CHAPTER-VI

REVENUE RECEIPTS

6.1 GENERAL

6.1.1 The tax and non-tax revenue raised by the Government of Uttarakhand 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 and the corresponding figures for the preceding four years are mentioned below:

Table 6.1.1

(Rupees in crore)

	2003-04	2004-05	2005-06	2006-07	2007-08
1. Revenue raised by the State Government					
• Tax revenue	1,225.96	1,444.36	1,784.69	2,513.78	2,738.75
• Non-tax revenue	370.41	547.70	650.09	646.82	668.38
Total	**1,596.37**	**1,992.06**	**2,434.78**	**3,160.60**	**3,407.13**
II. Receipts from the Government of India					
• State's share of divisible Union taxes	435.03	519.97	1,009.82	1,131.83	1,427.70[1]
• Grants-in-aid	1,568.68	1,573.57	2,092.42	3,080.79	3,056.26
Total	**2,003.71**	**2,093.54**	**3,102.24**	**4,212.62**	**4,483.96**
III. Total receipts of the State (I+II)	**3,600.08**	**4,085.60**	**5,537.02**	**7,373.22**	**7,891.09**
IV. Percentage of I to III	**44**	**48**	**43**	**42**	**43**

Source: Finance Accounts 2007-08.

The revenues raised by the State were 43 *per cent* of the total revenue receipts; the balance 57 *per cent* was from the Government of India. The composition has remained more or less unchanged in the last five years. Annual growth of revenue receipts was in the range of 33 *per cent* to 35 *per cent* during the period 2004-07 but dropped to seven *per cent* in 2007-08. In the current year, tax revenue increased by nine *per cent* over the previous year. The increase in collection was substantially impeded this year as compared to 41 *per cent* growth in 2006-07 and 2005-06.

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[1] For details see statement No. 11 - detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Uttarakhand for the year 2007-08. 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, 0044 - Service tax and 0045 - Other taxes and duties on commodities and services. 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.

6.1.2 Tax revenue

Table 6.1.2 presents the details of the tax revenue raised during the period from 2003-04 to 2007-08.

Table 6.1.2

(Rupees in crore)

Sl. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Increase (+)/ decrease (-)	Percentage
1.	Commercial tax	661.96	793.51	1,014.33	1,361.42	1,627.41	(+) 265.99	19.54
2.	State excise	273.37	292.01	292.75	372.91	441.56	(+) 68.65	18.41
3.	Stamp duty and registration fees	168.94	207.80	333.39	546.32	424.27	(-) 122.05	(-) 22.34
4.	Taxes on vehicles, goods and passengers	86.12	98.91	114.85	141.46	155.26	(+) 13.80	9.76
5.	Taxes and duties on electricity	16.45	37.49	12.24	66.19	55.22	(-) 10.97	(-) 16.57
6.	Land revenue	12.64	7.74	9.18	15.42	23.40	(+) 7.98	51.75
7.	Other taxes and duties on commodities and services	6.04	4.04	4.39	5.44	6.45	(+) 1.01	18.57
8.	Others	0.45	2.86	3.56	4.62	5.18	(+) 0.56	12.12
	Total	**1,225.97**	**1,444.36**	**1,784.69**	**2,513.78**	**2,738.75**	**(+) 224.97**	**8.95**

Source: Finance Accounts 2007-08.

Commercial tax collection after witnessing 34 *per cent* increase after introduction of VAT in 2005, slowed down to an increase of 20 *per cent* in 2007-08 over the previous year, which the department felt was a normal growth. Receipts under Stamps and Registration reduced by Rs. 122 crore as registration of sale deeds reduced by 24,824 in four major districts[2] of the State during the year.

The reasons for variation in receipts for 2007-08 from those of 2006-07 in respect of principal heads are as mentioned below :

- State excise duties increased by 18 *per cent* in 2007-08 over the previous year as against a 27 *per cent* increase in previous year. The department stated (November 2008) that the excise policy of 2005-06 was announced late as a result of which the duties due for collection by March 2006, were collected later in the year. To that extent, the spurt in growth in excise duties in 2006-07 was abnormal.

- Taxes and duties on electricity registered a decrease of 17 *per cent* in 2007-08 despite increase in billing and collection by Uttarakhand Power Corporation Ltd[3] (UPCL) during the year. The UPCL stated (November 2008) that during 2006-07 and 2007-08, an amount of Rs. 30 crore and Rs. 82.42 crore respectively was deposited and an amount of Rs. 34.42

[2] Udham Singh Nagar, Dehradun, Haridwar and Nanital.

[3] The duties are collected by UPCL in bills raised against consumers for consumption of energy, with the billing cycles varying for different categories of consumers.

crore relating to the previous period was deposited in 2007-08. It was observed that UPCL had not reconciled the figures of amount due and amount deposited with State Government, as a result of which there were wide inter-year fluctuations in collection.

6.1.3 Non-tax revenue

Table 6.1.3 presents the details of the non-tax revenue raised during the period from 2003-04 to 2007-08.

Table 6.1.3

(Rupees in crore)

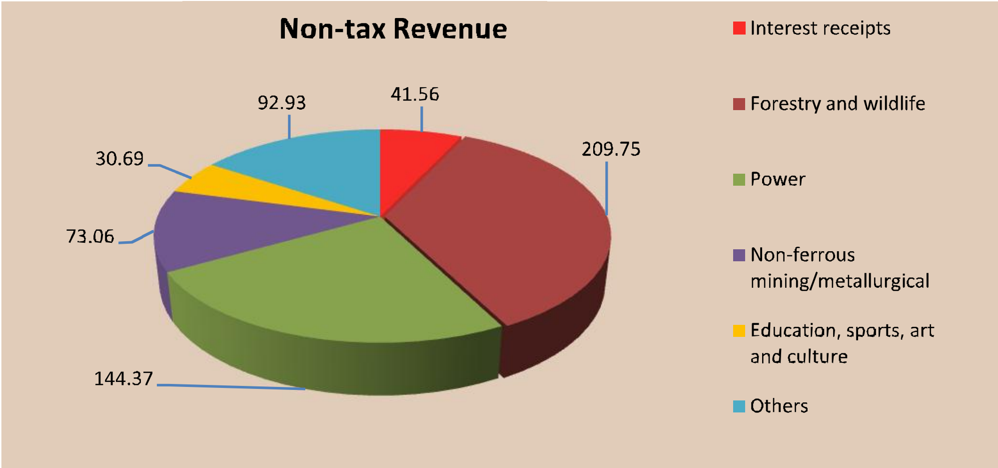
Sl. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Increase (+)/ decrease (-)	Percentage increase/ decrease
1.	Interest receipts	30.22	21.96	34.60	40.94	41.56	(+) 0.62	1.51
2.	Forestry and wildlife	131.88	130.58	159.47	188.09	209.75	(+) 21.66	11.52
3.	Power	59.77	219.69	230.81	172.22	144.37	(-) 27.85	(-) 16.17
4.	Non-ferrous mining/metallurgical industries	31.82	36.61	52.97	62.58	73.06	(+) 10.48	16.75
5.	Education, sports, art and culture	21.28	22.27	24.84	23.34	30.69	(+) 7.35	31.49
6.	Public works	2.19	3.99	8.62	11.52	13.96	(+) 2.44	21.18
7.	Major and medium irrigation	9.36	5.74	6.21	5.69	5.76	(+) 0.07	1.23
8.	Police	4.01	4.20	5.23	5.24	5.96	(+) 0.72	13.74
9.	Other administrative services	20.65	27.04	35.71	11.83	35.53	(+) 23.70	200.34
10.	Medical & public health	4.25	2.60	6.04	4.29	5.29	(+) 1.00	23.31
11.	Co-operation	1.17	2.94	1.19	3.99	5.58	(+) 1.59	39.85
12.	Crop husbandry	22.11	6.40	2.80	2.73	3.94	(+) 1.21	44.32
13.	Others	31.70	63.68	81.60	114.36	92.93	(-) 21.43	(-) 18.74
	Total	**370.41**	**547.70**	**650.09**	**646.82**	**668.38**	**(+) 21.56**	**3.33**

Source: Finance Accounts 2007-08.

Non-tax revenue has remained more or less stagnant from 2004-05 onwards. At Rs. 668 crore, non-tax revenue constituted 8.5 *per cent* of revenue receipts. Forestry and Wild life: Rs. 210 crore (31 *per cent*) and Power Rs. 144 crore (22 *per cent*) have been the principal contributors to non-tax revenue. However the growth in revenue in 2007-08 (as compared to the previous year) in forestry and wildlife was only 12 *per cent* while revenue from power[4] has been on the downward trend since 2006-07; the decrease being 16 *per cent* in 2007-08 over the previous year. Contribution of interest receipts to non-tax revenue was six *per cent* during the current year.

[4] Power development cess and water royalty charges levied on power generating units.

Chart 6.1



6.1.4 Variations between the budget estimates and actuals

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 tabulated in table 6.1.4:

Table 6.1.4

(Rupees in crore)

Sl. No.	Revenue head	Budget estimates	Actuals	Variation increase (+)/ decrease (-)	Percentage of variation
Tax revenue					
1.	Commercial tax	1,551.50	1,627.41	(+) 75.91	(+) 4.89
2.	State excise	459.71	441.56	(-) 18.15	(-) 3.95
3.	Stamp duty and registration fees	465.66	424.27	(-) 41.39	(-) 8.89
4.	Taxes and duties on electricity	67.08	55.22	(-) 11.86	(-) 17.68
Non-tax revenue					
5.	Interest receipts	21.62	41.56	(+) 19.94	(+) 92.23
6.	Other administrative services	23.15	35.53	(+) 12.38	(+) 53.48
7.	Crop husbandry	3.60	3.94	(+) 0 .34	(+) 9.44
8.	Social security and welfare	2.10	1.18	(-) 0 .92	(-) 43.81
9.	Medical and public health	4.29	5.29	(+) 1.00	(+) 23.31
10.	Roads and bridges	0.36	1.80	(+) 1.44	(+) 400
11.	Public works	6.20	13.96	(+) 7.76	(+) 125.16
12.	Forestry and wildlife	189.51	209.75	(+) 20.24	(+) 10.68
13.	Non-ferrous mining and metallurgical industries	70.00	73.06	(+) 3.06	(+) 4.37
14.	Education, sports, art and culture	35.12	30.69	(-) 4.43	(-) 12.61

Source: Receipt Budget and Finance Account for the 2007-08.

Non-tax collection far exceeded the budgeted estimates indicating that the projections are not assessed realistically and are in fact, under-estimated. The departments did not provide reasons for the wide variation (November 2008).

6.1.5 Analysis of collection

The breakup of the collection at different stages during the last five years is tabulated at table 6.1.5**.**

Table 6.1.5

(Rupees in crore)

Head of revenue	Amount collected at the 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	1,609.20	10.31	0.76	4.07	1,616.20	99.6
Entry tax	4.64	Nil	Nil	Nil	4.64	100

Almost the entire collections made under commercial tax and entry tax was at the pre-assessment stage. Only Rs. 7 crore representing 0.4 *per cent* of the net collection was collected after regular assessment.

6.1.6 Cost of collection

Cost of collection of major taxes during 2005-08 along with the relevant all India average percentage for the year 2006-07 is mentioned below:

Table 6.1.6

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection[5]	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for 2006-07
1.	Sales/ Commercial tax	2005-06	1,014.33	13.95	1.38	0.82
		2006-07	1,354.98	31.02	2.29	
		2007-08	1,620.84	34.53	2.13	
2.	State excise	2005-06	292.75	3.11	1.06	3.30
		2006-07	372.84	3.93	1.05	
		2007-08	441.71	4.05	0.92	
3.	Taxes on vehicles	2005-06	114.85	4.71	4.10	2.47
		2006-07	136.95	5.30	3.87	
		2007-08	152.04	7.81	5.14	
4.	Stamp duty & registration fees	2005-06	333.39	3.24	0.97	2.33
		2006-07	546.24	4.34	0.79	
		2007-08	424.16	5.81	1.37	

Source: Concerned State Department.

[5] The figures for collection of all four taxes in the years 2006-07 and 2007-08, provided by the State departments and reflected in the table, are at variance with the figures reflected in Finance Accounts. The same are under reconciliation.

The cost of collection of the taxes on vehicles was significantly higher than the all India average which the department has attributed to increase in the accidental benefit in the event of fatal accidents and also due to increase in staff strength in 2007-08.

6.1.7 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue amounted to Rs. 610.46 crore of which Rs. 265.20 crore (43 *per cent*) was outstanding for more than five years as mentioned in the following table:

Table 6.1.7

(Rupees in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2008	Amount outstanding for more than 5 years as on 31 March 2008
1.	Commercial tax	563.72	257.44
2.	Taxes on vehicles	2.11	0.38
3.	Stamp duty and registration fee	2.49	0.75
4.	Taxes and duties on electricity	25.16	NIL
5.	State Excise	0.49	0.24
6.	Registrar, Co-operative Societies	8.06	6.39
7.	Taxes on Purchase of Sugarcane	8.43	NIL
	Total	**610.46**	**265.20**

Source: State Department.

6.1.8 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 in 2007-08, as reported by the department, are mentioned below:

Table 6.1.8

(Rupees in lakh)

Name of tax/duty	Opening balance	Detected during the year	Total	No. of cases in which additional demand including penalty raised		Closing balance
				No. of cases	Amount of demand	
Commercial tax	91	797	888	380	2,018.36	508

6.1.9 Refunds

The Commercial Tax Department settled 87 *per cent* of the refund claims in 2007-08 while in case of stamp duty and registration, all the cases were settled during the year as mentioned in table 6.1.9.

Table 6.1.9

(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	443	115.25	-	25.78
2.	Claims received during the year	4,007	1,164.82	8	336.09
3.	Refunds made during the year	3,479	407.39	8	336.09
4.	Balance outstanding at the end of the year	971	872.68	-	25.78

The stamps and registration Department did not inform the number of cases against which the amount of Rs. 25.78 lakh was outstanding. Also, the opening balance (443) intimated by the Sales Tax Department differs from the closing balance reported by the department last year.

6.1.10 Results of audit

Test check of the 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 2007-08 revealed underassessment/short levy/loss of revenue amounting to Rs. 43.28 crore in 222 cases.

This Report contains three paragraphs and a review on a scheme on tax incentives to new industrial units under Section 4A of UP Trade Tax Act, 1948 (as adopted in Uttarakhand) involving financial effect of Rs. 60.48 crore, of which one paragraph with financial implication of Rs. 4.78 lakh had been accepted by the department. Replies from the Government have not been received (November 2008).

6.1.11 Failure to enforce accountability and protect interest of the Government

Accountant General (Audit), Uttarakhand arranges to conduct periodical inspection of Government departments concerned with the tax revenue to test check the transactions and verify the maintenance of important records in accordance with the prescribed rules and procedures. These inspections are followed up with inspection reports (IR) issued to the heads of offices inspected, with a copy to the next higher authorities. The heads of offices and the 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 2007 and pending settlement by the departments as on 30 June 2008 along with corresponding figures for the preceding two years are mentioned below:

Table 6.1.10

Particulars	As at the end of		
	June 2006	June 2007	June 2008
Number of pending IRs	1,588	1,863	1,046
Number of outstanding audit observations	3,033	3,400	2,093
Amount of revenue involved (Rupees in crore)	1,604	1,757.02	231.37

6.1.12 Recovery of revenue of accepted cases

During the years 2003-04 to 2006-07, the departments/Government accepted cases involving Rs. 3.93 crore, of which Rs. 3 lakh which is 0.76 *per cent* only was recovered as mentioned below:

Table 6.1.11

(Rupees in crore)

Sl. No.	Year	Total money value	Accepted money value	Recovery made
1.	2004-05	5.44	0.72	0.01
2.	2005-06	7.58	3.19	0.01
3.	2006-07	1.03	0.02	0.01
Total		14.05	3.93	0.03

6.1.13 Audit Committee Meeting

During the year 2007-08, no audit committee meeting was held with the Department.

COMMERCIAL TAX DEPARTMENT

6.2 Scheme for the tax incentives to new Industrial units U/S 4-A of UP Trade Tax Act 1948 (as adopted)

Highlights

- 62 units, representing 38 *per cent* of the units test checked in audit, discontinued their operations after availing tax exemption of Rs. 31.04 crore.

  [Paragraph 6.2.8]

- 21 units in six circles were granted inadmissible eligibility certificates for tax exemption of Rs. 195.84 crore.

  [Paragraph 6.2.9 and 6.2.10]

- Tax exemption of a unit was reckoned at concessional rates and adjusted against the limits of EC resulting in short adjustment of tax of Rs. 44.42 crore.

[Paragraph 6.2.11]

6.2.1 Introduction

With a view to promoting development of industries in the State, the Government of Uttarakhand introduced (September 2001) a tax incentive scheme under the provisions contained in Section 4A of Uttar Pradesh Trade Tax Act, 1948 (Act), as adopted in Uttarakhand. The scheme offered tax exemption or tax at reduced rates to newly set-up manufacturing units holding eligibility certificates (EC) issued by the State Industries Department. The benefits could be availed by those units set up on or after April 2000 but not later than 31 December 2001 and fulfill the conditions prescribed thereon. The scheme was extended (September 2002) to those units undertaking expansion, modernisation, diversification or backward integration on or before 31 December 2001[6].

The combined Uttar Pradesh (prior to bifurcation in September 2000) had floated similar schemes, the benefits of which are still being accrued to those units which have not crossed the validity period of the EC.

The EC specifies the name of goods to be manufactured, fixed capital investment (FCI), annual production capacity, quantum of tax relief (maximum) and the period for which it can be availed of by the unit. Every year, the unit is assessed for tax which is then exempted on submission of ECs. In case of misuse or breach of any of the conditions of EC or if the unit to which the EC has been granted is not entitled to the facility, the Commissioner of Commercial Tax Department could cancel or amend the EC.

6.2.2 Organisational set up

The overall control of the department vests with the Commissioner, Commercial Tax, Dehradun. The Uttarakhand State is divided into two zones, four ranges with headquarters at Dehradun and Rudrapur headed by Additional Commissioners and Joint Commissioners respectively. The ranges are further divided into circles and sectors under the charge of a Deputy Commissioners and Assistant Commissioners respectively.

6.2.3 Scope and methodology of audit

The performance review was conducted from October 2007 to March 2008. Before taking up performance review, an entry conference was held on 11 September 2007 with the officers of Commercial Tax Department where audit objectives and scope of audit was discussed. Test check of records for the period from 2002-03 to 2006-07 was carried out in 12 out of 18 assessing officers in the four ranges, covering 162 industries that availed the benefit of tax exemption under section 4A.

[6] Whose first date of production from expanded capacity falls on or after 17 January 2000 but not later than 31 December 2001

6.2.4 Audit objectives

The audit objectives were to seek an assurance on:

- compliance to the provisions of the Act/Rules, notifications and departmental instruction regarding exemptions;
- internal controls in the department exist to ensure that terms and conditions for grant of concession/exemption are met and that there was no incorrect availment of incentives; and
- statistical data relating to incentives U/s 4-A has been maintained to assess the effect of exemption in the State.

6.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing necessary records for audit. Audit findings were discussed in exit conference the audit review committee meeting with the Commercial Tax Department on 7 May 2008. The Additional Commissioner, Garhwal Zone, Dehradun presided over the meeting. The view points of the department have been taken into consideration while finalising the review.

6.2.6 Audit findings

Scrutiny of the records of all the four ranges of the state revealed irregularities amounting to Rs. 277.30 crore which are discussed in the succeeding paragraphs.

6.2.7 Non-maintenance of statistical data relating to exemption

The Commissioner Trade Tax issued (October 1993) instructions that all assessing officers are required to maintain master registers with information on 'new units' availing exemption including the addresses of units, nature and period of exemption, year-wise break-up of turnover and tax exemptions. A database was also to be developed to facilitate an impact assessment on the scheme. Audit found that registers were either not maintained or were incomplete, showing inadequate controls. None of the circles had developed the database although Rs. 2.30 crore was spent on purchase of computers during the period 2004-07.

6.2.8 Scheme lacunae

Exemption under Section 4-A of the Act, were introduced with the objective of increasing production of specified goods and for promoting development of specified industry in the state.

In four circles, 62 units closed their businesses after availing exemption of tax amounting to Rs. 31.04 crore. Thus the purpose of providing incentive with a view to promote industry in the state was defeated. There were no deterrent clauses in the Act/rules; nor was there any provision to recover the exempted amount in case the units did not continue operations for a specified period after availment of the exemption. This led to undue benefit to the units and the objective of allowing exemption from tax was not achieved.

6.2.9 Inadmissible exemptions

Under sub-section (3) of Section 4-A of the Act, Commissioner may cancel or amend the EC, if he is of the opinion that the facility of exemption has been misused or there is any legal or factual error in issuing such EC. A test check of records has revealed that in the following cases irregular exemptions were allowed.

6.2.9.1 Incorrect exemption to non-manufacturing units

New industrial units were exempted from payment of tax on the sale of goods manufactured by them in the manner and to the extent and for the period as covered under the scheme. As per Section 2 of Act, 'manufacture' shall mean the use of raw material and production of goods commercially different from raw materials used as input. Test check of records reveled that in two circles ECs were granted to non-manufacturing units as indicated in the table below:

Table 6.2.1

Name of the circle	No. of units	Period of exemption/ date of exemption	Period	Nature of exemption	Amount involved (Rs. in lakh)		Remarks, if any
					Value of exemption	Amount availed	
Haldwani	13	8-12 years for 1996-2006 and 2000-2012	2002-03; 2003-04	New manufacturing unit	416.84	212.17	Units were engaged in production of soap stone powder from soap stone lumps.
Rudrapur	2	12 years for 1998-2010 and 1999-2011	2002-03	New manufacturing unit	21.60	2.35	Units were in the business of grinding spices and solid masala.

As regards production of soap stone powder, the Supreme Court in the case of M/s Bheraghat Mineral Industries Vs Div. Dy. Commissioner of Madhya Pradesh and others held 8 November 1998 that dolomite lumps, chips and powder are the same commodity and that there was no manufacturing in crushing lumps into chips and powder. In respect of grinding of *sabut masala*, the Allahabad High Court decided in the case of Commissioner Vs Ashok Griha Udayog (P) Ltd. (STI 2004) that grinding of *sabut masala* would not amount to 'manufacture'.

Thus, ECs were issued irregularly to non-manufacturing units despite the judgments of Supreme Court and High Court, who have availed tax exemption of Rs. 2.15 crore.

6.2.9.2 Incorrect exemption to expanded/diversified units

Explanation no. 5 under Section 4A defines a 'unit undertaking expansion, diversification or modernisation' as one

- which is not defaulter in payment of any tax;
- wherein an additional fixed capital investment of atleast 25 *per cent* of original fixed cost is made; and
- wherein goods of nature different from those manufactured earlier are manufactured.

Further, the instructions issued by Commissioner, Trade Tax (July 2000) state that if a dealer has obtained stay on payment of any dues, he will be treated as a defaulter in payment of tax. Uttarakhand Government vide notification dated 20 September 2002 allowed the grant of exemption from or reduction in rate of tax to units, which have undertaken 'expansion', modernisation or 'diversification' subject to the conditions that the first date of production from the expanded capacity falls on or after 17 January 2000 but not later than 31 December 2001. Test check of the records showed that tax exemptions were allowed under 'expansion and/or diversification" without adhering to the above conditions:

Table 6.2.2

Name of circle	No. of units	Period of exemption/ date of exemption	Period	Nature of exemption	Amount involved (Rs. in lakh)		Remarks, if any
					Value of exemption	Amount availed	
Rudrapur	1	15 years; 1996-2011	2002-03	Expansion	13,154.40	945.00	The industrial unit was defaulter in payment of dues of Rs. 10.39 lakh (since 1993-94) and had obtained stay order from Tribunal.
		12 years; 1997-2009	2002-03	Diversification	3,735.12	-	
Kashipur	1	10 years; 1997-2007	2003-04	Diversification	6.18	0.23	No additional fixed capital investment was made.
Rudrapur	1	12 years 2002-2014	2003-04	Expansion	1,162.79	190.21	Unit achieved the expanded capacity on 15 March 2002 i.e. after 31 December 2001.

6.2.10 Other irregular exemptions

6.2.10.1 Under Section 4-A-2 (B) of the Act, when a unit is taken over by deed or sale or agreement or in any way ownership is changed, the new manufacturer should apply within 60 days of such transfer of ownership to the appropriate authority for utilisation of the remaining period of EC so granted to the previous owner. Test check has revealed that in two cases irregular exemptions were allowed:

- A Kotdwar based unit with a EC for Rs. 1.82 crore was sold (October 2002) but the new owner did not apply for EC within 60 days. Yet, the Department of Industries allowed the use of the EC to the new owner; the letter permitting the same and produced to audit was undated and unsigned. In a similar case of M/s Hanuman Industries, Khatima, the Tribunal, Commercial Tax, Uttarakhand, rejected (April 2004) the claim of a purchaser for condonation of 60 days for submission of application.
- In Kashipur circle, it was noticed that an assessee (successor) did not apply for grant of exemption but was using the same EC which was issued earlier to the former assessee. This resulted in inadmissible use of the EC granting exemption of tax of Rs. 9 crore.

6.2.10.2 Under the Act, units were eligible for ECs provided that they fulfilled conditions before 17 January 2000, the conditions being that the unit is registered under the Act, the unit has applied for a term loan from any financial corporation or company owned or controlled by Central or State Government or any bank and the unit has been allotted land for the factory or unit has already arranged land for its premises.

Scrutiny revealed that a unit at Kotdwar was granted EC for Rs. 5 lakh (availed Rs. 1.08 lakh) although there were no records on file in evidence of any term loan or registration of land on or before 17 January 2000. To an audit query, the assessing officer stated that action would be taken after examination.

6.2.11 Short adjustment of tax exemption

The validity of the EC is till the value of the tax exemption limit is exhausted or till the period of eligibility, whichever is earlier. The amount of tax is assessed each year and is adjusted against the EC limit. The accrual of the exemption will be on the basis of general rate of tax leviable under the Act.

Scrutiny of the records revealed that M/s Century Pulp and Paper, Haldwani, holding EC for Rs. 557.04 crore with validity upto 2010, sold manufactured goods at concessional rate of tax against declaration in forms III, C/D. The assessing authority adjusted (31 March 2004 and 29 July 2004) the tax exemption against the EC limits at these concessional rates instead of at the prevalent rate of tax. This resulted in short adjustment of tax amounting to Rs. 44.42 crore during the assessment of 2001-02 and 2002-03.

6.2.12 Internal control

Internal control system assists in economic, efficient and effective management. An important component of the controls is internal audit to detect loss or leakage of revenue due to inaccuracies and incorrect application of rules while granting exemptions. It was noticed that internal audit was not in existence in the department.

6.2.13 Conclusion

The tax benefit scheme was envisaged to promote industrial development in the state. In the absence of a lock-in-period and enabling provisions for deterrent action in the Act/rules, 38 *per cent* of the industries test checked in audit closed operations after availing tax exemption of Rs. 31.04 crore. Inadmissible exemption of Rs. 195.84 crore were granted to 21 units. Incidence of infractions from the conditions of ECs point to ineffective controls. Due to non-maintenance of vital data on the scheme, an impact assessment could not be made in audit.

6.2.14 Summary of recommendations

The Government may consider the following steps to enhance the effectiveness of the machinery for tax incentives to new industries:

- monitoring the grant, exemptions against the eligibility certificates issued in the past, to ensure that the conditions governing grant of such benefits, are fulfilled;
- taking effective steps for recovery of tax in all case of breach of conditions prescribed under various exemptions schemes;
- conducting an impact assessment of the scheme in relation to its objective for attracting investment and vis-à-vis the tax foregone by way of exemptions; and
- establishing internal audit to monitor functioning of the department and to plug leakage of revenue.

STAMP AND REGISTRATION DEPARTMENT

6.3 Short levy of stamp duty

Under valuation of commercial property resulted in short levy of stamp duty of Rs. 2.51 crore

Provisions of the Indian Stamp Act, 1899[7] provide that if a property is leased for more than 30 years, stamp duty on the conveyance deed is chargeable on the market value of the property or on the value of consideration, whichever is higher. The market rates of various categories of land and building are to be fixed biennially by the district collector. Where the lease period is less than 30 years, the stamp duty is worked out on the basis of the premium paid and the annual rent.

Test check of the records of the sub Registrar, Kichha, Udham Singh Nagar in March 2008 revealed that a lease deed of 2,51,190 sq. meter (sq.m.) plot for 90 years was registered (July 2007) at Rs. 17.58 crore. Stamp duty of Rs. 1.51 crore was reckoned and paid on the norms applicable to lease period less than 30 years i.e., on the basis of the premium and the annual rent declared in the lease deed.

Since the lease deed was for a period of 90 years, stamp duty was leviable on the market value of the property or the value declared in the deed. Thus, considering the market rate of land in that area as fixed by the collector i.e. Rs. 2,000 per sqm, the value of the property should have been calculated at Rs. 50.24 crore and stamp duty of Rs. 4.02 crore[8] was payable. This resulted in short levy of stamp duty amounting to Rs. 2.51 crore.

After this was pointed out, the Inspector General, Registration replied (May 2008) that since the plot was leased by State Industrial Development Corporation of Uttaranchal Limited (SIDCUL), the special dispensation vide Government notification dated 19 July 2004 and its amendment dated 22 January 2005 was applicable, by which stamp duty on any land developed and

[7] As amended in its application in Uttar Pradesh and adopted in Uttarakhand.
[8] At the rate of eight *per cent*.

leased by SIDCUL would be assessed according to actual sale price of the land.

The reply is contrary to the provisions of Government notification dated 19 July 2004 which clearly states that the special dispensation was available only for two years i.e., till 19 July 2006 and the amendment dated 22 January 2005 did not extend the validity period. Thus the provisions in these notifications were not applicable in this case as registration of the lease was done in July 2007.

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

COMMERCIAL TAX DEPARTMENT

6.4 Non-levy of penalty

For delay in payment of tax, penalty of Rs. 4.78 lakh was not levied

Section 15-A (1) (a) of the Uttar Pradesh Trade Tax Act, 1948 (as adopted in Uttarakhand) provides that if a dealer fails to deposit the tax due under this Act, before furnishing the return or along with the return as required, he would be liable to pay penalty in addition to tax, if any payable by him, a sum which shall not be less than 10 *per cent,* but not exceeding 25 *per cent* of the tax due, if the tax due is upto Rs. 10,000 and 50 *per cent*, if the tax due is above Rs. 10,000.

Scrutiny of the records of the Deputy Commissioner (A), Commercial Tax-IV, Dehradun in January 2007 revealed that a dealer deposited tax amounting Rs. 47.80[9] lakh after the prescribed dates, delay ranging between three and seven days, for which he was liable to pay a minimum penalty of Rs. 4.78 lakh which was not levied.

After this was pointed out, the Commissioner of Tax informed (April 2008) that the demand of penalty pointed out by the audit had been raised (March 2008). However, a report on recovery of the penalty has not been received (November 2008).

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

[9] In two cases Rs. 25.62 lakh and Rs. 22.18 lakh.

STATE EXCISE DEPARTMENT

6.5 Loss of revenue

Low production of alcohol from fermentable sugar content of molasses than the prescribed minimum norms resulted in loss of revenue of Rs. 8 lakh

The Uttaranchal Excise Manual (Vol.-I) provides that every quintal of fermentable sugar content present in molasses shall yield minimum 52.5 alcoholic litre (AL) of alcohol. For this purpose, composite samples of molasses are required to be drawn by the office-in-charge of the distillery and sent for examination to the alcohol technologist. Failure to maintain the minimum yield of alcohol from molasses entails, in addition to imposition of penalty, cancellation of licence of the distillery and forfeiture of security deposit.

Scrutiny of the records of the Officers-in-charge Excise, India Glycol Limited Distillery, Kashipur and Bajpur Sahkari Aswani, Bajpur, Udham Singh Nagar, in February 2008 revealed that in 17 cases[10] of composite samples drawn, only 37,79,449.30 AL was extracted from 76,009.65[11] quintal of fermentable sugar against a minimum of 39,90,506.63 AL as per the norms. Thus, the production of alcohol was low by 2, 11,057.33 AL which resulted in loss of revenue of Rs. 8 lakh[12] to the Government.

However, the department imposed and recovered total penalty of Rs. 75,000 in 15 cases but no action was taken as of yet (March 2008) for forfeiture of security deposit and cancellation of licence. However, the fact remains that the deterrent clause provided in the Excise manual is not commensurate to the loss sustained by the State Government.

The matter was reported to the department/Government in March 2008; their reply has not been received (November 2008).

[10] Four and 13 cases; respectively Kashipur and Bajpur distillery, pertaining to 2004-05 to 2006-07.

[11] As per report of the alcohol technologist.

[12] Calculated at average rate of excise duty Rs. 3.79 per AL of industrial/ pharmaceutical and potable alcohol as informed by the department (May 2008).