

CHAPTER-IV

REVENUE RECEIPTS

4.1 GENERAL

4.1.1 The tax and non-tax revenue raised by the Government of Uttarakhand during the year 2008-09, 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 4.1.1

(Rupees in crore)

	2004-05	2005-06	2006-07	2007-08	2008-09
I. Revenue raised by the State Government					
• Tax revenue	1,444.36	1,784.69	2,513.78	2,738.75	3,044.91
• Non-tax revenue	547.70	650.09	646.82	668.38	699.44
Total	1,992.06	2,434.78	3,160.60	3,407.13	3,744.35
II. Receipts from the Government of India					
• State's share of divisible Union taxes	519.97	1,009.82	1,131.83	1,427.70	1,506.59 ¹
• Grants-in-aid	1,573.57	2,092.42	3,080.79	3,056.26	3,384.03
Total	2,093.54	3,102.24	4,212.62	4,483.96	4,890.62
III. Total receipts of the State (I+II)	4,085.60	5,537.02	7,373.22	7,891.09	8,634.97
IV. Percentage of I to III	48	43	42	43	43

Source: Finance Accounts 2008-09

The revenue raised by the State was 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 four years. Annual growth of total revenue of the State Government which was 36 and 33 *per cent* respectively in 2005-06 and 2006-07, abruptly dropped to seven *per cent* in 2007-08. In the current year, the revenue raised by the State Government increased marginally by nine *per cent* over the previous year.

4.1.2 Tax revenue

The following table presents the details of the tax revenue raised during the period from 2004-05 to 2008-09:

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 2008-09. 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 had been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

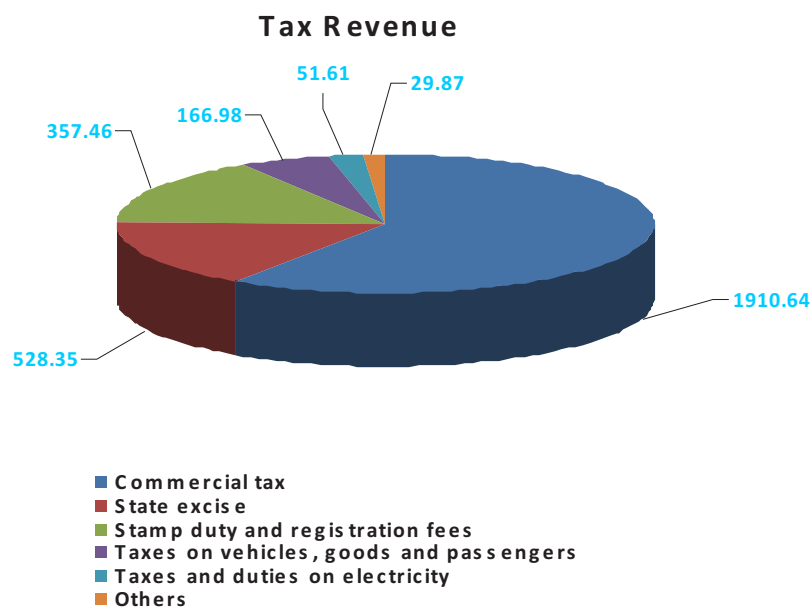
Table 4.1.2

(Rupees in crore)

Sl. no.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/decrease (-) in 2008-09 over 2007-08
1.	Commercial tax/VAT	793.51	1,014.33	1,361.42	1,627.41	1,910.64	(+) 17.40
2.	State excise	292.01	292.75	372.91	441.56	528.35	(+) 19.66
3.	Stamp duty and registration fees	207.80	333.39	546.32	424.27	357.46	(-) 15.75
4.	Taxes on vehicles, goods and passengers	98.91	114.85	141.46	155.26	166.98	(+) 7.55
5.	Taxes and duties on electricity	37.49	12.24	66.19	55.22	51.61	(-) 6.54
6.	Land revenue	7.74	9.18	15.42	23.40	17.90	(-) 23.50
7.	Other taxes and duties on commodities and services	4.04	4.39	5.44	6.45	5.87	(-) 8.99
8.	Others	2.86	3.56	4.62	5.18	6.10	(+) 17.76
Total		1,444.36	1,784.69	2,513.78	2,738.75	3,044.91	(+) 11.18

Source: Finance Accounts 2008-09.

Chart 4.1



Following trends were observed in collection of tax revenue by the State.

- Revenue from Commercial Tax contributed to 62.75 *per cent* of total tax collections in 2008-09. State excise, stamp duty & registration fees & taxes on vehicles together accounted for 34.58 *per cent* of the total tax in 2008-09. Commercial tax collection after witnessing 34 *per cent* increase after introduction of VAT in 2005, slowed down to an increase of 17 *per cent* in 2008-09 over the previous year, which the department felt was a normal growth.
- Receipts under stamps and registration continued to follow a declining trend. During the current year it reduced by Rs. 67 crore, as registration of sale deeds reduced from 1,45,571 in 2007-08 to 1,16,042 in 2008-09.
- Taxes and duties on electricity registered a decrease of 6.5 *per cent* in 2008-09 despite increase in billing and collection by Uttarakhand Power Corporation Limited² (UPCL) during the year. The UPCL stated (October 2009) that against the assessment of Rs. 87.17 crore, an amount of Rs. 50 crore has been deposited in 2008-09. Reason for short deposit was not intimated. It was further observed that the UPCL had not reconciled the figures of amount due and amount deposited with the State Government, as a result of which there were wide inter-year fluctuations in collection.

The other departments did not furnish (November 2009) the reasons for variation, though called for (August 2009).

4.1.3 Non-tax revenue

The following table presents the details of the non-tax revenue raised during the period from 2004-05 to 2008-09:

Table 4.1.3

(Rupees in crore)

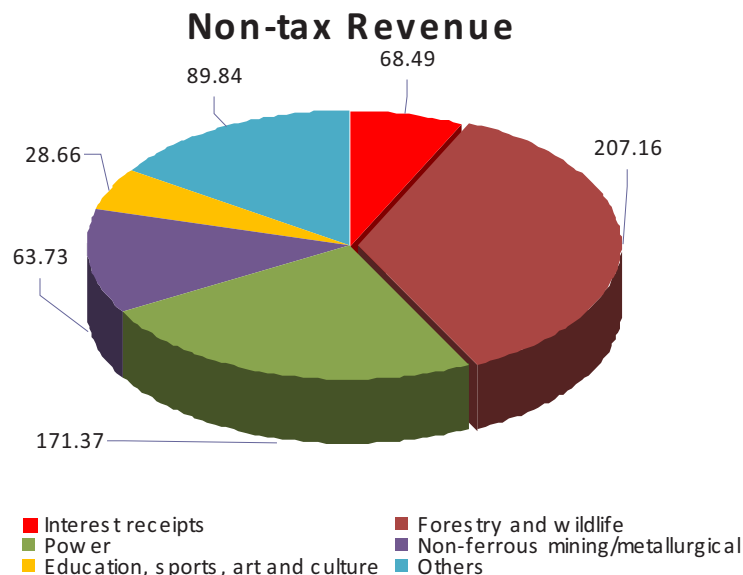
Sl. no.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
1.	Interest receipts	21.96	34.60	40.94	41.56	68.49	(+) 64.80
2.	Forestry and wildlife	130.58	159.47	188.09	209.75	207.16	(-) 1.23
3.	Power	219.69	230.81	172.22	144.37	171.37	(+) 18.70
4.	Non-ferrous mining/metallurgical industries	36.61	52.97	62.58	73.06	63.73	(-) 12.77
5.	Education, sports, art and culture	22.27	24.84	23.34	30.69	28.66	(-) 6.61
6.	Public works	3.99	8.62	11.52	13.96	15.53	(+) 11.25
7.	Major and medium irrigation	5.74	6.21	5.69	5.76	5.91	(+) 2.60
8.	Police	4.20	5.23	5.24	5.96	7.01	(+) 17.62
9.	Other administrative	27.04	35.71	11.83	35.53	28.09	(-) 20.94

² 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.

	services						
10.	Medical & public health	2.60	6.04	4.29	5.29	6.84	(+) 29.30
11.	Co-operation	2.94	1.19	3.99	5.58	3.19	(-) 42.83
12.	Crop husbandry	6.40	2.80	2.73	3.94	3.62	(-) 8.12
13.	Others	63.68	81.60	114.36	92.93	89.84	(-) 3.33
Total		547.70	650.09	646.82	668.38	699.44	(+) 4.65

Source: Finance Accounts 2008-09.

Chart-4.2



Following trends were observed in collection of non-tax revenue by the State.

- Non-tax revenue has remained more or less stagnant from 2005-06 onwards. At Rs.699.44 crore, non-tax revenue constituted 8.10 per cent of the total receipts.
- Forestry and Wild life: Rs. 207 crore (30 per cent) and Power Rs. 171 crore (24 per cent) have been the principal contributors to non-tax revenue as shown in Chart 4.2.

The departments did not furnish (November 2009) the reasons for variation, though called for (August 2009).

4.1.4 Variations between the budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2008-09 in respect of the principal heads of tax and non-tax revenue are as tabulated in Table 4.1.4.

Table 4.1.4

(Rupees in crore)

Sl. no.	Revenue head	Budget estimates	Actuals	Variation increase (+) decrease (-)	Percentage of variation
Tax revenue					
1.	Commercial tax/VAT	1,849.50	1,910.64	(+) 61.14	(+) 3.31
2.	State excise	501.00	528.35	(+) 27.35	(+) 5.46
3.	Stamp duty and registration fees	485.04	357.46	(-) 127.58	(-) 26.30
4.	Taxes on Vehicles	175.54	166.98	(-) 8.56	(-) 4.88
5.	Taxes and duties on electricity	64.60	51.61	(-) 12.99	(-) 20.11
Non-tax revenue					
6.	Interest receipts	38.02	68.49	(+) 30.47	(+) 80.14
7.	Other administrative services	34.20	28.09	(-) 6.11	(-) 17.87
8.	Crop husbandry	3.10	3.62	(+) 0.52	(+) 16.77
9.	Police	6.50	7.01	(+) 0.51	(+) 7.85
10.	Medical and public health	6.05	6.84	(+) 0.79	(+) 13.06
11.	Roads and bridges	7.65	1.39	(-) 6.26	(-) 81.83
12.	Public works	4.06	15.53	(+) 11.47	(+) 282.51
13.	Forestry and wildlife	200.68	207.16	(+) 6.48	(+) 3.23
14.	Non-ferrous mining and metallurgical industries	85.00	63.73	(-) 21.27	(-) 25.02
15.	Education, sports, art and culture	37.60	28.66	(-) 8.94	(-) 23.78
16.	Power	270.00	171.37	(-) 98.63	(-) 36.53

Source: Receipt Budget and Finance Account for the year 2008-09.

The departments did not provide reasons for the wide variation (November 2009), though called for (August 2009).

4.1.5 Analysis of collection

The breakup of the collection at the preassessment stage and after regular assessment of sales tax and entry tax for the year 2008-09 as furnished by the concerned department is tabulated in table 4.1.5:

Table 4.1.5

(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	1,896.92	10.40	0.96	9.13	1,899.15	99.88
Entry tax	3.23	Nil	Nil	Nil	3.23	100

Almost the entire collections made under commercial tax and entry tax was at the pre-assessment stage. Only Rs. 2.23 crore representing 0.12 per cent of the net collection was collected after regular assessment.

4.1.6 Cost of collection

The gross collection in respect of the major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2006-07, 2007-08 and 2008-09 alongwith the relevant all India average percentage for the year 2007-08 is tabulated below:

Table 4.1.6

(Rupees in crore)

Sl. no.	Head of revenue	Year	Gross collection ³	Expenditure on collection of revenue	Percentage col. 5 to 4	All India average percentage for the year 2007-08
1	2	3	4	5	6	7
1.	Sales/Commercial tax/VAT	2006-07	1,354.98	31.02	2.29	0.83
		2007-08	1,620.84	34.53	2.13	
		2008-09	1,902.38	34.16	1.80	
2.	State excise	2006-07	372.84	3.93	1.05	3.27
		2007-08	441.71	4.05	0.92	
		2008-09	528.32	5.95	1.13	
3.	Taxes on vehicles	2006-07	136.95	5.30	3.87	2.58
		2007-08	152.04	7.81	5.14	
		2008-09	163.84	10.03	6.12	
4.	Stamp duty and registration fees	2006-07	546.24	4.34	0.79	2.09
		2007-08	424.16	5.81	1.37	
		2008-09	357.44	5.45	1.52	

Source: Concerned State Department.

Thus, the cost of collection in respect of state excise and stamp and registration fees were lower than the all India average percentage for the year 2007-08, while in case of commercial tax/VAT and taxes on vehicles, these were higher. The cost of collection of taxes on vehicles has been increasing continuously which should be investigated by the Department.

4.1.7 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue amounted to Rs. 759.27 crore of which Rs. 176.83 crore (23 per cent) was outstanding for more than five years as mentioned in the following table:

Table 4.1.7

(Rupees in crore)

Sl. no.	Head of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than five years as on 31 March 2009
1.	Commercial tax/VAT	631.18	157.86
2.	Taxes on vehicles	1.92	0.20

³ The figure for collection of all four taxes in the years 2006-07 to 2008-09, provided by the concerned departments and reflected in the table, are at variance with the figures reflected in Finance Accounts. These are being reconciled.

3.	Stamp duty and registration fee	3.30	1.60
4.	Taxes and duties on electricity	107.49	10.04
5.	State excise	0.80	0.50
6.	Registrar, Co-operative Societies	8.54	6.17
7.	Taxes on purchase of sugarcane	5.38	Nil
8.	Entertainment tax	0.66	0.46
Total		759.27	176.83

Source: State Departments.

4.1.8 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 2008-09, as reported by the department, are mentioned below:

Table 4.1.8

(Rupees in lakh)

Name of tax/duty	Opening balance	Detected during the year	Total	Cases in which additional demand including penalty raised		Closing balance
				No. of cases	Amount of demand	
Commercial tax	508	53	561	104	105.27	457

Source: State Department.

4.1.9 Refunds

Commercial Tax Department settled 90 per cent of the refund claims in 2008-09 while in the case of stamp duty & registration, all the cases were settled during the year as mentioned in table 4.1.9.

Table 4.1.9

(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	971	872.68	8	25.78
2.	Claims received during the year	2,937	998.74	8	130.88
3.	Refunds made during the year	3,533	913.55	16	156.66
4.	Balance outstanding at the end of the year	375	957.87	Nil	Nil

Source: State Departments.

4.1.10 Failure to enforce accountability and protect interest of the Government

The 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 (IRs) 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 the departments by the office of the Accountant General (Audit). The number of IRs and audit observations relating to revenue receipts issued upto 31 December 2008 and pending settlement by the departments as on 30 June 2009 alongwith corresponding figures for the preceding two years are mentioned below:

Table 4.1.10

Particulars	As at the end of		
	June 2007	June 2008	June 2009
Number of pending IRs	1,863	1,046	1,098
Number of outstanding audit observations	3,400	2,093	2,211
Amount of revenue involved (Rupees in crore)	1,757.02	231.37	228.11

4.1.11 Recovery of revenue of accepted cases

During the years 2005-06 to 2007-08, the departments/Government accepted cases involving Rs.3.26 crore, of which Rs. 2 lakh only *i.e.* 0.61 *per cent*, was recovered as mentioned below:

Table 4.1.11

(Rupees in crore)

Sl. no.	Year	Total Money value	Accepted money value	Recovery made
1.	2005-06	7.58	3.19	0.01
2.	2006-07	1.03	0.02	0.01
3.	2007-08	60.48	0.05	NIL
Total		69.09	3.26	0.02

4.1.12 Audit Committee Meeting

During the year 2008-09, no audit committee meeting was held.

4.1.13 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 2008-09 indicated underassessment/short levy/loss of revenue amounting to Rs. 29.83 crore in 252 cases.

This chapter contains a review on ‘taxation on transaction (sale, purchase & transfer) in the course of Inter-State Trade or Commerce Under the CST Act,

1956’ and four paragraphs involving financial effect of Rs. 7 crore as discussed in the succeeding paragraphs.

COMMERCIAL TAX DEPARTMENT

4.2 Review on ‘Taxation on Transactions (Sale/Purchase & Transfer) in the course of Inter-State trade or commerce under Central Sales Tax Act, 1956’

Highlights

- Due to the absence of a provision for verification of registration certificate/agreement before allowing stock transfers, the assessing authorities could not detect irregular claim of exemption on transfer of goods to places not declared in the registration certificate resulting in short realisation of tax Rs. 60.47 lakh including interest.

[Paragraph 4.2.7]

- Absence of a system for cross verification of declaration forms issued by the dealers of other States resulted in non-detection of fake/invalid forms and consequently, there was short realisation of tax Rs. 1.43 crore including interest and penalty.

[Paragraph 4.2.8]

- Irregular allowance of exemption on defective forms resulted in short levy of tax of Rs. 1.50 crore including interest.

[Paragraph 4.2.10]

- Suppression of purchase resulted in short realisation of tax of Rs. 40.01 lakh including penalty.

[Paragraph 4.2.11]

- Irregular grant of concession to industrial units resulted in short levy of tax Rs. 1.15 crore.

[Paragraph 4.2.12]

4.2.1 Introduction

The Central Sales Tax Act, 1956 (CST Act) read with the Central Sales Tax (Registration and Turnover) Rules (CST Rules), 1957 and the Uttar Pradesh Trade Tax Act and Rules, 1948 as adopted by the Uttarakhand Government and the CST Rules of Uttarakhand, 2006, stipulate that every dealer who in the course of inter-state trade or commerce sells to a registered dealer, goods of the class or classes specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at four *per cent* upto March 2007, three *per cent* from April 2007

to May 2008 and two *per cent* from June 2008, if such purchases are supported by declarations in Form 'C'. Further, purchases made in course of inter-state trade or commerce by the government departments are also to be taxed at the concessional rates provided such purchases are supported by a certificate in Form 'D'. However, the concession under Form 'D' was withdrawn from April 2007. Transfer of goods claimed other than by way of sale made by a registered dealer to any other place of business located outside the state is exempt from tax on production of prescribed declarations in Form 'F'. A dealer may in support of his claim that he is not liable to pay tax in respect of any sale in the course of export out of the territory of India, furnish to the prescribed authority a certificate in form 'H' alongwith evidence of export of such goods. The requirement for furnishing the evidence of export was withdrawn from 14 July 2005. The rules place considerable responsibility on the departmental authorities with regard to the safe custody and maintenance of accounts of the use of the declaration forms. To safeguard against the misuse of declarations/ certificates, the rules and departmental circulars provide for imposition of penalties.

The efficacy of the existing systems and mechanisms for concessions and exemptions on transactions relating to inter-state trade and commerce allowed by the Commercial Tax Department was reviewed by audit which indicated a number of system and compliance deficiencies as discussed in the succeeding paragraphs.

4.2.2 Organisational set up

The Commercial Tax Department is divided into two zones viz. Kumaun and Garhwal with headquarters at Rudrapur and Dehradun respectively. In these two zones there are four regions. Under these four regions there are 18 Deputy Commissioners (Assessment) and 28 Assistant Commissioners (Assessment). Besides, there are check posts and Trade Tax Offices as well. Overall control of the Department vests with the Commissioner, Commercial Tax with headquarters at Dehradun.

4.2.3 Audit objectives

The objectives of this review were to

- evaluate the adequacy, reliability and effectiveness of the system of receipt, issue and use of the statutory forms and to detect short payment or evasion of commercial tax in inter-state transactions;
- ascertain whether concessional rate of tax allowed on inter-state sales/exemption of tax on branch transfer/export was in conformity with the provisions of the Act/Rules and duly supported by valid statutory forms; and
- assess whether sufficient internal controls existed to ensure proper control on the use of declaration forms so as to prevent leakage of revenue.

4.2.4 Scope and methodology of audit

The review was conducted between November 2008 and June 2009 through test check of the assessment records of eight out of 18 Deputy Commissioners (Assessments) and 10 out of 28 Assistant Commissioners (Assessments) and one check post for the period from assessment years 2001-02 to 2005-06 (completed during the financial years 2004-05 to 2008-09). Out of the 1,980 dealers registered under these assessing authorities, assessment records of 658 dealers were reviewed. The selection was based on ‘probability proportional size without replacement method’.

4.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department in providing the necessary records for audit. Before taking up the performance review, an entry conference was held on 19 February 2009 with the Additional Commissioner, Commercial Tax Department in which the audit objectives and scope of audit was discussed. The draft review report was forwarded to the Government/department in September 2009 and discussed in the exit conference held on 15 October 2009 which was attended by the Additional Commissioner, Commercial Tax Department. The reply of the department received during the exit conference has been incorporated in this review. A formal reply has not, however, been received from the Government (November 2009).

Audit findings

System deficiencies

4.2.6 System of receipt and issue of statutory forms

All the statutory forms are printed through private press for which tenders are invited by the department. After printing, these forms are received by the stores of the headquarters of the department. From the stores, the forms are issued to the Joint Commissioners as per their requirement. The Joint Commissioners further issue these forms to the assessing authorities i.e. Deputy Commissioners and Assistant Commissioners based on their indents.

Statutory forms are obtained by the registered dealers from the assessing authorities, after payment of fee fixed by the department from time to time. Two registers are maintained by the assessing authorities - in a prescribed format - one to keep an account of the forms received from the Joint Commissioner’s office and their issue to various dealers and the other to keep a dealer wise account of forms issued and used by the dealers along with the details of fee paid for the forms. It is incumbent upon the department to ensure proper receipt, custody and issue of these forms to avoid any possibility of misuse leading to leakage of revenue.

Audit scrutiny indicated that physical verification of the statutory forms held by Headquarters; Joint Commissioners and the assessing authorities, was neither prescribed nor conducted. Thus, there was no assurance that forms

shown in stock and other registers as held at different levels were indeed physically available. This considerably increased the risk of non-detection of missing forms and their misuse which may lead to irregular concessions and tax exemptions and consequent loss of revenue to the State Government. Verification of the 'C' and 'F' forms issue register of the stores of the headquarters of the department indicated that:

- Form No 570001 to 620000 were issued on 28 April 2008 and thereafter instead of issuing form No 620001 onwards, form No 625001 and onwards were issued. As such 5,000 forms from No. 620001 to 625000 were not issued at all.

After this was pointed out, the department replied (July 2009) that the said forms are in the stock and shall be issued. In August 2009, these forms were issued.

- The closing stock of 'C' forms as on 28 April 2008 was shown as 9,00,000 forms in the allotment register at the Headquarters, while the closing balance as per the disbursement register kept in the stores was 9,50,000 forms. The difference of 50,000 forms remained unreconciled.

The department stated (July 2009) that the matter would be investigated.

- With regard to the Form 'F' disbursement register, out of a balance of 1,65,100 forms, 15,000 forms were issued on 16 September 2008. However, the closing balance after issue of the forms was shown as 1,50,000 instead of 1,50,100.

The department stated (July 2009) difference was due to clerical mistake. The forms (Form No 024901 to 025000) were issued in August 2009.

- Scrutiny of the records of Deputy Commissioner (A)-I Kashipur indicated that Form 'F' serial numbers 115890 to 115900 were issued on 2 September 2004 to Mahalaxmi Medicines and on the same date instead of issuing Form 'F' from serial number 115901 onwards, serial numbers 116001 to 116004 were issued. Serial numbers 115901 to 116000 were issued later, on 10 January 2005.

The department while accepting the fact assured (July 2009) that forms will be issued serially in future.

Verification of the system of receipt, custody and issue of the forms was carried out in one Joint Commissioner's Office and offices of two assessing officers attached to it for one year i.e. 2005-2006. It was found that receipts and issues were accurately recorded in the books of the authorities test checked. The issue of forms to the dealers was required to be attested by a witness, but this requirement was not adhered to.

During the exit conference, the department stated that necessary instruction had been issued for the issue of forms strictly in accordance with serial number. Further, the department stated that the system of physical verification of forms would be considered for implementation.

The Government may install a mechanism for periodic verification of stock registers of declaration forms and issue of forms chronologically.

4.2.7 Exemption of tax on transfer of goods

Sub section (1) of Section 7 of the CST Act read with Rule 3 of the CST (R&T) Rules stipulates that every dealer shall make an application in form 'A' for registration and declare the place of business in other states, if any. Where the dealer desires the certificate to be amended, he shall submit an application under Rule 7 of the CST (R&T) Rules, to the notified authority setting out the specific matters in respect of which he desires such an amendment. Further, sub section (i) of Section 6A read with Rule 12(5) of the CST (R&T) Rules provide that a declaration in Form 'F' has to be submitted for transfer of goods to other places of business or to his agent or principal for claiming exemption.

Audit scrutiny indicated that the department has not installed a system for verification of registration certificate or copies of the agreement between the principal and the agents, among other records, before allowing exemption on stock transfers. Cases of irregular allowance of exemption are discussed below.

Scrutiny of the records indicated that two dealers under Deputy Commissioner (A)-1 Kashipur, were allowed exemption on goods valued at Rs. 3.47 crore on account of branch transfer on the basis of Form 'F'. As per the registration certificates, the dealers did not have any other place of business. **However, due to the absence of a system to verify this, the assessing authorities failed to detect irregular claim of stock transfer, and did not levy tax at normal rates.** This resulted in under assessment of tax of Rs. 34.69 lakh. In addition, interest of Rs. 25.78 lakh was also leviable.

The Government may consider prescribing a mechanism for verification of registration certificates or copies of the agreement, among other checks as stipulated in the CST Act and Rules, before allowing exemption on stock transfers.

4.2.8 Cross verification of declaration forms

Section 8 (4) of the CST Act, provides that the inter-state sales to registered dealers are taxable at the concessional rate of four *per cent* when such sales are supported by the declaration in Form 'C'. Further, if a dealer issues or furnishes a false certificate or declaration, he shall be liable to a penalty of a sum not less than 50 *per cent*, but not exceeding 200 *per cent* of the amount of tax, which would thereby have been avoided.

Audit scrutiny indicated that the department has not installed any mechanism for cross verification of declaration forms before allowing exemptions/concessions. Absence of such mechanism resulted in irregular allowance of exemptions/concessions on fake/invalid forms as discussed below.

Cross verification of nine statutory forms 'C' available in the case records of three dealers under Deputy Commissioner (A)-I, Commercial Tax, Haridwar with those of the Taxation Departments of concerned States indicated the following:

Six Forms 'C' amounting to Rs. 7.63 crore were not issued by the Sales Tax Department of the State mentioned in the forms. In case of one Form 'C', the purchasing dealer submitted an affidavit to the concerned assessing authority that the form was issued blank and unsigned and no goods were received against that form. However, the selling dealer of Uttarakhand claimed the sale for an amount of Rs. 1.27 crore on that form and availed the concession. In case of two Forms 'C', the dealer submitted the 'C' Form for Rs. 19.63 crore though these forms were actually issued by the purchasing dealers for Rs. 19.20 crore only resulting in irregular concession on an amount of Rs. 43 lakh. **Due to the absence of a system of cross verification, the assessing authorities accepted these invalid/fake forms.**

The grant of incorrect concession on these fake/incorrect forms involving turnover of Rs. 9.33 crore resulted in short levy of tax of Rs. 70.84 lakh. Besides, interest of Rs. 36.92 lakh and minimum penalty of Rs. 35.42 lakh was also leviable.

During exit conference the department stated that the verification of forms had not been done so far due to shortage of staff and it will be considered now.

The Government may install a mechanism for random cross verification of declaration forms at periodic intervals to detect fake/invalid forms and consequent evasion of tax.

4.2.9 Adequacy of internal control mechanism

4.2.9.1 Internal Control System

Internal control is intended to provide reasonable assurance of proper enforcement of laws, departmental rules and orders.

Absence of control over the receipt, custody and issue of statutory forms which is key to avoidance of misuse of these forms has been indicated in Paragraph 4.2.6. Further absence of a system for conducting physical verification of the forms has also been highlighted in that paragraph.

4.2.9.2 Delays and defects in assessments

Audit scrutiny indicated that as on date, assessments have only been completed upto the year 2004-05 and that assessment for subsequent period are in progress. These delays are primarily a result of considerable manpower shortages in the Commercial Tax department which is evident from the table below:

Table 4.2.1

Cadre	Sanctioned strength			Men in position			Shortage		
	2005-06	2006-07	2007-08	2005-06	2006-07	2007-08	2005-06	2006-07	2007-08
Group A	48	56	56	29	29	24	19	27	32
Group B	178	294	294	114	108	155	64	186	139
Group C	709	987	987	363	360	339	346	627	648

This level of shortages cannot but have an adverse impact on the number and quality of assessment work undertaken which is reflected in the defects noticed in several of the assessments undertaken, in course of this review. The pending assessments will affect the implementation and administration of the Value Added Tax Act, 2005 in the State.

During the exit conference, the department while accepting the facts stated that action is being taken in this regard.

4.2.9.3 Internal Audit

Internal audit is an important tool of internal control. In the context of the Commercial Tax Department, periodic checks of assessment orders and other functional aspects relating to the custody and issue of statutory forms can help to detect loss or leakage of revenue due to inaccurate or incorrect application of rules or misuse of forms.

It was noticed that there was no internal audit system in the Commercial Tax Department. Also, the Department of Finance did not undertake any internal audit of the department during the last five years from 2004-05 to 2008-09 during which assessments of 2001-02 to 2005-06 was done. Due to the absence any internal audit, the department remained unaware of the deficiencies pointed out in this review.

The Government may install a mechanism for conducting regular internal audit of the department so that the defects and discrepancies in the assessments are detected timely, thus preventing leakage of revenue.

Compliance deficiencies

4.2.10 Irregular allowance of concessions/exemptions

Under the CST Act and Rules made thereunder, tax on branch transfer/inter-state sales of goods made to registered dealers and supported by prescribed declaration Forms 'F/C' is exempt/leviable at the rate of four *per cent* or at such lower rate as applicable to the sale or purchase of such goods in the State. Tax on goods not covered by such declarations in case of the declared goods shall be calculated at twice the rate applicable in the appropriate State and in respect of the other goods at the rate of 10 *per cent* or at the rate applicable to the sale of such goods inside the appropriate State whichever is higher. Furnishing of Form 'C' is mandatory with effect from 13 May 2002. Further, a single declaration in Form 'F' may cover transactions affected during a period of one calendar month only.

Acceptance of defective forms

Scrutiny of the assessment records indicated that concessional rate of tax on 21 forms 'C' valued at Rs. 2.19 crore, two forms 'D' valued at Rs. 1.78 crore and exemption of tax on nine forms 'F' valued at Rs. 2.28 crore, was allowed to 13 dealers by six assessing authorities⁴, though the forms produced in support of the sales were incomplete as they did not contain the seller's name, registration number of the purchasing dealer, amount for which the form was issued and signature of the issuing dealer. Acceptance of such defective forms for grant of exemption/concessional rate of tax resulted in short levy of tax of Rs. 41.91 lakh on which interest of Rs. 30.84 lakh was also leviable.

Allowance of concessions/exemptions without declaration forms

Test check of the records indicated that three assessing authorities while finalising the assessment of five dealers for the years 2002-03 to 2004-05, incorrectly assessed the inter-state sale of goods/branch transfer valued at Rs. 1.78 crore and allowed concessional rate of tax/exemption though the sales were not supported by the declaration Form 'C/F'. In one case, the Assistant Commissioner (A), Ramnagar in his assessment order has recorded that the assessee has neither furnished the 'C' Form nor made an application, but still applied the concessional rate of tax. The incorrect concession/exemption resulted in short levy of tax of Rs. 10.30 lakh. Besides, interest of Rs. 7.57 lakh was also leviable.

Acceptance of invalid forms

Form 'F'

Under Section 6A-(1) of the CST Act read with Rule 12(5) of CST (R&T) Rules, a dealer can claim exemption on payment of tax on goods transferred to any other place of business or to his agent or principal in other state by furnishing a declaration in the Form 'F' provided that a single declaration may cover the transactions effected during a period of one calendar month only.

Scrutiny of the records indicated that four assessing authorities allowed exemption on taxable turnover of Rs. 2.27 crore in four cases, on the basis of declaration forms which covered transaction for more than one calendar month. The acceptance of declaration forms covering more than a month's transaction was against the provisions of the Act and transactions beyond a month should have been rejected. However, failure of the assessing authorities to do so resulted in underassessment of tax of Rs. 19.70 lakh. Besides, interest of Rs. 14.51 lakh was also leviable.

Form 'D'

Under Section 8(4) of the CST Act read with Rule 12(1) of the CST (R&T) Rules, as it stood during the relevant period, sale of goods by a registered dealer to the

⁴ Assistant Commissioner (A), Sector IV, Dehradun; Sector II, Haldwani; Sector I, Haridwar; Sector I, Roorkee and Deputy Commissioners, A-I and A-II, Kashipur.

Government departments in other states are allowed at a concessional rate of four percent provided such sale is supported by certificate in Form 'D'.

Test check of the records indicated that three assessing authorities⁵ levied tax on the sale of Rs. 1.40 crore pertaining to three dealers at concessional rates on the strength of forms 'D' on account of sales made to *Bharat Sanchar Nigam Limited*, Vishakapatnam and Uttar Pradesh Police *Awas Vikas Nigam Limited* which are not Government departments. Further, in case of six transactions of one dealer, though the Form 'D' was issued to HCL Inifnet Ltd, Noida UP, the concession was allowed to HCL Inifnet Limited Uttarakhand, Dehradun. Thus, the application of incorrect rate of tax by accepting the Forms 'D' of ineligible departments/assesseees resulted in short levy of tax of Rs. 13.01 lakh. In addition, interest of Rs. 12.35 lakh was also leviable.

4.2.11 Evasion of tax due to suppression of purchase/sale

Section 28 A of the UP Trade Tax Act, (as adopted in Uttarakhand) provides that any person who intends to bring, import or otherwise receive, any goods into the state from any place shall obtain the prescribed form (No 31) of declaration from the assessing authority. Further, violation of the provisions of Section 28A attracts penalty of a sum not exceeding 40 percent of the value of the goods involved or three times of the tax leviable on such goods under any of the provisions of this Act, whichever is higher.

Scrutiny of the records indicated that one dealer under Assistant Commissioner (A), Ramnagar showed the position of raw material and its consumption as under:

Table 4.2.2

(Rupees in lakh)

Year	Opening stock	Purchase	Sale	Closing stock	Raw material used in manufacturing	Water/ electricity charges paid	Rebate
2003-04	23.79	89.29	128.85	22.63	90.46	1.05	0.46
2004-05	22.63	84.44	130.14	16.45	90.63	2.19	1.04

In view of the increasing water/electricity charges and rebate disclosed by the dealer, audit conducted a detailed scrutiny of the records of the dealer which revealed that the dealer did not account for purchase of raw material amounting to Rs. 80.02 lakh for which 13 forms 'C' had been issued. It was also noticed that this purchase was not supported by Form 31 which is mandatory for the import of material. Thus, the dealer suppressed the purchases of raw material which the assessing authority failed to detect resulting in short levy of tax of Rs. 8 lakh on the corresponding sales turnover. Besides, penalty of Rs. 32.01 lakh was also leviable.

During the exit conference, the department stated that the matter appears to be of serious nature which needed in-depth investigation and suitable action will be

⁵ Assistant Commissioner (A), Sector III, Dehradun; Ramnagar and Deputy Commissioner, A III, Dehradun.

taken after investigation. Further development has not been reported (November 2009).

4.2.12 Irregular grant of concession to industrial units

Notification⁶ dated 25 July 2001 issued by the Government of Uttarakhand provides that the tax payable under sub section (1) of section 8 of the CST Act, by any manufacturing industrial unit having his main place of business in Uttarakhand, in respect of the sales made by him from any such place of business, in the course of inter-state trade or commerce, of any goods to which the said sub section (1) applies, shall, subject to the condition that hereinafter specified, and on furnishing the declaration in Form 'C' or certificate in Form 'D', be calculated at the rate of one *per cent*. The conditions specified are:

- (i) the sales are made by the manufacturing industrial units whose total capital investment in the plant and machinery is less than Rs. 5 crore, which shall be determined by a committee constituted by the State Government in this behalf. The amount of investment in the plant and machinery was further amended and raised from Rs. 5 crore to Rs. 25 crore vide notification dated 3 July 2004.
- (ii) the sales are made by manufacturing industrial units other than units engaged in manufacture and sale of paddy and rice.

Scrutiny of the assessment records revealed that 10 assessing authorities⁷ allowed the benefit of the said notification to 16 dealers without fulfillment of the condition regarding investment in plant and machinery. In fact, one trader (not being a manufacturer) involved in the sale of paddy and rice was given the benefit of the notification. The irregular concession granted on sale of Rs. 24.81 crore resulted in short levy of tax of Rs. 74.43 lakh, on which interest of Rs. 40.89 lakh was additionally leviable.

During the exit conference the Joint commissioner agreed that the benefit to the traders was not in order and stated that it will be withdrawn after investigation. Further development has not been reported (November 2009).

4.2.13 Irregular concession on purchase of goods not covered in the registration certificate

Section 10(b) read with Section 10 A(1) of the CST Act, provides that if any registered dealer falsely represents when purchasing any class of goods, that the goods of such class are covered by his certificate of registration, the authority who granted him, or as the case may be, is competent to grant to him a certificate of registration under this Act, may after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not

⁶ No: 6222/1.F/2-2001/2000-01

⁷ Assistant Commissioner (A), Sector II, III and IV, Dehradun; Sector II, Haldwani; Sector I, Haridwar; Sector I, Roorkee; Ramnagar; Deputy commissioner A I, Dehradun and A I Haridwar and Roorkee.

exceeding one and a half times the tax which would have been levied under sub-section (2) of Section 8 in respect of the goods, if the sale had been a sale falling within that sub-section.

Scrutiny of the records indicated that 18 dealers under 12 assessing authorities issued Forms 'C' amounting to Rs. 1.49 crore for purchase of goods not covered by the registration certificate. It was also noticed that the assessing authority in one case categorically refused to add some items in the registration certificate but the dealer issued Form 'C' for those items. In other cases, goods imported/purchased were neither declared in the registration certificate, nor got added to it. These were not detected by the assessing authorities during the assessment which resulted in non-imposition of penalty of Rs. 21.68 lakh.

During the exit conference, the department stated that action would be taken and results intimated to audit. Further development has not been reported (November 2009).

4.2.14 Grant of concession on inter-state transactions without registration

Section 7(1) of the CST Act, provides that every dealer liable to pay tax, shall, within such time as may be prescribed for the purpose, make an application for registration under this Act to such authority in the appropriate State as the Central Government may, by general or special order specify, and every such application shall contain such particulars as may be prescribed.

Scrutiny indicated that four dealers under three assessing authorities⁸ were given concession on the strength of the declaration forms for the sales made to the other states though the dealers were not registered as per the provision stated above. Thus, the incorrect concession allowed on an amount of Rs. 2.46 crore resulted in short levy of tax of Rs. 23.83 lakh on which interest of Rs. 18.71 lakh was also leviable.

4.2.15 Invalid exemption on export sales

Sub Rule 10(a) of Rule 12 of the CST Rules, provides that a dealer may in support of his claim that he is not liable to pay tax under this Act in respect of any sale of goods on the ground that the sale of such goods is a sale in the course of export of those goods out of the territory of India within the meaning of sub-section (3) of section 5, furnish to the prescribed authority a certificate in Form 'H' duly filled and signed by the exporter along with evidence of export of such goods.

Scrutiny of the records of Assistant Commissioner (A), Ramnagar indicated that three dealers were allowed exemption on the export sales made by them only on production of Form 'H'. The exemption allowed on an amount of Rs. 19.35 lakh without production of evidence in support of export was irregular and resulted in short levy of tax of Rs. 1.83 lakh and interest of Rs. 1.47 lakh.

⁸ Assistant Commissioner (A), Sector II, Dehradun and Sector I, Haridwar and Deputy Commissioner, A I, Haldwani.

4.2.16 Application of incorrect rate of tax

Under the CST Act and Rules made thereunder, as it stood during the relevant period, tax on inter-state sales of goods made to the registered dealers supported by prescribed declarations is leviable at the rate of four *per cent* or at such lower rate as applicable to the sale or purchase of such goods in the state. Tax on goods not covered by such declarations in case of declared goods shall be calculated at twice the rate applicable in the appropriate state and in respect of other goods at the rate of 10 *per cent* or at the rate applicable to the sale of such goods inside the state whichever is higher.

Test check of the records indicated that three assessing authorities while finalising the assessments of five dealers for the year 2002-03 to 2005-06, did not apply the correct rate of tax on an amount of Rs. 20.24 lakh which resulted in short levy of tax of Rs. 0.62 lakh. In addition, interest of Rs. 0.51 lakh was also leviable.

4.2.17 Conclusion

The review revealed that due to the absence of a system of physical verification of statutory forms held at the headquarters, there was no assurance that the forms shown in stock were actually available. Concessions/exemptions were allowed without cross verification of prescribed declaration forms to ascertain whether the forms submitted by the dealers are genuine. Irregular allowance of concessional rate to industrial units led to underassessment of tax. Acceptance of defective forms and non-detection of suppression of purchases and sales have caused leakage of revenue. The internal controls within the department were weak as evidenced by absence of an internal audit wing.

4.2.18 Summary of recommendations

The Government may consider the following steps to rectify the system and compliance deficiencies:

- install a mechanism for periodic verification of stock registers of declaration forms and issue of forms chronologically;
- prescribe a mechanism for verification of registration certificates or copies of agreements before allowing exemption on stock transfers;
- devise a system for periodic cross verification of the declaration forms on random basis;
- ensure that the concession on the rate of tax/exemption is allowed only on production of the declarations fulfilling all the conditions specified therein; and
- install a mechanism for conducting regular internal audit of the department so that the defects and discrepancies in the assessment are detected timely, thus preventing leakage of revenue.

Other audit observations

Scrutiny of the records of the Commercial Tax, Registration and Transport Departments revealed several cases of non-compliance of the provisions and other cases as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of the departmental officers are pointed out in audit each year but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

COMMERCIAL TAX DEPARTMENT**4.3 Non-levy of penalty****For delay in payment of tax, penalty of Rs. 57.84 lakh though leviable was not levied**

The provisions of the Uttar Pradesh Trade Tax Act, 1948 (as applicable in Uttarakhand), provides that if any dealer or other person has without reasonable cause, failed to pay, within the time allowed, the tax due from him, such dealer or person shall be liable to pay by way of penalty, in addition to the tax due, a sum not 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)–IV, Commercial Tax, Dehradun in August 2008 indicated that four dealers⁹ delayed payment of tax amounting to Rs. 1.16 crore by 2 to 52 days, for which they were liable to pay a penalty of Rs. 57.84 lakh which was not levied by the assessing authority.

After this was pointed out, the Department informed (June 2009) that the orders for demand of penalty of Rs. 57.84 lakh have been issued (May & June 2009). A report on recovery had not been received (November 2009).

The matter was reported to the Government in July 2009; their reply has not been received (November 2009).

STAMP AND REGISTRATION DEPARTMENT**4.4 Short levy of stamp duty****Under valuation of property resulted in short levy of stamp duty of Rs. 9.30 lakh**

Under the Indian Stamp Act, 1899 (as amended in its application in Uttar Pradesh and adopted in Uttarakhand), stamp duty on a deed on conveyance is chargeable on the market value of the property or on the value of consideration set forth

⁹ IFB Industries, Dehradun, Tata Engineers Locomotive Company, Dehradun, Videocon International Ltd, Dehradun and Sikkim Distillery Ltd, Dehradun.

therein, whichever is higher. As per the Uttar Pradesh Stamp (valuation of property) Rules 1997, market rates of various categories of land, building are to be fixed by the collector for the guidance of registering authorities biennially.

During audit of the office of the Sub-Registrar, Kichha, District Udham Singh Nagar in December 2006, it was noticed that 16,080 square metre residential land situated at village Bhamraula, Rudrapur was transferred (October 2006) in favour of M/s Shivalik Education & Placement Services Pvt. Ltd., Rajpur Road, Dehradun and the stamp duty was levied on the value of Rs. 1 crore by affixing stamp duty amounting to Rs. 10 lakh. However, as per the rate list issued (July 2006) by the concerned District Magistrate, valuation (at the rate of Rs 1,200 per square meter) of the property comes to Rs.1.93 crore, on which stamp duty of Rs.19.30 lakh was to be levied. This resulted in short levy of stamp duty amounting to Rs.9.30 lakh.

After this was pointed out, the department stated (February 2009) that Assistant Commissioner (Stamp), Udham Singh Nagar accepting the short levy of stamp duty of Rs. 9.30 lakh, made a judgment (October 2008) for recovery of stamp duty of Rs. 9.30 lakh along with penalty of Rs. 5 lakh totalling Rs. 14.30 lakh. A report on recovery has not been received (November 2009).

The matter was reported to the Government in March 2007; their reply has not been received (November 2009).

TRANSPORT DEPARTMENT

4.5 Non-remittance of additional tax

Additional tax of Rs. 80.36 crore was realised by the Uttarakhand Parivahan Nigam, of which Rs. 27.68 crore was deposited, leading to non-remittance of Rs. 52.68 crore

As per Section 6 of *Uttaranchal Motoryan Karadhan Sudhar Adhiniyam, 2003 (Adhiniyam)*, the State Road Transport Undertaking is liable for payment of the additional tax as per the formula prescribed under the Fifth schedule.

During test check of the records of the Uttarakhand *Parivahan Nigam* in May 2009, it was noticed that during the period from November 2003 to March 2009, the *Nigam* had realised an amount of Rs. 80.36 crore on account of additional tax but Rs. 27.68 crore only had been remitted to the State Government. This resulted in non-remittance of Rs. 52.68 crore in the Government account.

After this was pointed out (July 2009), the Commissioner, Transport, Uttarakhand, Dehradun stated (August 2009) that the Managing Director, *Nigam* when requested for the additional tax intimated that a request for conversion of this liability into share capital had been made with the State Government. Further development had not been reported (November 2009).

The matter was reported to the Government in September 2009; their reply has not been received (November 2009).

4.6 Non-realisation of road/additional tax

Non-realisation of revenue of Rs. 23.65 lakh from 119 maxi cabs

Under the provisions of the *Adhiniyam*, quarterly road tax and additional tax in respect of maxi cabs (10 seater) was fixed at Rs. 350 and Rs. 3,375 respectively.

During test check of the records of the Regional Transport Officer, Dehradun in August 2007, it was noticed that road tax/additional tax on 119 maxi cabs from January 2001 to June 2007 was neither paid by the vehicle owners nor was any action taken by the RTO to recover it. This resulted in non-realisation of road tax/additional tax amounting to Rs. 23.65 lakh.

After this was pointed out, the department stated (July 2009) that an amount of Rs. 11.85 lakh had been recovered from 66 cab owners during the period from August 2007 to June 2009 and for the remaining amount of Rs. 11.80 lakh on 53 maxi-cabs, action for recovery was in progress. Further development had not been reported (November 2009).

The matter was reported to the Government in September 2009; their reply had not been received (November 2009).