60	(+) 12.64	(+)57.56
2. Forestry and wildlife	80.70	177.69	131.88	130.58	159.47	(+) 28.89	(+)22.12
3. Major and medium irrigation	6.78	10.38	9.36	5.74	6.21	(+) 0.47	(+)8.19
4. Education, sports, art and culture	17.96	22.67	21.28	22.27	24.84	(+) 2.57	(+)11.54
5. Other administrative services	3.85	9.70	20.65	27.04	35.71	(+) 8.67	(+)32.06
6. Non ferrous mining and metallurgical industries	18.24	23.93	31.82	36.61	52.97	(+) 16.36	(+)44.69
7. Police	3.60	3.84	4.01	4.20	5.23	(+) 1.03	(+)24.52
8. Crop husbandry	3.20	49.31	22.11	6.40	2.80	(-) 3.60	(-) 56.25
9. Social security and welfare	0.17	0.38	1.95	0.98	1.15	(+) 0.17	(+)17.35
10. Medical and public health	3.58	3.37	4.25	2.60	6.04	(+) 3.44	(+)132.31
11. Minor irrigation	0.12	0.22	0.65	1.01	0.92	(-) 0.09	(-)8.91
12. Roads and bridges	1.20	1.08	0.93	1.06	1.38	(+) 0.32	(+)30.19
13. Public works	1.74	2.90	2.19	3.99	8.62	(+) 4.63	(+)116
14. Co-operation	0.83	1.15	1.17	2.94	1.19	(-) 1.75	(-) 59.52
15. Others	16.94	64.31	87.94	280.32	308.96	(+) 28.64	(+)10.22
<b>Total</b>	<b>162.06</b>	<b>374.85</b>	<b>370.41</b>	<b>547.70</b>	<b>650.09</b>	<b>(+) 102.39</b>	<b>(+)18.69</b>

Reasons for variations though called for from the departments /Government have not been received (November 2006).

**6.1.3 Variations between budget estimate and actuals**

The variations between budget estimates and actuals of tax and non tax revenue during the year 2005-06 are given in the table as follows:

(Rupees in crore)

Revenue head	Budget estimates	Actuals	Variation increase (+) decrease (-)	Percentage of variation
<b>Tax revenue</b>				
1. Trade tax	890.00	1,014.33	(+) 124.33	13.97
2. State excise	357.97	292.75	(-) 65.22	(-) 18.22
3. Stamp duty and registration fees	219.78	333.39	(+) 113.61	(+) 51.69
4. Taxes and duties on electricity	38.02	12.24	(-) 25.78	(-) 67.84
<b>Non tax revenue</b>				
5. Interest receipts	24.98	34.60	(+) 9.62	(+) 38.51
6. Other administrative services	7.85	35.71	(+) 27.86	(+) 354.90
7. Crop husbandry	11.09	2.80	(-) 8.29	(-) 74.75
8. Social security and welfare	-	1.15	(+) 1.15	(+) 100.00
9. Medical and public health	3.20	6.04	(+) 2.84	(+) 88.75
10. Roads and bridges	0.02	1.38	(+) 1.36	(+) 6800.00
11. Public works	2.17	8.62	(+) 6.45	(+) 297.24

Reasons for substantial variations between budget estimates and actuals though called for have not been intimated by Government (November 2006).

#### 6.1.4 Analysis of collection

Breakup of total collection at preassessment stage and after regular assessment of sales tax and entry tax for the year 2005-06 furnished by the department is as follows:

(Rupees in crore)

Head of revenue	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
Commercial tax	957.58	46.18	6.32	4.80	1,005.28	95.25
Entry tax	5.70	-	-	-	5.70	100.00

#### 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 2003-2004, 2004-2005 and 2005-2006 along with the relevant all India average percentage of expenditure on collection to gross collection for 2004-2005 are given below:

(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 2004-2005
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Sales tax/ Commercial tax	2003-04 2004-05 2005-06	661.96 793.51 1,014.33	15.09 21.17 13.95	2.28 2.67 1.38	0.95

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2	State excise	2003-04 2004-05 2005-06	273.37 292.05 292.75	2.86 3.22 3.11	1.05 1.10 1.06	3.34
3	Taxes on vehicles	2003-04 2004-05 2005-06	75.35 85.32 114.85	3.72 4.27 4.71	4.94 5.00 4.10	2.74
4	Stamp duty and registration fees	2003-04 2004-05 2005-06	168.94 207.80 333.39	4.91 4.46 3.24	2.91 2.15 0.97	3.44

It would be seen from the above that expenditure on collection under the respective heads during 2005-06 was higher in case of sales tax compared to the all India average. While the sales tax department failed to explain the reasons for decrease in cost of collection during the year 2005-06, the department of stamp duty and registration fees attributed, the reasons for decrease in 2005-06 to reduction in manpower who were repatriated to Uttar Pradesh.

#### **6.1.6 Collection of sales tax/commercial tax per assessee**

*(Rupees in lakh)*

Year	No. of assessees	Sales tax revenue	Revenue/assessee
2001-02	45,540	47,823.00	1.05
2002-03	49,759	55,286.00	1.11
2003-04	51,973	64,558.00	1.24
2004-05	48,946	78,468.00	1.60
2005-06	52,221	1,00,528.00	1.93

The increase in 2005-06 was due to introduction of value added tax (VAT) in the state.

#### **6.1.7 Analysis of arrears of revenue**

The arrears of revenue as on 31 March 2006 in respect of some principal heads of revenue amounted to Rs. 312 crore of which Rs.161 crore was outstanding for more than five years as detailed in the following table:

*(Rupees in crore)*

Sl. No.	Head of Revenue	Amount outstanding as on 31 March 2006	Amount outstanding for more than 5 years as on 31 March 2006	Remarks
1	Commercial Tax	234.64	161.13	<ul style="list-style-type: none"> <li>● Most of the arrears pertain to the people residing outside this state.</li> <li>● Some of the arrear holders are not tracable for want of complete address.</li> <li>● Some of the arrears have been stayed by the judicial and administrative authorities.</li> </ul>
2	Taxes on Vehicles	1.75	Not furnished	
3	Stamp duty and Registration fee	4.77	Not furnished	
4	Taxes and Duties on Electricity	65.67	NIL	
5	Receipts made by Sugarcane (Regulation, Supply and Purchase Tax) Act	5.63	NIL	

**6.1.8 Arrears in assessment**

The details of cases pending assessment at the beginning of the year 2005-06, cases which became due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 2005-06 as furnished by the department in respect of commercial tax are as follows:

Name of tax	Opening balance	New cases due for assessment during 2005-06	Total assessments due	Cases disposed of during 2005-06	Balance at the end of the year	Percentage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Commercial tax	94,811	46,174	1,40,985	29,462	1,11,523	20.90

**6.1.9 Evasion of tax**

The details of cases of evasion of tax detected by the Commercial Tax Department, cases finalised and the demands for additional tax raised as reported by the department are given below:

*(Rupees in lakh)*

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2005	Cases detected during 2005-06	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc. raised		No. of cases pending finalisation as on 31 March 2006
					No. of cases	Amount of demand	
1	Commercial tax	146	144	290	128	371.77	162

**6.1.10 Write off and waiver of revenue**

During the year 2005-06, demands for Rs.20 lakh in 78 cases relating to commercial tax were written off by department as irrecoverable. Reasons for write off though called for have not been received.(November 2006)

**6.1.11 Refunds**

The number of refund cases pending at the beginning of the year 2005-06, claims received, refunds allowed and cases pending at the end of the year 2005-06, as reported by the departments are given below:

*(Rupees in lakh)*

Sl. No.	Reasons	Commercial Tax		Stamp Duty and Registration	
		No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year	343	252.68	-	-
2	Claims received during the year	2,879	627.60	8	92.34
3	Refunds made during the year	2,811	575.43	8	69.00
4	Balance outstanding at the end of the year	411			

### **6.1.12 Results of audit**

Test check of records of commercial tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax receipts, forest receipts and other non tax receipts conducted during the year 2005-06 revealed under assessment / short levy / loss of revenue amounting to Rs. 69.13 crore in 201 cases.

This chapter contains a long paragraph on under valuation of property/building in the stamps and registration department and six paragraphs involving money value of Rs.7.58 crore. The Department/Government accepted 16 cases involving money value of Rs. 3.19 crore. Report on recovery and reply in one case had not been received (November 2006).

### **6.1.13 Failure of senior officials to enforce accountability and protect interest of Government**

Accountant General (Audit), Uttaranchal arranges to conduct periodical inspection of Government Departments concerned with tax revenue to test check transactions and verify maintenance of important records in accordance with prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). When important irregularities etc. detected during inspection are not settled on the spot, these IRs are issued to the heads of offices inspected, with a copy to the next higher authorities. The heads of offices and respective next higher authorities are required to ensure compliance with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the Accountant General (Audit). Serious irregularities are also brought to the notice of the heads of departments by the office of the Accountant General (Audit). The number of IRs and audit observations relating to revenue receipts issued upto 31 December 2005 and pending settlement by the departments as on 30 June 2006 along with corresponding figures for the preceding two years are given below:

Particulars	As at the end of		
	June 2004	June 2005	June 2006
Number of IRs pending settlement	1,362	1,538	1,588
Number of outstanding audit observations	2,577	2,937	3,033
Amount of revenue involved (Rupees in crore)	1,302	1,556	1,604

## **6.2 Undervaluation of Property/Buildings in the Stamps and Registration Department**

### **6.2.1 Introduction**

Stamp Act is a fiscal law which imposes tax, popularly known as stamp duty. The levy of stamp duty on various types of instruments such as conveyance, exchange, mortgage etc is governed by the Indian Stamp Act (IS Act), 1899 and Rules framed thereunder. The duty is paid by the executors of instruments either by using impressed stamps or by affixing stamps (non

judicial) of proper denomination. The levy of registration fee on the instruments presented for registration is regulated by Indian Registration Act, 1908 and Rules framed thereunder. Under the provisions of Uttar Pradesh Stamp (Valuation of property) Rules, 1997 (Rules) as adopted in the state of Uttaranchal, the market value is fixed biennially by the District Collector for different localities and is notified for guidance of registering authorities. In case of under valuation of property the registering authorities have the right to initiate action under section 33 and/or Sec 47-A of the IS Act.

**6.2. Non levy of stamp duty due to delay in fixing the rates for industrial land**

Under the IS Act, stamp duty on an instrument for conveyance is chargeable either on the market value of property forming the subject matter of the deed or on the value of consideration set forth therein, whichever is higher. Further as per provisions of Rules, market value of various categories of land and building in a district is to be fixed biennially by the collector for the guidance of assessing authorities.

**6.2.2.1** Scrutiny of records of the Sub Registrar (SR) I & II Roorkee under District Collector Haridwar revealed that the rate of industrial land in Roorkee tehsil, effective from 1 November 2001 was fixed at 20 *per cent* above the rate applicable to residential land. Under the Rules *ibid*, the rate was to be refixed from 1 November 2003 i.e. after completion of two years. The Collector Haridwar refixed rates for all the categories of land on due date viz. November 2003, but failed to revise the rates of industrial land from due date and the rate of industrial land was refixed at a later date from 23 May 2005.

Test check of records in the office of SR Roorkee revealed that 80 documents were registered at the pre revised rate during the period from 1 November 2003 to 22 May 2005. Revenue of Rs. 2.52 crore was foregone by the department due to non revision of rates of industrial land on the due date.

The cases were reported to the Department in October 2006; reply has not received (November 2006).

**6.2.2.2 Short levy of stamp duty and registration fee due to under valuation of industrial land**

Test check of records of five SRs<sup>2</sup> and District Registrar, Tehri revealed that in 88 cases test checked, the market value of the land purchased for industrial purpose was worked out on the basis of agricultural circle rates instead of industrial circle rates fixed by the District Collector. This resulted in short levy of stamp duty and registration fee of Rs. 1.39 crore.

After this was pointed out, the Department in October 2006 stated that under the provisions of Rules, industrial rates to be fixed need not be higher than the rates fixed for residential land. The reply was not relevant as in this case separate rates for industrial land had been fixed by the District Collector which were to be applied for charging stamp duty.

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<sup>2</sup> Bazpur, Haridwar, Kashipur, Luxar, Roorkee.

### **6.2.3      *Short levy of stamp duty due to under valuation of commercial property***

Under the provision of Rules, the value of commercial property for the purpose of stamp duty was to be worked out after taking into account the value of land together with 300 times monthly rent of covered area built therein as fixed by the District Collector.

Scrutiny of records between October 2005 and April 2006 of six SRs<sup>3</sup> and District Registrar Tehri, revealed that in seven cases test checked the valuation was done taking the value of land plus the cost of construction as applicable to residential property. Thus, non inclusion of 300 times the rent of covered area as applicable to commercial property resulted in under valuation of commercial property and short levy of stamp duty of Rs. 85.86 lakh.

After this was pointed out, the Department in October 2006 accepted under valuation of property in five cases. In respect of two cases relating to Rishikesh and Kotdwar, the Department stated that the properties were residential and not commercial. The reply was not tenable as the subjects of properties as per respective sale deeds were a hospital (Rishikesh) and a shop (Kotdwar) which are commercial and not residential properties.

### **6.2.4      *Short levy of stamp duty due to undervaluation of leased property***

Under article 35 of Schedule 1B of the IS Act, and Rules made thereunder, stamp duty on a lease deed is chargeable on the value computed on the basis of average annual rent reserved in accordance with period of lease specified together with any fine or premium or money advanced. When the period of lease is not specified or for more than 30 years or perpetual or confers hereditary right on a tenant, stamp duty is chargeable as applicable to an instrument of conveyance under Article 23 of the Act viz. the value of consideration set forth therein or the market value of the property fixed by the Collector, whichever is higher.

Scrutiny of records of four SRs between October 2005 and April 2006 revealed that three lease deeds (two in Ranikhet and one in Tehri) were registered for a period of 15, 10 and five years respectively but the value was not computed in accordance with provisions made in the Act, viz taking into consideration five, four and three times of the average annual rent reserved in the deed. Similarly, four lease deeds (three in Haridwar and one in Sitarganj) were registered either as perpetual lease or a lease for a period of more than 30 years, but the value was not computed in accordance with Article 23 of the Act, i.e. on the market value of the property fixed by the Collector. This resulted in under valuation of property and short levy of stamp duty of Rs. 13.06 lakh.

After this was pointed out, the Department in October 2006 accepted the objection. Report on recovery has not been received. (November 2006).

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<sup>3</sup> Almorah, Bazpur, Kashipur, Pithoragarh, Ranikhet.



**6.2.5 Short levy of stamp duty on sale of property by UPFC**

Under Article 18 of Schedule 1B of the IS Act, when a certificate of sale is granted to the purchaser of any property sold by public auction by a court, or by an officer, authority or body empowered under any law, for the time being in force, to sell such property by public auction and to grant the certificate, the stamp duty is leviable as a conveyance under clause (a) of article 23 of the Act for a consideration equal to the amount of purchase price only. The certificate of sale granted to the purchaser by Uttar Pradesh Financial Corporation (UPFC) is not covered under the provisions of the Act *ibid* and stamp duty leviable thereon was to be based on the amount or value of the consideration of such conveyance as set forth therein, or the market value of the property fixed by the District Collector, whichever was greater.

Test check of SRs, Haridwar, Kichchha, and Kotdwar revealed that in four cases property was transferred between September 2002 and March 2005 on the value of sale certificate granted by UPFC and not on the value to be worked out on the basis of the circle rate fixed by the Collector. This resulted in short levy of stamp duty of Rs. 58.73 lakh.

After this was pointed out, the Department in October 2006 stated that stamp duty was charged correctly. The reply was not tenable as stamp duty was chargeable on the market value of property as per Act and also clarified by Government in December 2002.

**6.2.6 Short levy of stamp duty due to misclassification of deed**

Under article 64 of Schedule 1B of the IS Act, when a person creates a trust for charitable purpose and declares himself as a trustee and also transfers his property to the trust so created, the trust deed will be treated as a settlement deed on which stamp duty at the rate of Rs. 70 per 1,000 is leviable under Article 58 of the Act *ibid*.

During test check in the offices of the SRs Haldwani, Rishikesh, and Almora, it was noticed that in three cases the executors transferred properties valued at Rs. 70.59 lakh to trusts created for charitable purposes declaring themselves as trustees but did not pay stamp duty as settlement deed which resulted in short payment of stamp duty of Rs.3.95 lakh.

After this was pointed out, the Department in October 2006 accepted the objection and referred the matter to the Collector for determination of market value and stamp duty payable thereon. Report on recovery is awaited (November 2006).

**6.2.7 Short levy of stamp duty due to irregular exemption to district co-operative bank**

As per Government of UP order issued in July 1979 (as adopted in Uttaranchal) exemption was granted from the payment of stamp duty on the deeds executed in favour of co-operative societies. There was, however, no provision of exemption from payment of stamp duty on deeds executed in favour of district co-operative banks.

Scrutiny of records of SR, Kotdwar in January 2006 revealed that the sale deed of a building valued at Rs. 43 lakh at Kotdwar having covered area of 319.63 sq m was executed in favour of District Co-operative Bank Ltd, Garhwal on which stamp duty of Rs.4.30 lakh was payable on the market/sale value of the building. The SR, however, exempted the property from charging stamp duty treating it as a co-operative society. This resulted in non levy of stamp duty of Rs. 4.30 lakh.

After this was pointed out, the Department in October 2006 accepted the objection and referred the matter to the Collector for determination of stamp duty payable thereon. Recovery is awaited (November 2006).

### **6.2.8 Short levy of stamp duty on the transfer of bhoomidhari land**

Under IS Act, stamp duty is chargeable based on the nature and contents of the instrument and not on the nomenclature given to it. Under section 156 of UP Zamindari Abolition & Land Reforms Act 1950, in cases where the possession of the land is transferred through a lease, stamp duty thereon is chargeable as applicable to an instrument of conveyance under article 23 of the Act *ibid* viz. on the market value of the land fixed by the District Collector.

Scrutiny of records of SR, Tehri in February 2006 revealed that a bhoomidhari land measuring 1.072 hectare at Dhanolti was transferred on lease for 99 years in favour of M/s Apil Auchai Resort, Dhanolti at a stamp duty of Rs. 600. The market value of the land was to be arrived at the circle rate of Rs. 41.13 lakh per hectare fixed by the District Collector which comes to Rs. 44.09 lakh on which stamp duty Rs. 3.52 lakh was payable. As such stamp duty of Rs 3.52 lakh was short levied by the department.

After this was pointed out, the Department in October 2006 accepted the objection and referred the matter to the Collector for determination of actual market value and stamp duty payable thereon. Report on recovery of stamp duty is awaited (November 2006).

The cases were reported to Government in October 2006; reply has not been received (November 2006).

## **Commercial Tax Department**

### **6.3 Non levy of tax**

**Inadmissible exemption resulted in non levy of tax and interest of Rs. 3.01 lakh.**

Section 3A of the Uttar Pradesh Trade Tax Act, (UPTT Act) 1948 ( as adopted by the Government of Uttaranchal) stipulates that tax is leviable on the sale of classified/unclassified goods except those specifically exempted under section 4 of Act *ibid*. While tax on the sale of classified goods is leviable at the rates notified from time to time, tax on sale of unclassified goods is leviable at the rate of 10 *per cent*. Interest is also chargeable upto the date of deposit of tax.

Scrutiny of records in February 2006 of the Assistant Commissioner, Commercial Tax, Ram Nagar revealed that a dealer sold moss grass valued at

Rs. 15.94 lakh during the years 2001-02 and 2002-03 which was exempted from payment of tax by the assessing authority (AA) treating the goods as cattle fodder covered under section 4 of the Act. Moss grass is neither cattle fodder nor exempted under any other section of the Act. The item being unclassified is taxable at the rate of 10 *per cent*. Grant of inadmissible exemption resulted in short levy of tax of Rs. 1.59 lakh. In addition, interest of Rs 1.42 lakh was also leviable on the tax due. Thus, an amount of Rs.3.01 lakh was leviable by way of tax and interest.

After this was pointed out, the Department in September 2006 stated that notice for levy of tax has been issued to the dealer. Further reply is awaited (November 2006).

The matter was reported to Government in April 2006; reply has not been received (November 2006).

#### **6.4 Short levy of tax due to misclassification**

##### **Misclassification of commodities resulted in short levy of tax of Rs. 6.12 lakh.**

As per notification of January 2000 issued under section 3A of UPTT Act, (as adopted), all goods and wares made of glass excluding plain glass panes are taxable at the rate of 15 *per cent*. Plain glass panes being unclassified goods are, however, taxable at the rate of 10 *per cent*.

Scrutiny of records in November 2004 in the offices of the Deputy Commissioner (A), Trade Tax, Roorkee and Deputy Commissioner (A) III, Trade Tax/CT Dehradun revealed that two dealers imported glass sheets, glasswares, float and reflective glasses from outside the state and sold it for Rs. 122.46 lakh during the years 2000-01 and 2001-02. The AAs, however, levied tax at the rate of 10 *per cent* treating the goods as plain glass panes instead of 15 *per cent*. Misclassification of the commodities resulted in short levy of tax amounting to Rs. 6.12 lakh.

After this was pointed out, the AA of Roorkee stated that the differential tax along with interest due has been levied while AA in Dehradun stated that imported glass falls in the category of plain glass according to the manufacturing process involved. The reply is not tenable as records available with audit clearly show that the dealer imported float glass which is different from plain glass and was taxable at the rate of 15 *per cent*.

#### **6.5 Inadmissible exemption under Central Sales Tax Act**

##### **Allowance of inadmissible exemption to a dealer resulted in non levy of tax of Rs. 2.20 crore.**

Central Sales Tax Act (CST Act) 1956, exempts any sale subsequent to the movement of goods or transfer of documents relating to the title of goods from one state to another, in the course of interstate trade or commerce, from tax under the Act. The dealer who effects the sale is, however, required to furnish to the prescribed authority a certificate signed by the registered dealer from whom the goods were purchased in form E-1 and a declaration in form 'C'. It

has been judicially held<sup>4</sup> that furnishing of form C with form E-1 is mandatory for obtaining the above exemption.

Scrutiny of records of the Deputy Commissioner (Assessment), Commercial Tax, Kotdwar revealed that while finalising the assessment of a dealer for the year 2001-02 in June 2004, the AA exempted turnover of Rs. 22.01 crore on account of sale of SMPS<sup>5</sup> power plant, batteries and MDF<sup>6</sup> during movement of goods by transfer of documents of title based on E-1 form only. Since the dealer did not submit form C in support of interstate sale, he was liable to pay tax at the rate of 10 *per cent*. Inadmissible exemption from tax, allowed by the AA resulted in non levy of tax of Rs. 2.20 crore.

The matter was reported to the Department and Government in April 2006. In reply the department accepted (August 2006) the objection and sought permission of higher authorities for the levy of tax. Reply from Government is awaited (November 2006).

#### **6.6 Irregular exemption from tax**

##### **Irregular grant of exemption resulted in short levy of tax and interest of Rs. 2.60 lakh.**

Section 5 of the CST Act provides that no tax is leviable on goods exported out of the territory of India. For this purpose, form H and bill of lading are required to be furnished by the dealer to prove that the goods had actually been exported across the customs frontier of India. Interest is also chargeable up to the date of deposit of tax.

Scrutiny of records in January 2006 of Deputy Commissioner (A) II, Commercial Tax, Rudrapur revealed that a dealer claimed to have exported 'non basmati' rice valued at Rs. 19.70 lakh during the year 2002-03 and submitted form H in support of such export. Verification of bill of lading submitted by the dealer along with form H, however, showed sale of "basmati rice". The discrepancy in the documents indicated that the bill of lading submitted by the dealer did not relate to the transaction for which form H had been furnished. Thus, the commodity was not covered by form H and was to be treated as sales during the course of interstate trade attracting tax at eight *per cent* which was not levied. This resulted in irregular exemption and short levy of tax of Rs. 2.60 lakh including interest.

The matter was reported to the Department and Government in April 2006. The department stated in August 2006 that non basmati rice had been written on form H by mistake. The reply is not tenable as form H is required to be filled in by the exporter and copy of form H available with audit shows the item as non basmati rice whereas bill of lading covers the item basmati rice. Reply of Government is awaited (November 2006).

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<sup>4</sup> M/s Swastik Sale Corporation, Agra Vs Commissioner of Sale Tax, U.P. Lucknow (ST-1996 Allahabad High Court-281 STR 201 & 202 of 1993).

<sup>5</sup> SMPS- Switch mode power supply.

<sup>6</sup> MDF- Main distribution frame.

## Environment and Forest Department

### 6.7 Loss of revenue due to non extraction of resin

#### Non tapping of channels resulted in loss of revenue of Rs. 72.98 lakh.

A deep marking called a channel is made on the trunks of pine trees after removing the bark to extract resin (*lisa*), which is a forest produce. The extraction of resin is done as per the working plan of the division. The working plan indicates the number of channels to be tapped by the division in a year. Any deviation from the working plan required approval of the Conservator of Forests, Working Plan Circle.

Test check of records of the Divisional Forest Officer (DFO), Chakrata Forest Division, Chakrata in February 2006 revealed that during the year 2003-04 to 2004-05, 1.82 lakh channels were available for resin tapping as per the working plan of the division. Of these, the division tapped only 1.15 lakh channels leaving 0.67 lakh channels untapped. Non tapping of channels as per the approved working plan of the division resulted in non extraction of 2,919 quintals of resin valuing Rs. 72.98<sup>7</sup> lakh, thereby causing a loss of revenue to Government.

After this was being pointed out, Government replied in November 2006 that tapping was made on the actual number of trees found fit for tapping. Reply was not tenable as the number of channels for tapping was clearly indicated in the working plan after scientific survey of the trees in the area. No deviation from the working plan was also approved by the Conservator of Forests.

### 6.8 Non-realisation of royalty on actual outturn of timber

#### Non-realisation of royalty on actual outturn resulted in loss of Rs. 1.45 crore.

Norms prescribed by the Chief Conservator of Forests (CCF), provide that if the variation between the estimated and the actual outturn of timber is upto ten *per cent*, it may be ignored. Where the variation exceeds ten *per cent*, royalty should be levied on the actual outturn.

Test check of records (February 2006) of the office of the Deputy Conservator of Forest (DCF), Haldwani Forest Division, Haldwani revealed that the actual outturn of timber extracted by the Uttaranchal Forest Corporation (UFC) exceeded the estimated out-turn by 62 *per cent* during the year 2004-05. The Department, however, raised demand of royalty on the basis of estimated

<sup>7</sup>

Year	Nos. of channels available as per Working Plan	Nos. of Channel taped	Nos. of untapped Channels	Actual extraction per Channel in kg.	Un extracted resin in kg.
2003	91000	53564	37436	4.25	1,59,103
2004	91000	61300	29700	4.47	1,32,759
Total	182000	114864	67136		2,91,862

2919 qtl. x 2500= Rs. 72.98 lakh.

outturn only. Forest royalty of Rs. 1.45 crore, based on the difference between the estimated and actual outturn, amounting to 1,644.83 cubic meters of timber, was not assessed and realised.

On this being pointed out, the DCF stated (February and June 2006) that royalty was calculated on the rates fixed by a Committee headed by the Principal Chief Conservator of Forest (PCCF) and that action would be taken after receiving necessary orders from the higher authorities. The reply is not tenable as the Committee headed by the PCCF fixes the rates of royalty only once a year. It has nowhere recommended that the actual outturn of timber be not taken into account while charging royalty. Where the actual exceeds the estimated outturn by more than 10 *per cent* royalty is chargeable on the actual outturn. The actual volume of timber was assessed and recorded in the C-4(a) register maintained by the Range Officers at the time of transportation. The Division had not, however, raised additional demand for un-recovered royalty amounting to Rs. 1.45 crore (November 2006).

The matter was reported to the Government (May 2006); reply is awaited (November 2006).