

**TWELFTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2006-2008)**

**SIXTY FOURTH REPORT**

(Presented on 15th July, 2008)



SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2008

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**On**

**Paragraphs relating to Taxes Department, contained  
in the Report of the Comptroller and Auditor  
General of India for the year ended  
31st March 2001 (Revenue Receipts)**

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## INTRODUCTION

I, the Chairman, Committee on Public Accounts having been authorised by the Committee to present this Report on their behalf, present the Sixty Fourth Report on paragraph relating to Taxes Department contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March 2001 (Revenue Receipts).

The Report of the Comptroller and Auditor General of India for the year ended 31st March 2001 (Revenue Receipts) was laid on the Table of the House on 11th March 2002.

The Committee considered and finalised this Report at the meeting held on 7th July, 2008.

The Committee place on record their appreciation of the assistance rendered to them by the Accountant General in the examination of the Audit Report.

Thiruvananthapuram,  
15th July, 2008.

ARYADAN MUHAMMED,  
*Chairman,*  
*Committee on Public Accounts.*

**REPORT**  
**TAXES DEPARTMENT**

AUDIT PARAGRAPH

*Results of audit*

Test check of sales tax assessments and refund cases and connected documents of Sales Tax Offices conducted in audit during the year 2000-01 revealed underassessment of tax, non-levy of penalty etc., amounting to Rs. 6600.59 lakh in 1624 cases which may broadly be categorised as under.

<i>Sl. No.</i>	<i>Category</i>	<i>Number of cases</i>	<i>Amount (In lakh of rupees)</i>
1	Turn over escaping assessment	214	663.30
2	Irregular grant of exemption	211	3707.73
3	Application of incorrect rate of tax	326	204.95
4	Excess/double accounting of remittance	33	27.24
5	Incorrect grant of concessional rate of tax	76	124.61
6	Non-levy of penalty / interest	226	512.55
7	Other lapses	538	1360.21
Total		1624	6600.59

During 2000-01, the department accepted under assessments etc. of Rs. 167.00 lakh involved in 674 cases of which 128 cases involving Rs. 21.23 lakh were pointed out in audit during 2000-01 and the rest in earlier years. At the instance of Audit the department recovered an amount of Rs. 10.91 lakh in 103 cases during the year. A few illustrative cases involving Rs. 1617.71 lakh are given in the following paragraphs.

*Underassessment of turnover*

Under the Kerala General Sales Tax Act, 1963, taxable turnover means the turnover, on which a dealer shall be liable to pay tax after making the prescribed deduction from the gross turnover. In six offices turnover of Rs. 19,558.96 lakh was incorrectly excluded from levy of tax in 11 cases resulting in short levy of tax and surcharge of Rs. 1326.30 lakh as detailed below.

<i>Sl. No.</i>	<i>Name of office</i>	<i>Assessment year/ month of assessment</i>	<i>Name of commodity/ Rate of tax</i>	<i>Turnover excluded (In lakh of rupees)</i>	<i>Nature of defect</i>	<i>Short levy of tax (in lakh of rupees)</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Special Circle, Kollam	1988-89 and 1989-90 March 1998	Raw Cashew nut 7%	18925.10	Purchase turnover of raw cashew-nut was excluded from tax without sub-mission of declaration in Form 25 by the assessee (M/s. Capex, Kollam)	1258.52	This was pointed out in July 1998. The department stated (August 2000) that the assessment had been revised (November 1999) exempting the turnover for which declarations had subsequently been produced and additional demand for tax and surcharge of Rs. 1078.02 lakh on the balance turnover not supported by declarations had been raised and advised (January 2000) for revenue recovery.
2	Special Circle, Kollam	1991-92 January 1998	Electrical goods 10%	310.63	Turnover received by the assessee during 1992-93 on	41.31	This was pointed out in June 1998. The department stated (February 2001) that the assessment had

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
					account of price variations and returned (April 1993) by him was not reckoned for levy of tax.		been revised (July 2000) and additional demand for Rs. 41.31 lakh created.
3	Special Circle, Kollam	1994-95 March 1999	Cashew Kernel 7%	105.06	Turnover from the closing stock of cashew for 1993-94 was not reckoned for computing the turnover for 1994-95	8.09	On this being pointed out in June 1999, Department stated (October 2000) that assessment had been revised (February 2000) and the demand of Rs. 8.09 lakh created and advised for revenue recovery. Government to whom the case was reported in March 2001 confirmed (July 2001) the facts.
4	Special Circle, Kollam	1995-96 January 2000	Cashew Kernel 7%	25.89	Purchase turnover amounting to Rs. 7.60 lakh of a portion of	1.99	This was pointed out in October 2000. The department stated (March 2001) that the assessment

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
					the opening stock of raw cashew nut and its corresponding sales turnover amounting to Rs. 18.29 lakh were also not reckoned.		had been revised (October 2000) raising additional demand for Rs. 1.99 lakh.
5	Special Circle, Kollam	1994-95 October 1998	Cashew Kernel 7%	19.48	Sales turnover of the shortage in stock detected (May 1994) during shop inspection and purchase value of cashew nut corresponding to the unaccounted export sales noticed were not reckoned.	1.50	On this being pointed out in May 1999, the department stated (April 2000) that the assessment had been revised (February 2000) creating additional demand of Rs. 1.50 lakh.
6	Special Circle, Kollam	1994-95 August 1998	Cashew Kernel 7%	15.57	Assessing officer incorrectly deducted from the	1.20	On this being pointed out in June 1999, the department stated (April 2000) that

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
					proposed turnover, Rs. 34.60 lakh instead of Rs. 19.03 lakh to be deducted towards lorry hire, clearing and forwarding charges to arrive at the taxable turnover .		the assessment had been revised creating additional demand of Rs. 1.20 lakh.
7	Special Circle, Tirur	1995-96 September 1999	Rubber/ Motor car 10/8	42.79	Assessing officer omitted to reckon the purchase turnover of rubber amounting to Rs. 41.76 lakh and reckoned the sales turnover of car short by Rs. 1.03 lakh.	4.68	On this being pointed out in July 2000, the department stated (January 2001) that the assessment had been revised (December 2000) creating additional demand of Rs. 4.70 lakh.
8	Sales Tax Office, Aluva	1989-90 February 1998	Chemicals 8%	29.99	Purchase turnover of chemical raw materials correspond-	3.19	This was pointed out in January 1999. The assessing authority modified the

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
					ing to the estimated turnover of the product was not reckoned		assessment (November 1999) raising additional demand for Rs. 3.19 lakh.
9	Sales Tax Office First Circle Kalamasserry	1994-95 May 1998	Works contract	52.71	Assessing officer did not levy tax on goods valued at Rs.45.83 lakh used in works contract.	2.73	This was pointed out in November 1998. The department stated (February 2000) that the assessment had been revised and additional demand of Rs. 2.07 lakh advised (February 2000) for revenue recovery.
10	Sales Tax Office, First Circle, Perumbavoor	1994-95 and 1996-97 April 1998	Plastic goods 10%	14.97	Purchase tax was not levied on turnover relating to plastic waste purchased from unregistered dealers.	1.61	On this being pointed out in March 2000 the department stated (October 2000) that the assessment had been revised in September 2000 creating additional demand of Rs. 1.65 lakh.
11	Sales Tax Office, Kasargod	1994-95 May 1998	Timber 8%	16.77	Turnover relating to purchase of timber and	1.48	This was pointed out in December 1999. The department stated

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
					the sales turnover of timber waste were not reckoned.		(January 2001) that the assessment had been revised (March 2000) creating additional demand of Rs. 1.48 lakh.
				Total	19558.96	1326.30	

The above cases were reported to Government between March and May 2001 which was followed up with reminder on 20 July 2001. However, their replies have not been received in ten cases (October 2001).

[Paragraphs 2.1 and 2.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March 2001 (Revenue Receipts)].

Notes furnished by Government on the above audit paragraphs are included as Appendix II.

1. Regarding the arrears in the collection of sales tax, the Commissioner, Commercial Taxes informed the Committee that an amount of Rs. 2,661 crores was pending collection. He added that all the defects pointed out by the Accountant General had been rectified.

2. The Committee pointed out that the audit conducted by the Accountant General was only a random check and would come to about only 10% of the assessments.

3. The Committee wanted to know why the internal audit wing of the Department had not detected those cases pointed out by Accountant General. The witness informed the Committee that in most of the cases when action to rectify that defects were taken, the re-assessment would be challenged in courts and often the re-assessments would be set aside by the Courts. Hence, it may be seen that all the defects as pointed out would not stand in the eye of the law.

4. The Committee drew the attention of the witness that Accountant General had been going on pointing out defects/lapses in assessment of sales tax. But still the same mistakes were being repeated by the assessing officers. The Committee wanted to know about the corrective measures taken by the

Commercial Taxes Department to prevent recurrence of mistakes in assessment. The Commissioner, Commercial Taxes, informed the Committee that the Sales Tax Act and Rules framed thereunder were very comprehensive. Hence, the Department had taken action to categorise the defects pointed out by Accountant General and was giving training to the officers based on this. As a result, the repetition of the same mistakes had come down considerably.

5. The Committee wanted to be furnished with a comparative statement regarding the number of cases detected by the Internal audit wing of the Department and the Office of the Accountant General and the number of cases rectified as a result of the audit. The witness agreed that he would furnish the detailed review on the internal audit wing.

6. Regarding the pending cases in the High Court, the Commissioner, Commercial Tax informed the Committee that about six thousand writ petitions were pending in High Court. To review it, two additional government pleaders had been appointed. Now there was considerable improvement in the disposal of cases. So the number of stay cases had also come down. Enquired as to how many cases were disposed after the special drive to clear the cases was initiated and out of that how many had been disposed in favour of the Government, the witness stated that since all the stays given were conditional, i.e., remittance of 50% of amount involved was done, the stays had not affected the collection. The Secretary, Taxes Department added that Revenue Recovery meetings were being held once in six months. The Advocate General as well as the Officers concerned attended the meeting. As a result of such meetings held in Ernakulam and Thrissur the Department could vacate a large number of stays and was able to complete the Revenue Recovery proceedings.

7. Regarding the general approach adopted in auditing, the Commissioner, Commercial Taxes, informed the Committee that the cases of dealers whose tax amount was more than Rs.15 lakhs, were being dealt with in special circle and that 100% audit by Accountant General was being done in special circles. So almost all big dealers would be covered by the audit of Accountant General. Hence the internal audit of the Department, was concentrating on the audit of ordinary circles. The Deputy Accountant General pointed out that the cases related to the period before 2001 and that after the strengthening of the internal audit wing in 2001 the number of cases of under- assessment had come down. The Commissioner, Commercial Taxes, informed the Committee that the tax system had been made uniform and now VAT had come into force. Consequently a separate wing for VAT audit had been constituted in the Department. Audit under this wing would be more intensive and effective.

8. The Committee then examined Paragraph 2.2. The witness stated that the majority of the cases coming under paragraph 2.2. were related to local purchase of raw cashew nut by various local cashew companies. The reason for the defect pointed out by Accountant General in the case of CAPEX was due to laxity in producing subsequent declaration in form 25 regarding the purchase turnover. The Secretary, Taxes Department pointed out that the observation of Accountant General regarding the para had been rectified because CAPEX had subsequently submitted the declaration in form 25. He added that had it been submitted earlier, the observation would not have appeared in the Audit Report. He further stated that Rs. 6.5 crore has to be recovered as arrears.

9. The Committee observed that action had been taken in 95 % of the cases pointed out in the paragraph. Only Revenue Recovery stay had to be vacated.

10. The Committee pointed out that Report regarding re-assessment and collection pertaining to the sub- paragraphs from 1 to 11 of 2.2 had yet to be received. The witness agreed to furnish the present position in detail to the Committee.

#### **Conclusions/Recommendations**

**11. The Committee notes that regarding the assessment and arrears in the collection of revenue, defects/lapses of the same nature is repeated by the assessing officers. Hence, the Committee desires to be informed of the corrective measures taken by the Department to prevent recurrence of mistakes in the assessment of Tax in future.**

**12. The Committee finds that the internal audit wing of the Department had failed to detect the cases pointed out by audit which resulted in short levy of tax and surcharge. Hence the Committee desires to be furnished with a comparative statement regarding the number of cases detected by the internal audit wing of the Department and Accountant General's audit and the number of cases rectified as a result of the audit.**

**13. While examining paragraph 2.2, the Committee came to know that the reasons for the defects pointed out by audit was due to laxity in producing subsequent declaration in form 25 regarding the purchase turnover. Hence the Committee urges the Department to take effective steps to prevent such lapses in future.**

**14. The Committee notes that report regarding re-assessment and collection pertaining to the sub-paragraphs from 1 to 11 have not been received. Hence the Committee demands the Department to forward a detailed report regarding the present position.**

## AUDIT PARAGRAPH

*Non-levy of additional sales tax*

Under the Kerala Additional Sales Tax Act, 1978, every dealer shall be liable to pay additional sales tax at the rates prescribed from time to time up to March 1992.

During the course of audit, it was noticed in three\* offices that additional sales tax was not levied in three cases resulting in short levy of tax of Rs. 61.80 lakh.

On this being pointed out between July 1999 and September 2000, the department stated that the assessment had been revised creating additional demand of Rs.2.36 lakh in two cases and the demand advised for revenue recovery in one case.

The cases were reported to Government between March and May 2001 and followed up with reminder on 20 July 2001. Government stated (July 2001) that the assessment in the third case (M/s Malabar Cashew and allied products) had been revised (January 2001) and additional demand of Rs.59.46 lakh advised for revenue recovery.

[Paragraph 2.3 contained in the Report of the Comptroller and Auditor General for the year ended 31<sup>st</sup> March 2001 (RR)]

Notes furnished by the Government on the above audit paragraph is included as Appendix II.

15. While discussing paragraph 2.3 in detail the Committee asked the opinion of the officer concerned about the case of Shri K.P. Ebrahim, Cosmos Enterprises, Kozhikode and asked whether any action had been taken to write off the amount. The witness who was present revealed to the Committee that the assessments for the year from 1984 to 1986 were revised on 9-6-1999 creating an additional demand of Rs. 1.08 lakh and the same was advised for Revenue Recovery. The Deputy Commissioner, Kozhikode had informed that the assessee had expired years back and the legal heirs had no movable or immovable property. Steps for "write-off", has to be initiated only after obtaining an irrecoverability certificate from the Collectors of the Districts concerned.

**Conclusion/Recommendation**

**16. The Committee finds that the assessment regarding M/s Malabar Cashew and allied products had been revised and advised for revenue recovery. The Committee desires to be informed whether the additional demand created has been recovered.**

\* Special Circle, Kollam, Sales Tax Office, First Circle, Kannur, Sales Tax Office, First Circle, Kozhikode.

## AUDIT PARAGRAPH

*Short levy due to incorrect exemption*

Under the Kerala General Sales Tax Act, 1963, Government may, if they consider it necessary in the public interest, make an exemption or reduction in any rate, either prospectively or retrospectively in respect of any tax payable under the Act on the sale or purchase of any specified goods at all points or at specified point or by any specified class of persons in regard to the whole or any part of their turnover. Any exemption from tax or reduction in the rate of tax may be subject to such restrictions and conditions as may be specified.

(a) Scrutiny of assessment records revealed that in two circles the exemption granted were incorrect resulting in short levy of Central sales tax of Rs. 16.10 lakh in nine cases. A few illustrative cases are detailed below.

<i>Sl. No.</i>	<i>Name of office</i>	<i>Assessment year/month of assessment</i>	<i>commodity/Rate of tax</i>	<i>Nature of irregularity</i>	<i>Amount of short levy (in lakh of rupees)</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Special Circle, Kollam	1995-96 November 1998		Goods worth Rs.60.73 lakh transferred to Tamil Nadu using departmental delivery orders were exempted from tax treating it as branch transfer though the assessee had not filed the declaration in Form F.	6.07	On this being pointed out (May 1999) the department stated (April 2000) that the assessment had been revised (December 1999) creating additional demand of Rs. 6.07 lakh
2	Special Circle, Kollam	1994-95 March 1999	Cashew Kernels 7%	Assessing officer incorrectly included a turnover of Rs. 23.11 lakh related to the export sales of another assessee also in the total turnover	1.78	On this being pointed out (June 1999) the department stated (April 2000) that the assessment had been revised (February 2000)

(1)	(2)	(3)	(4)	(5)	(6)	(7)
				of Rs. 435.27 lakh exempted from levy of tax towards export sales of the dealer.		creating additional demand of Rs. 1.78 lakh.
3	Special Circle, Kollam	1994-95 May 1998	Cashew Kernels 7%	Assessing officer exempted from levy of tax a turnover of Rs. 21.33 lakh being sale in the course of export as claimed by the assessee though the export took place before effecting the sale which proved that the goods sold and exported were different.	1.64	On this being pointed out (May,1999) the department stated (October 2000) that the assessment had been revised (March 2000) raising additional demand of Rs. 1.64 lakh.
4	Special Circle, Kollam	1994-95 May 1997	Cashew Kernels 7%	Sales turnover of Rs. 16.55 lakh was exempted from tax on the strength of the declaration in form 18 A without the documents of export required to be filed.	1.27	On this being pointed out (June 1999) the department stated (October 2000) that the assessment had been revised (January, 2000) and additional demand of Rs. 1.33 lakh created.
5	Special Circle, Kollam	1994-95 July 1998	Cashew Kernels 7%	The assessing officer incorrectly included sales turnover of Rs. 16.25 lakh for which export had not been proved also in the total turnover of Rs. 72.08 lakh exempted from levy of tax towards sale in the course of export.	1.25	On this being pointed out (June 1999) the department stated (April 2000) that the assessment had been revised (March 2000) creating additional demand of Rs.1.25 lakh

(1)	(2)	(3)	(4)	(5)	(6)	(7)
6	Special Circle, Kollam	1994-95 January 1999	Cashew Kernels 7%	Turnover of Rs. 14.12 lakh was exempted as sales in the course of export from levy of tax, though the goods exported were not those involved in the sale.	1.09	On this being pointed out (June 1999) the department stated (April 2000) that the assessment had been revised (January 2000) creating additional demand of Rs. 1.09 lakh
7	Sales Tax Office, First Circle, Kalamassery	1995-96 March 2000		Instead of levying and demanding central sales tax at 2 per cent central sales tax on total and taxable turnover of Rs 54.55 lakh was assessed at the rate of 4 percent and the tax was adjusted against eligibility for exemption from payment of the Kerala general sales tax available to the unit	1.09	On this being pointed out (June 2000) the department stated (October 2000) that the assessment had been revised and tax due of Rs. 1.09 lakh had been collected (July 2000). Government stated (July 2001) that the Commissioner had been directed to issue circular instructions to avoid recurrence of such lapses in future.

The above cases were reported to Government in April and May 2001 which was followed up with reminder on 20 July 2001. However, their replies have not been received in six cases (October 2001).

(b) In seven circles, the exemption granted to small scale industrial units were incorrect resulting in short levy of tax of Rs. 33.85 lakh in seven cases. A few illustrative cases are detailed below.

Sl. No	Name of office	Assessment year/month of assessment	Commodity/Rate of tax	Nature of irregularity	Amount of short levy (in lakh of rupees)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Sales Tax Office, Thodu-puzha	1993-94 April 1998	Goods produced by industrial unit	Exemption from tax of Rs. 62.59 lakh was allowed against the balance exemption of Rs. 37.97 lakh admissible to the industrial unit for the period up to 31 March 1994.	24.62	On this being pointed out (March 2000) the assessing officer stated (March 2000) that the case would be examined and suitable action taken.
2	Sales Tax Office, First Circle, Thalassery	1995-96 July 1998		Entire turnover of Rs. 35.10 lakh of a social service society was incorrectly exempted from tax even though the profit of the institution was neither spent nor set apart for charitable purposes.	1.93	On this being pointed out (July 1999) the department stated (February 2000) that the assessment had been revised and revenue recovery requisition for Rs. 1.95 lakh including interest had been issued in January 2000.
3	Sales Tax Office, Aluva	1994-95 October 1997		The assessing officer incorrectly allowed exemption for a period prior to the period of eligibility fixed by the district level committee based on additional fixed capital investment.	1.92	On this being pointed out (January 1999) the assessing authority revised the assessment in March 2000 creating additional demand of Rs. 1.95 lakh.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
4	Sales Tax Office, Second Circle, Kozhikode	1996-97 February 1998		The assessing officer incorrectly exempted the sales turnover of goods purchased and sold by Khadi and Village Industrial Unit.	1.77	On this being pointed out (June 1998) the department stated (September 2000) that the assessments had been revised (February 1999) and additional demand for tax of Rs. 1.77 lakh and interest of Rs. 0.46 lakh collected (March 2000). Government stated (July 2001) that directions had been issued to the Commissioner to issue circular instructions to assessing officers to avoid such omissions in future.
5	Sales Tax Office, Chenganoor	1994-95 and 1995-96 January and March 1999	Products Manufactured by SSI unit	Entire turnover of Rs. 46.35 lakh was exempted from tax instead of adjusting the tax due on the turnover against balance eligible exemption of Rs. 1.09 lakh.	1.40	On this being pointed out (April 1999) the assessments were revised (June 1999) and additional demand of Rs. 1.40 lakh created.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
6	Sales Tax Office, Hari-ppad	1995-96 Novem-ber 1999 and June 2000	Copra 4%	The assessing officer incorrectly exempted the Inter-State purchase value of copra amounting to Rs. 29.34 lakh from levy of tax	1.32	On this being pointed out (January 2001) the assessing authority stated (January 2001) that notice to rectify the mistake had been issued. Government stated (July 2001) that the assessment had been revised and additional demand of Rs. 1.32 lakh collected.

The above cases were reported to Government in April and May 2001 which was followed up with reminder on 20 July 2001. However, their replies have not been received in four cases (October 2001).

[Para 2.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March 2001 (Revenue Receipts)]

Notes furnished by government on the above audit paragraph is included as Appendix II.

17. The Committee observed that majority of the cases under paragraph 2.4 related to cashew factories. The Committee was satisfied by the action taken by the Department in cases pointed out by Accountant General and enquired as to how many cases were there in which declaration in form 7 had not been made. The Commissioner, Commercial Taxes informed that there was a judgment of High Court allowing the assessee to avail exemption/reduction of tax rate on the basis of documents other than the declaration in support of his claim.

#### **Conclusion /Recommendation**

**18. The Committee is satisfied with the action taken by the Department regarding majority of the cases mentioned in the paragraph and hence no comments.**

## AUDIT PARAGRAPH

*Short/non-levy of interest*

Under Section 23 (3) of the Kerala General Sales Tax Act, 1963, if the tax or any amount due under the Act is not paid by any dealer within the time prescribed, the dealer shall pay, by way of interest, a sum equal to one per cent of such amount for each month or part thereof for the first three months of delay and two per cent of such amount for each month or part thereof for subsequent delay.

During the course of audit it was noticed (between June 1998) and (September 2000) that while finalising (between March 1998 and December 1999) the assessments relating to the period from 1989-90 to 1996-97 the assessing officers either failed to levy or levied short the interest amounting to Rs. 44.08 lakh in nine cases in six\* offices for non-payment of tax in time. The delay ranged from 4 to 107 months.

On this being pointed out (between June 1998 and February 2001) the department stated (between November 1999 and February 2001) that assessment had been revised in six cases and out of the additional demand of Rs. 13.73 lakh created Rs. 7.91 lakh had been collected in two cases. Final replies for the remaining three cases have not been received (October 2001).

The cases were reported to Government in April and May 2001 which was followed up with reminder on 20 July 2001. Government confirmed (August 2001) the collection of additional demand of Rs. 1.15 lakh in one case. Their replies have not been received in eight cases (October 2001).

[Paragraph 2.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2001 (Revenue Receipts)].

Notes furnished by Government on the above audit paragraph is included as Appendix II.

19. About the paragraph 2.5 the Committee observed that notice was issued on 23-5-2000 to M/s. Vijaya Hotel and Bar, Karunagapally and entire dues were collected.

20. The Committee asked whether action had been taken against any assessing officer for the irregularities/lapses in assessment under the instant cases. To this the Commissioner explained that most of the audit paragraphs under consideration came after the retirement of officers concerned. Hence it had become difficult to take action against the officers who had committed the irregularities. But as per rule if any loss is found, action against the officer who

816/2008. \* Special circle, Kollam, Sales Tax Office, Second Circle, Perumbavoor, Sales Tax Office, Second Circle, Thiruvananthapuram, Sales Tax Office, Chavakkad, Sales Tax Office, Karunagapally, Sales Tax Office, First Circle, Thiruvananthapuram.

was responsible could be proceeded against provided action is initiated within four years of his retirement. He added that after 2001 many similar cases were charged and officers involved were punished.

21. When asked about the case of V.S. Jyothish Kumar, Chavakad regarding paragraph 2.5.7 the witness informed that Report of Collection details would be furnished to the Committee. In this case action had been taken against the officer who was responsible and his two increments were barred.

22. Regarding paragraph 2.5.8 the witness revealed that the station canteen as well as the SAINIK canteen had represented to the Government for waiving the interest demanded from them. But Government decision was yet to come in the issue.

#### Conclusion/Recommendation

23. **Regarding paragraph 2.5.7, the Committee would like to be furnished with a detailed Report of Collection without further delay.**

#### AUDIT PARAGRAPH

##### *Non-levy of turnover tax*

Under Section 5(2A) (i) of the Kerala General sales Tax Act, 1963, dealers in certain specified goods under the First or Fifth Schedule of the Act whose turnover exceeded the specified limits have to pay turnover tax at different rates.

During the course of audit, it was noticed that in six circles turnover tax amounting to Rs. 35.42 lakh was not levied in six cases as detailed below.

<i>Sl. No</i>	<i>Name of office</i>	<i>Assessment year/ month of assessment</i>	<i>Commodities</i>	<i>Rate of turnover tax 0.5%</i>	<i>Turn-over (in lakh of rupees)</i>	<i>Turn-over tax not levied</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Special Circle II, March Kozhi- kode	1992-93 1998	Coffee	0.5%	4135.84	20.68	This was pointed out to the department in October 1998. Their final reply has not been received.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2	Special Circle, Kollam	1992-93 August 1999	Raw Cashew	0.5%	1721.81	8.61	On this being pointed (September 2000) the department stated (January 2001) that action had been taken for the revision of the assessment.
3	Special Circle, Thrissur	1991-92 March 1998	Coconut oil cake	0.5%	485.13	2.43	On this being pointed out (October 1998) the department stated (October 2000) that assessment had been revised (April 2000). Confirming the facts Government stated (July 2001) that the additional demand of Rs. 2.43 lakh had been adjusted against the excess tax paid by the assessee.
4	Sales Tax office, Chavakkad	1992-93 March 1998	Arrack	0.5%	277.77	1.39	On this being pointed out (October 1998) the department stated (February 2001) that the assessment had been revised (March 1999) and additional demand

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
							of Rs.1.39 lakh advised for revenue recovery. Government confirmed (August 2001) the facts.
5	Special Circle, (P) Mattan-cherry	1988-89 to 1990-91 October and November 1997	Pepper, ginger, betel nut	0.5%	247.25	1.24	On this being pointed out (July 1998) the assessing authority modified the assessments (May 1999) creating additional demand of Rs. 1.24 lakh. Government stated (August 2001) that the additional demand had been advised for revenue recovery.
6	Sales Tax office, Karunagappally	1995-96 April 1999	Indian Made Foreign Liquor	5%	21.38	1.07	On this being pointed out (May 2000) the department stated (February 2001) that assessment had been revised (July 2000)
Total						35.42	

The above cases were reported to Government in April and May 2001 which was followed up with reminder on 20 July 2001. However, their replies have not been received in three cases (October 2001).

[Paragraph 2.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2001 (Revenue Receipts)].

Notes furnished by Government on the above audit paragraph is included as Appendix II.

24. The witness informed the Committee that in 1999 Coffee Board was processing and marketing coffee and it was on the turnover tax of coffee pooled by Coffee Board that the mistake had occurred. The witness stated that the defects had been rectified. He added that in the other cases reported in the audit paragraph the collection had become impossible since the assessee had no means to remit the amount demanded.

#### Conclusion/Recommendation

**25. The Committee is satisfied with the action taken by the Department and hence no comments.**

#### AUDIT PARAGRAPH

##### *Mistake in computation*

Rule 20 of the Kerala General Sales Tax Act, 1963 and the instructions issued (June 1989) by the Board of Revenue lay down the procedure for verifying and checking of all calculations of turnover and tax and credits given in an assessment order.

During the course of audit, it was noticed that mistakes in computation resulted in short levy of tax of Rs. 32.76 lakh in eight cases in six offices as detailed below.

<i>Sl. No</i>	<i>Name of office</i>	<i>Assessment year/ month of assessment</i>	<i>Nature of irregularity</i>	<i>Amount of short levy (In lakh of rupees)</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)
1	Special Circle, Kollam	1995-96 March 2000	Tax due at 10 per cent on the turnover of Rs. 173.17 lakh was incorrectly computed as Rs.1.73 lakh instead of Rs. 17.32 lakh.	17.14	This was pointed out in September 2000. The assessing officer stated (September 2000) that the assessment had been revised.

(1)	(2)	(3)	(4)	(5)	(6)
2	Special Circle, Kollam	1990-91 March 1998	Additional sales tax due at 25 per cent on the tax of Rs. 381.51 lakh was worked out as Rs. 93.38 lakh against Rs. 95.38 lakh.	2.00	On this being pointed out (June 1998) the department stated (January 2001) that the assessment had been revised (June 1999) and additional demand of Rs. 2 lakh created advised (October 1999) for revenue recovery.
3	Special Circle, (P) Mattancherry	1995-96 June 1997	The balance tax due from the assessee was computed after deducting incorrectly an amount of Rs. 3.42 lakh remitted by another assessee.	3.42	On this being pointed out (September 1998) the department stated (February 2000) that action had been taken to rectify the defect.
4	Special Circle, (P) Mattancherry	1995-96 September 1999	An amount of Rs. 1.36 lakh remitted in February 1995 and given credit to against the tax for 1994-95 was again given credit to against the tax for 1995-96.	1.36	On this being pointed out (July 2000) the department stated (July 2000) that the defect had been rectified.
5	Sales Tax Office, Chittur	1991-92 June 1999	While finalising the remanded assessment, the tax due was worked out to Rs. 3.84 lakh. But demand notice was issued for Rs. 0.65 lakh.	3.18	This was pointed out to the department in October 2000; their final reply has not been received. Government stated

(1)	(2)	(3)	(4)	(5)	(6)
					(July 2001) that the assessment had been revised (November 2000) and additional demand advised for revenue recovery.
6	Sales Tax Office, First Circle, Kalamassery	1994-95 October 1999	An amount of Rs. 2.90 lakh remitted by the assessee and already given credit to in the original assessment was again given credit to in the assessment of the conceded turnover.	2.90	On this being pointed out (June 2000) the department stated (June 2000) that the assessment order was modified (June 2000).
7	Special Circle II, Ernakulam.	1993-94 April 1998	An amount of Rs. 1.39 lakh representing excess collection of tax ordered to be forfeited to Government was incorrectly deducted from the tax computed.	1.39	On this being pointed out (May 1999) the department stated (February 2000) that the assessment had been modified (October 1999) and served on the assessee (February 2000). Government stated (August 2001) that the assessment had been revised and additional demand of Rs.1.39 lakh collected.
8	Special Circle I, Ernakulam.	1993-94 July 1998	The balance tax due from the assessee was computed after incorrectly deducting an amount of Rs. 1.37 lakh remitted by another assessee.	1.37	On this being pointed out (May 1999) the department stated (September 1999) that notice had been issued.
Total				32.76	

The above cases were reported to Government between February and May 2001 which was followed up with reminder on 20 July 2001. However, their replies have not been received in six cases (October 2001).

[Paragraph 2.7 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2001 (Revenue Receipts)].

Notes furnished by Government on the above audit paragraph is included as Appendix II.

26. The Commissioner, Commercial Taxes agreed to furnish the details regarding collection of dues in all the cases coming under paragraph 2.7.

27. Regarding paragraph 2.7.4 the witness informed that assessment had been revised and dues been collected. The Officer who was involved in the case, had been punished by barring one increment.

#### Conclusion/Recommendation

**28. The Committee is satisfied with the action taken by the Department regarding paragraph 2.7.4. The Committee demands the Department to furnish the details regarding collection of dues in all other cases pointed out in audit.**

#### AUDIT PARAGRAPH

##### *Non-levy of penalty*

Under the Kerala General Sales Tax Act, 1963, if the assessing authority is satisfied that any person has failed to keep true and complete accounts or submitted an untrue or incorrect return, such authority may direct that such person shall pay by way of penalty an amount not exceeding twice the amount of sales tax or other amount evaded or sought to be evaded.

During the course of audit, it was noticed that in two offices penalty amounting to Rs.32.30 lakh was not imposed in three cases as detailed below.

<i>Sl. No.</i>	<i>Name of office</i>	<i>Assessment year/ month of assessment</i>	<i>Nature of irregularity</i>	<i>Amount of Penalty (In lakh of rupees)</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)
1	Sales Tax Office, Cherthala	1994-95 to March 2000	The assessing officer did not impose penalty for filing untrue and incorrect returns.	18.18	On this being pointed out in April 2000, the department stated (September 2000) that a penalty of Rs. 18.18 lakh had been imposed.

(1)	(2)	(3)	(4)	(5)	(6)
2	Special Circle, Kollam	1995-96 May 1998	Assessing officer did not impose penalty for evading payment of tax of Rs. 4.76 lakh by filing untrue return.	10.48	On this being pointed out in May 1999, the department stated (October 2000) that penalty of Rs. 10.48 lakh had been imposed (January 2000) and Rs. 1.16 lakh had since been collected (July 2000).
3	Special Circle, Kollam	1994-95 February 1998	Although the assessing officer detected an unaccounted transaction involving 15.60 lakh and brought the same to tax, he did not impose any penalty on the assessee.	3.64	On this being pointed out in May 1999, the department stated (April 2000) that penalty of Rs. 3.64 lakh had been imposed (December 1999) on the assessee. Government stated (August 2001) that the additional demand had been advised for revenue recovery.
Total				32.30	

The above cases were reported to Government between March and May 2001 which was followed up with reminder on 20 July 2001. However, their reply has not been received in two cases (October 2001).

[Paragraph 2.8 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2001 (Revenue Receipts)]

Notes furnished by Government on the above audit paragraph is included as Appendix II.

29. The Committee desired to know why in the instant cases the assessing officers had not imposed penalty for false and incorrect returns. The

Commissioner, Commercial Taxes, informed the Committee that penalty was imposed subsequently and notice for R.R proceedings had been issued. He added that imposing penalty was not compulsory and that it was like a quasi-judicial adjudication. Only if the assessing authority is satisfied that the assessee had purposely or intentionally hidden the real income and filed the incorrect return could he be charged penalty.

30. The audit intervened at this point and asked the Commissioner, then how could the department subsequently impose penalty consequent on the observation of Audit. The Commissioner stated that when similar cases arose recently the department's argument was not accepted by the Audit.

31. The Committee observed that penalty had to be imposed at the first stage itself and hence the department should have taken action to examine why in the cases pointed out by Accountant General the officers concerned had failed to do so. The Secretary, Taxes Department informed the Committee that action had been taken against the concerned officer.

#### **Conclusion/Recommendation**

**32. The Committee finds that in all the three cases, penalty and revenue recovery proceedings were initiated only after the observations made by Audit. The Committee opines that penalty should be imposed at the first stage itself. Hence the Committee recommends that the Department take necessary steps to impose penalty as soon as tax evasion or such other irregularities are detected by the assessing officer.**

#### AUDIT PARAGRAPH

##### *Incorrect grant of concessional rate of tax*

Government by notifications reduced (November 1993 and March 1995) the rate of tax payable by small scale industrial units whose total turnover on sale of goods manufactured by them within the State does not exceed Rs. 50 lakh to four *per cent*. Where the turnover exceeds Rs. 50 lakh, tax at the reduced rate is applicable on Rs. 50 lakh in the first year in which the turnover crosses the limit and the normal higher rate is applicable on the turnover above Rs. 50 lakh in such first year and on the entire turnover in the subsequent years.

In four offices incorrect levy of tax at concessional rate in five cases resulted in short levy of tax of Rs. 20.01 lakh as detailed below.

<i>Sl. No</i>	<i>Name of office</i>	<i>Assessment year/ month of assessment</i>	<i>Nature of defect</i>	<i>Name of commodity/rate of tax</i>	<i>Turn-over (In lakh of rupees)</i>	<i>Short levy</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Sales Tax Office, Cherthala	1994-95 and 1995-96 March 2000	Although the turnover exceeded Rs. 50 lakh concessional rate was applied	Sodium silicate 10%	116.64	7.70	On being pointed out in April 2000, the department stated (September 2000) that the assessments had been revised. Government stated (July 2001) that assessments had been revised (April and July 2000) and entire demand advised (April 2001) for revenue recovery.
2	Sales Tax Office, Special Circle, Thrissur	1995-96 March 1999	Concessional rate applied on first Rs.50 lakh despite the turnover exceeding Rs. 50 lakh in 1991-92.	Plywood veneer 12%	112.12	4.40	On being pointed out in July 2000 the assessing officer stated (July 2000) that the case would be examined.
3	Sales Tax Office, Special Circle, Thrissur	1996-97	Concessional rate applied on the turnover of Rs. 49.40 lakh although the turnover of the assessee exceeded Rs. 50 lakh in 1993-94.	Plastic products 10%	51.73	3.26	On being pointed out in August 2000 the department stated (August 2000) that the case would be examined.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
4	Sales Tax Office, Special Circle, Kannur	1995-96 March 1999	Though total turnover exceeded Rs.50 lakh in 1994-95 concessional rate was applied on the first Rs. 50 lakh	Ready made garments in 10%		3.30	On being pointed out in October 1999 the department stated (July 2000) that the assessment had been revised in July 2000. Government stated (July 2001) that the appeal filed by the assessee against the additional demand of Rs.3.30 lakh was pending disposal.
5	Sales Tax Office, First Circle, Perumbavoor	1996-97 July 1998	Concessional rate applied on sales turnover of finished goods brought as such from outside the State	Sanitary fittings 10%	20.38	1.35	On being pointed out in March 2000, the department stated (October 2000) that the assessment had been revised (September 2000) creating additional demand of Rs.1.33 lakh.
Total						20.01	

The above cases were reported to Government in March 2001 which was followed up with reminder on 20 July 2001. However, their replies have not been received in three cases (October 2001).

[Paragraph 2.9 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2001 (Revenue Receipts)]

Notes furnished by Government on the above audit paragraph is included as Appendix II.

33. About the paragraph 2.9, the witness informed that the assessments had been revised and major part of the amount been collected. But the officer who had committed the irregularity could not be proceeded against as he had retired from service before the audit report was presented. He added that senior officers were strictly instructed to supervise and monitor the assessments and now the condition had improved considerably. To a query regarding the steps taken in order to check tax evasion, the Commissioner stated as follows:—

(1) The work of intelligence wing had been strengthened and more intelligence squads were deployed to border districts.

(2) The Collection rate in check posts was increased to the tune of Rs. 140 crore which had been only Rs. 20 crore during the period 2000-01.

(3) A unit named Commercial Investigation Wing for the purpose of checking tax evasion was formed in 2003 in each district. As a result, many tax evasion cases were being reported regularly and corrective action was also being taken in such cases.

#### **Conclusion/Recommendation**

34. **The Committee is satisfied with the replies and hence no comments.**

#### AUDIT PARAGRAPH

##### *Application of incorrect rate of tax*

Under the Kerala General Sales Tax Act, 1963, rate of tax depends on the nature of sale, point of sale and also on the kind of commodity. It was noticed during audit that tax was levied at incorrect rates in 11 cases in eight offices resulting in short levy of tax of Rs.14 lakh. A few illustrative cases are detailed below.

Sl. No	Name of office	Commodity	Assessment year & Month of assessment	Correct rate (in per cent)	Rate applied (in per cent)	Turn over (In lakh of rupees)	Tax short levied	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Special Circle I, Ernakulam	Transfer of the right to use	1992-93 March 1998	6	5	226.32	2.44	This was pointed out in August 1998. Government stated (July 2001) that the assessment was revised (June 1999) but the same was remanded on appeal by the Deputy Commissioner (Appeals) and that the department had filed second appeal based on the judgement* of the Hon'ble High Court of Karnataka and the same was pending disposal.
2	Sales Tax Office, Nedumangad	Paper cartons and corrugated boxes	1992-93 to 1995-96 between November 1997 and March 2000	5/4	2.5	87.68	2.17	This was pointed out in June 2000; final reply of the department has not been received.
3	Sales Tax Office, First Circle, Thiruvananthapuram	Chemicals	1992-93 and 1994-95 July and December 1998	10	8	71.10	1.55	This was pointed out in February 2000. The assessing officer stated (February 2000) that action was being initiated to rectify the defects.

\* Modi Xerox Ltd. Vs. State of Karnataka 114 (STC) 424.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
4	Special Circle I, Ernakulam	Spare parts and accessories of refrigerators	1994 -95 February 1999	20	12	17.15	1.51	This was pointed out in June 1999. The Assessing authority revised the assessment (March and August 2000) creating additional demand of Rs. 1.51 lakh.
5	Special Circle, Kollam	Dry Fruits	1994-95 December 1998	10	7	34.21	1.13	This was pointed out in June 1999. The department stated (November 1999) that notice had been issued (October 1999) to revise the assessment.
6	Special Circle, Kannur	Dolomite powder used as raw material for mosaic tiles	1994-95 and 1995-96 September 1997 and March 1998	10	2.5		1.12	This was pointed out in October 1998. The department stated (February 2001) that the assessment had been revised (October 1998) and additional demand of Rs.1.12 lakh and interest of Rs.0.45 lakh had been paid by the assessee.
7	Sales Tax Office, IV Circle, Ernakulam.	Fabrication and installation of doors, door frames, windows, window frames etc.	1995-96 and 1996-97 December 1998 and February 1999	12.5	6/8	16.12	1.00	This was pointed out in July 1999. Department stated (December 1999) that the assessment had been revised creating additional demand of Rs.100 lakh

The above cases were reported to Government between February and May 2001 which was followed up with reminder on 20 July 2001. However, their replies have not been received in six cases (October 2001).

[Paragraph 2.10 contained in the Report of Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2001 (Revenue Receipts)].

Notes furnished by Government on the above audit paragraph is included as Appendix II.

35. The Committee wanted to know the present position of the sub paragraphs pertaining to application of incorrect rate of tax, the Committee got an ambiguous reply. The Committee learned that in most of the cases appeals were pending for disposal.

36. While considering the audit objection relating to para 2.10.8, the Committee wanted to know about the taxation of jewelleries. The Commissioner revealed that investigations and inspections were being done in jewelleries. But impediments were seen due to the following reasons.

(1) The customers had no interest to obtain bills for their purchase since they would become liable to pay tax if the purchase is billed. Besides in most of the large scale purchases the money involved in the purchase would be unaccounted. Though it was laid down in the Finance Bills for the last two years that the customers had to keep the purchase bill at least for six months after purchase, no concrete action with regard to the same had been taken so far. The witness was of the opinion that in this regard a system should be evolved.

(2) In most of the jewelleries exchange of old ornaments for new was being done which do not attract sales tax. After VAT had been introduced the rate of sales tax was reduced from 4% to 1% and now there was an increasing trend in declaring the return regarding sales more or less correctly.

#### **Conclusion/Recommendation**

**37. The Committee is satisfied with the replies and hence no comments.**

AUDIT PARAGRAPH

*Incorrect refund of tax*

The tax collected by an assessee on sale of goods is required to be remitted to the Government in full.

In Chengannur, while finalising (January 1999) the assessment for 1994-95 of an industrial unit, the assessing officer refunded an amount of Rs.1.09 lakh

from the total tax of Rs.4.39 lakh collected and remitted by the unit on consignment sale of goods. This resulted in incorrect refund of tax of Rs.1.09 lakh.

On this being pointed out (April 1999) in audit, the department revised (June 1999) the assessment and additional demand of Rs.1.09 lakh created. Further report has not been received (October 2001).

The case was reported to Government in May 2001 which was followed up with reminder on 20 July 2001. However, their reply has not been received (October 2001).

[Paragraph 2.11 contained in the Report of the Comptroller and Auditor General of India for the year ended 31<sup>st</sup> March, 2001 (Revenue Receipts)]

Notes furnished by Government on the above audit paragraph is included as Appendix II.

38. The Committee wanted to know the present position regarding the R.R. initiated in the case.

39. The Committee desired to know whether proper training had been given to the assessing officers regarding the application of VAT system. The Commissioner replied that three round of training had been given to the officers, but the tax structure after the induction of VAT system was finalised only in September. So the department had decided to give another round of training to its officers.

#### **Conclusion/Recommendation**

40. **The Committee would like to know whether the amount advised for revenue recovery has been realised.**

Thiruvananthapuram,  
15<sup>th</sup> July, 2008.

ARYADAN MUHAMMED  
*Chairman,*  
*Committee on Public Accounts.*

## APPENDIX I

**Summary of Main Conclusions/Recommendations**

<i>Sl. No.</i>	<i>Paragraph No.</i>	<i>Department Concerned</i>	<i>Conclusions/ Recommendations</i>
(1)	(2)	(3)	(4)
1	11	Taxes	The Committee notes that regarding the assessment and arrears in the collection of revenue, defects/lapses of the same nature is repeated by the assessing officers. Hence, the Committee desires to be informed of the corrective measures taken by the Department to prevent recurrence of mistakes in the assessment of Tax in future.
2	12	”	The Committee finds that the internal audit wing of the Department had failed to detect the cases pointed out by audit which resulted in short levy of tax and surcharge. Hence the Committee desires to be furnished with a comparative statement regarding the number of cases detected by the internal audit wing of the Department and Accountant General’s audit and the number of cases rectified as a result of the audit.
3	13	”	While examining paragraph 2.2, the Committee came to know that the reasons for the defects pointed out by audit was due to laxity in producing subsequent declaration in Form 25 regarding the purchase turnover. Hence the Committee urges the Department to take effective steps to prevent such lapses in future.
4	14	”	The Committee notes that report regarding re-assessment and collection pertaining to the sub-paragraphs from 1 to 11 have not been received. Hence the Committee demands the Department to forward a detailed report regarding the present position.

(1)	(2)	(3)	(4)
5	16	Taxes	The Committee finds that the assessment regarding M/s Malabar Cashew and allied products had been revised and advised for revenue recovery. The Committee desires to be informed whether the additional demand created has been recovered.
6	23	”	Regarding paragraph 2.5.7, the Committee would like to be furnished with a detailed Report of Collection without further delay.
7	28	”	The Committee is satisfied with the action taken by the Department regarding paragraph 2.7.4. The Committee demands the Department to furnish the details regarding collection of dues in all other cases pointed out in audit.
8	32	”	The Committee finds that in all the three cases, penalty and revenue recovery proceedings were initiated only after the observations made by Audit. The Committee opines that penalty should be imposed at the first stage itself. Hence the Committee recommends that the Department take necessary steps to impose penalty as soon as tax evasion or such other irregularities are detected by the assessing officer.
9	40	”	The Committee would like to know whether the amount advised for revenue recovery has been realised.

APPENDIX II  
**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes
(b)	Subject/Title of the Review Paragraph	Under assessment of turnover
(c)	Paragraph No.	2.2 (1)
(d)	Report No. and year	2000-01 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	Purchase turnover of raw cashewnut was excluded from tax without submission of declaration in Form 25 by the assessee, M/s Capex, Kollam for the year 1988-89 and 1989-90. This resulted in the short levy of Rs. 1258.52 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph?	Partly
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	For the year 1988-89, the assessee filed appeal against the order revised on the basis of audit and Deputy Commissioner (Appeals) has ordered to give an opportunity to produce form 25 declaration for Rs. 65,84,31,500.
V (a)	Does the Department agree with the audit conclusions?	Partly
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Same as that of IV (b) above.

## VI Remedial action taken

- (1) Improvement in system and procedure including internal controls

Based on the audit, the assessment for the years 1988-89 and 1989-90 were revised on 5-11-1999. The Assessee filed appeal against the revised order for the year 1989-90. As directed exemption was given for the turnover of Rs. 65,84,31,500 and hence the audit became unsustainable.

- (2) Recovery of overpayment pointed out by Audit

- (3) Recovery of under assessment, short levy or other dues

For the year 1989-90, the assessment was revised and an additional demand of Rs. 6,52,65,411 credited. RRC No. 378/99-2000 issued on 31-1-2000 for revenue recovery. Collection is pending.

- (4) Modification in the schemes and programmes including financing pattern

- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes
(b)	Subject/Title of the Review Paragraph	Under assessment of turnover
(c)	Paragraph No.	2.2 (2)
(d)	Report No. and year	2000-01
II (a)	Date of receipt of the Draft Para/Review in the Department	26-4-2001
(b)	Date of Department's reply	13-11-2002
III	Gist of Paragraph/Review	In Special Circle, Kollam Turnover received by the assessee during 1992-93 on account of price variations and returned by him was not reckoned for levy of tax. Turnover escaped Rs. 310.61 lakhs, short levy Rs. 41.31 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit.

RRC issued to realize the balance Sales Tax, Surcharge and interest demanded as per RRC No. 82/02 dated 27-6-2002 and RRC No. 95/02 dated 27-7-2002. Collection particulars are awaited.

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes
(b) Subject/Title of the Review Paragraph	Under assessment of turnover
(c) Paragraph No.	2.2 (3)
(d) Report No. and year	2000-01 (RR)
II (a) Date of receipt of the Draft Para/Review in the Department	30-3-2001
(b) Date of Department's reply	10-7-2001
III Gist of Paragraph/Review	While finalizing the assessment for the year 1994-95 the Assistant Commissioner, Special Circle, Kollam did not reckon the turnover from closing stock of cashew for the year 1993-94 in respect of M/s Seema Cashew Turnover escaped Rs. 105.06 lakhs short levy Rs. 8.09 lakhs.
IV (a) Does the Department agree with the facts and figures included in the paragraph?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	Yes
(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable.

## VI Remedial action taken

- |  |  |
|--|--|
| (1) Improvement in system and procedure including internal controls                                    | The assessment was revised under section 19 of the KGST Act on 20-2-2000, creating an additional demand of Rs. 8.09 lakhs.     |
| (2) Recovery of overpayment pointed out by Audit   |  |
| (3) Recovery of under assessment, short levy or other dues   | RRC No. 37/2000-01 dated 3-6-2000 was issued for revenue recovery of the amount due to Government Collection is still pending. |
| (4) Modification in the schemes and programmes including financing pattern                             |  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit. |  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes
(b)	Subject/Title of the Review Paragraph	Under assessment of turnover
(c)	Paragraph No.	2.2 (4)
(d)	Report No. and year	2000-01 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b)	Date of Department's reply	15-11-2002
III	Gist of Paragraph/Review	In Sales Tax Special Circle, Kollam, purchase turnover amounting to Rs. 7.60 lakh of a portion of the opening stock of raw cashew nut and its corresponding sales turnover amounting to Rs. 18.29 lakh were also not reckoned. Turnover excluded Rs. 25.89 lakh short levy of tax Rs. 1.99 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable.

## VI Remedial action taken

- |  |   |
|--|---|
| (1) Improvement in system and procedure including internal controls                                    | The assessment was revised 28-9-2001, creating additional demand.   |
| (2) Recovery of overpayment pointed out by Audit   |   |
| (3) Recovery of under assessment, short levy or other dues   | The amount of short levy of sales tax and surcharge of Rs.1.99 lakhs was advised for revenue recovery on 28-12-2000. The same is pending collection under Revenue Recovery. |
| (4) Modification in the schemes and programmes including financing pattern                             |   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit. |   |

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Under assessment of turnover
(c) Paragraph No.	2.2 (5)
(d) Report No. and year	Report of the C & AG for the year ended 31-3-2001 (RR)
II (a) Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b) Date of Department's reply	Reply Not given
III Gist of Paragraph/Review	In Sales Tax Office, Special Circle, Kollam, during the assessment year 1994-95 of an exporter of Cashew Kernels, sales turnover of the shortage in stock detected during shop inspection and purchase value of Cashew nut corresponding to the unaccounted export sales noticed were not reckoned. This resulted in exclusion of turnover of Rs. 19.48 lakhs and short levy of tax Rs. 1.50 lakhs.
IV (a) Does the Department agree with the facts and figures included in the paragraph?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable.

VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Based on the audit observation, the assessing authority revised the assessment under Section 19 of the Act on 7-2-2000. The above revised order was set aside by the Deputy Commissioner (Appeals) Kollam vide order No. STA/67/2000 dated 18-7-2000 on the basis of the direction contained in the above order, the assessing authority have again examine the case and the assessment was finalized afresh on 10-2-2003 as a case of "Nil" demand.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes
(b)	Subject/Title of the Review Paragraph	Under assessment of turnover
(c)	Paragraph No.	2.2 (6)
(d)	Report No. and year	2000-01 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b)	Date of Department's reply	Reply Not given
III	Gist of Paragraph/Review	In Sales Tax Special Circle, Kollam, the assessing officer incorrectly deducted from the proposed turnover Rs. 34.60 lakh instead of Rs. 19.03 lakh to be deducted towards lorry hire, clearing and forwarding charges to arrive at the taxable turnover. Turnover escaped Rs. 15.57 lakhs. Short levy Rs. 1.20 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes

(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable.

VI Remedial action taken

(1) Improvement in system and procedure including internal controls

The assessment was revised under section 19 of the Act on 22-1-2000 and the audit objection was set right. The assessee remitted the whole amount as per chalan No. 438 dated 30-3-2000.

(2) Recovery of overpayment pointed out by Audit

(3) Recovery of under assessment, Short levy or other dues

(4) Modification in the schemes and programmes including financing pattern

(5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit.

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Exclusion of turnover tax
(c) Paragraph No.	2.2 (7)
(d) Report No. and year	Report of the C & AG for the year ended 31-3-2001
II (a) Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b) Date of Department's reply	Reply Not given
III Gist of Paragraph/Review	While finalizing the assessment. In respect of the M/s Marratta Plantation for the year 1995-96 the assessing officer omitted to reckon the purchase turnover of Rubber amounting to Rs. 41.76 lakh and not reckoned the sales turnover of Car short by Rs. 1.03 lakh for computing the total turnover of Rs. 42.79 lakh and short levy of tax Rs. 4.68 lakh.
IV (a) Does the Department agree with the facts and figures included in the paragraph?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	Yes

(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable.

VI Remedial action taken

(1) Improvement in system and procedure including internal controls

The assessment was revised on 20-12-2000 creating additional demand Rs. 4.68 lakh.

(2) Recovery of overpayment pointed out by Audit

The assessee paid Rs. 3,32,520 vide Chalan No. 3065 dated 25-2-2001 balance pending for collection.

(3) Recovery of under assessment, Short levy or other dues

Not applicable

(4) Modification in the schemes and programmes including financing pattern

Not applicable

(5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Not applicable

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Exclusion of turnover from assessment
(c)	Paragraph No.	2.2 (8)
(d)	Report No. and year	Report of the C & AG for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	Reply Not furnished
III	Gist of Paragraph/Review	In Sales Tax Office, Aluva while finalizing the assessment in respect of M/s. Kerala Acids and Chemical for the year 1989-90, the assessing authority did not levy tax on the purchase turnover liable to tax under section 5A of the K.G.S.T. Act, 1963. This resulted in short levy of tax and surcharge of 3.19 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable.

#### VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

In order to rectify the mistake the assessment was set aside by the Deputy Commissioner, Mattancherry.

The assessment was completed afresh on 9-2-2004, The tax due Rs. 8,20,992 and surcharge Rs. 52,543 along with interest were advised for Revenue recovery. The same is pending.

Disciplinary action initiated against the Delinquent Officer is pending finalisation.

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Under assessment of turnover
(c) Paragraph No.	2.2 (9)
(d) Report No. and year	Report of the C & AG for the year ended 31-3-2001 (RR)
II (a) Date of receipt of the Draft Para/Review in the Department	26-4-2001
(b) Date of Department's reply	Reply Not given
III Gist of Paragraph/Review	In Sales Tax Officer, First Circle, Kalamassery while finalizing the assessment of the year 1994-95, the assessing officer did not levy tax on goods valued at Rs. 45.83 lakh used in works contract. This resulted in the exclusion of turnover of Rs. 52.71 lakhs and short levy of Rs. 2.73 lakhs.
IV (a) Does the Department agree with the facts and figures included in the paragraph?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable

VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit.

The assessment was completed creating additional demand of Rs. 2,72,768. The amount is pending collection.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes
(b)	Subject/Title of the Review Paragraph	Exclusion of turnover
(c)	Paragraph No.	2.2 (10)
(d)	Report No. and year	Report of the C & AG for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	30-3-2001
(b)	Date of Department's reply	12-8-2001
III	Gist of Paragraph/Review	While finalizing the assessment the assessing authority did not levy purchase tax on turnover of Rs. 14.97 lakh relating to plastic waste purchased from unregistered dealers. This resulted in short levy of tax and surcharge of Rs. 1.61 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary
- Not applicable.

#### VI Remedial action taken

- |   |  |
|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Based on Audit the assessment was revised under section 19 on 29-9-2000 creating additional demand of Rs. 1.61 lakh. |
| (2) Recovery of overpayment pointed out by Audit  | The entire amount with interest was advised for R.R. and the same is pending.  |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Exclusion of turnover
(c) Paragraph No.	2.2 (11)
(d) Report No. and year	Report of the C & AG for the year ended 31-3-2001
II (a) Date of receipt of the Draft Para/Review in the Department	23-5-2001
(b) Date of Department's reply	27-9-2001
III Gist of Paragraph/Review	While finalizing the assessment the assessing authority did not reckon for levy of tax the turnover relating to purchase of Timber, and the sales turnover of Timber waste. This resulted in short levy of tax and surcharge of Rs. 1.48 lakhs.
IV (a) Does the Department agree with the facts and figures included in the paragraph?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	Yes

(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable

#### VI Remedial action taken

(1) Improvement in system and procedure including internal controls.

The assessment was revised under section 19 and created additional demand of Rs. 1.48 lakhs and advised for Revenue recovery.

(2) Recovery of overpayment pointed out by Audit

The assessee filed OP before the Honourable High Court and the collection is stayed by the High Court till the disposal of O.P.

(3) Recovery of under assessment, Short levy or other dues

Not applicable

(4) Modification in the schemes and programmes including financing pattern

Not applicable

(5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Not applicable.

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Non-levy of additional Sales Tax
(c) Paragraph No.	2.3
(d) Report No. and year	Report of the C & AG for the year ended 31-3-2001
II (a) Date of receipt of the Draft Para/Review in the Department	22-3-2001
(b) Date of Department's reply	Reply not given
III Gist of Paragraph/Review	While finalizing the assessment of Malabar Cashew and Allied Products, Roger Victor Roche and M/s. K. P. Ibrahim and Sons, the assessing authorities not levied Additional Sales Tax resulting in short levy of tax of Rs. 61.80 lakh.
IV (a) Does the Department agree with the facts and figures included in the paragraph?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary
- Not applicable.

#### VI Remedial action taken

- |   |  |
|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Based on the Audit the assessment of 3 cases were revised      |
| (2) Recovery of overpayment pointed out by Audit  | Additional demand created in three cases were advised for R.R. |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short levy due to incorrect exemption
(c)	Paragraph No.	2.4 (a) (1)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	26-4-2001
(b)	Date of Department's reply	5-8-2002
III	Gist of Paragraph/Review	While finalizing the assessment for the year 1995-96 of M/s. Associated Cashew Industries, Kollam goods worth Rs. 60.73 lakhs transferred to Tamil Nadu using departmental delivery orders were exempted from tax treating as branch transfer though the assessee had not filed Form "F" resulting in a short levy of Rs. 6.07 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph?	No
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Audit objection is not sustainable since there is no escape of turnover. At the time of original assessment the assessee had filed white copies of form 26 in support of the claim of branch transfer to Tamil Nadu and this has also been established by the C.P declaration and filed copies of delivery notes available with the assessment order.

- V (a) Does the Department agree with the audit conclusions? No
- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary The assessment has been revised on 3-10-2001 treating the transaction as a stock transfer to Tamil Nadu.
- VI Remedial action taken
- (1) Improvement in system and procedure including internal controls
  - (2) Recovery of overpayment pointed out by Audit
  - (3) Recovery of under assessment, Short levy or other dues
  - (4) Modification in the schemes and programmes including financing pattern
  - (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Short levy due to incorrect exemption
	(c) Paragraph No.	2.4 (a) (2)
	(d) Report No. and year	2000-2001 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	26-4-2001
	(b) Date of Department's reply	17-5-2002
III	Gist of Paragraph/Review	While finalizing the assessment of M/s. Jayan Cashew Exports for 1994-95, the assessing officer incorrectly included a turnover of Rs. 23.11 lakh related to the export sales of another assessee also in the total turnover of Rs. 435.27 lakh exempted from levy of tax towards export sales of the dealer resulting in a short levy of Rs. 1.78 lakhs.
IV	(a) Does the Department agree with the facts and figures included in the paragraph?	No
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	The assessment for 1994-95 was modified based on appellate order on 22-2-2001 allowing exemption of export sales worth of Rs. 23,11,161. Hence the audit objection has no merit.

V (a) Does the Department agree with the audit conclusions?	No
(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	The assessee filed appeal against the order revised on the basis of the audit & the Deputy Commissioner, (Appeal) Kollam has ordered to modify the order. The assessment was modified on 22-2-2001 allowing exemption of export sales worth Rs. 23,11,161.
VI Remedial action taken	
(1) Improvement in system and procedure including internal controls	Not applicable
(2) Recovery of overpayment pointed out by Audit	Not applicable
(3) Recovery of under assessment, Short levy or other dues	Not applicable
(4) Modification in the schemes and programmes including financing pattern	Not applicable
(5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit	Not applicable.

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Short levy due to incorrect exemption
(c) Paragraph No.	2.4 (a) (3)
(d) Report No. and year	2000-2001 (RR)
II (a) Date of receipt of the Draft Para/Review in the Department	26-4-2001
(b) Date of Department's reply	Reply not given
III Gist of Paragraph/Review	While finalizing the assessment for the year 1994-95 in respect of M/s. M. Abdul Rahman Kunju. The Assistant Commissioner (Assessment) Kollam has exempted an amount of Rs. 21.33 lakh from levy of tax and this caused short levy of Rs. 1.64 lakh.
IV (a) Does the Department agree with the facts and figures included in the paragraph?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	No

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

On the basis of the audit, the assessment was revised on 15-3-2000. Meanwhile the assessee filed appeal before the Deputy Commissioner (Appeal), Kollam against the original assessment. The Deputy Commissioner (Appeal) as per order No. STA.273 & 274/98 dated 16-12-1998 has ordered to modify the original assessment. The assessment was modified on 28-7-2001. Against the order the assessee filed second appeal and the Tribunal has allowed the exemption claimed by the assessee. Hence the assessment was revised on 25-8-2001 by allowing exemption to the tune of Rs. 16.55 lakh. So, there is no loss of revenue as pointed out in the audit.

#### VI Remedial action taken

- |   |                 |
|---|-----------------|
| (1) Improvement in system and procedure including internal controls                                   | Not applicable  |
| (2) Recovery of overpayment pointed out by Audit  | Not applicable  |
| (3) Recovery of under assessment, Short levy or other dues  |                 |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable. |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Incorrect tax exemption from levy of tax
(c)	Paragraph No.	2.4 (a) (iii)
(d)	Report No. and year	Report of the C&AG for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	26-4-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While finalizing the assessment of a Cashew Exporter for the year 1994-95, the assessing authority exempted from levy of tax a turnover of Rs. 21.33 lakh being sale in the course of exports as claimed by the assessee though the export took place before effecting sale which proved that the goods sold and goods exported were different. This had resulted in short levy of tax and surcharge of Rs. 1.64 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	No
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	The assessee is eligible for exemption under section 5 (3) provided that the declaration in Form 18 (A) is supported for such sales.
V (a)	Does the Department agree with the audit conclusions?	No

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

The Honourable Sales Tax Appellate Tribunal, Thiruvananthapuram, in its order No. TA 93/01 dated 12-12-2001 has allowed the exemption claimed by the assessee.

#### VI Remedial action taken

- |   |                 |
|---|-----------------|
| (1) Improvement in system and procedure including internal controls                                   | Not applicable  |
| (2) Recovery of overpayment pointed out by Audit.   | Not applicable  |
| (3) Recovery of under assessment, Short levy or other dues  |                 |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable. |

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Short levy due to incorrect exemption
	(c) Paragraph No.	2.4 (a) (4)
	(d) Report No. and year	2000-2001 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	26-4-2001
	(b) Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While finalizing the assessment for 1994-95 in respect of M/s. NAZ Cashew, Kollam, the assessing authority has exempted a sales turnover of Rs. 116.55 lakh from levying tax on the strength of the declaration in Form 18A without the documents of export required to be filed. This results in short levy of Rs. 1.27 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V	(a) Does the Department agree with the audit conclusions?	No

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Based on the audit, the assessment was revised on 18-1-2000. Against this order, the assessee filed appeal before the Deputy Commissioner (A), Kollam. The Deputy Commissioner (A) directed the assessee to produce the evidence of export within one month before the assessing authority. They have complied with the direction and the assessment was revised on 25-8-2001 by allowing exemption to the tune of Rs. 16.55 lakh. So, there is no loss of revenue as pointed out in the audit.

#### VI Remedial action taken

- |   |                 |
|---|-----------------|
| (1) Improvement in system and procedure including internal controls                                   | Not applicable  |
| (2) Recovery of overpayment pointed out by Audit  | Not applicable  |
| (3) Recovery of under assessment, Short levy or other dues  |                 |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable. |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short levy of tax due to incorrect exemption for levy of tax
(c)	Paragraph No.	2.4 (a) (iv)
(d)	Report No. and year	Report of the C&AG for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	26-4-2001
(b)	Date of Department's reply	Reply not furnished
III	Gist of Paragraph/Review	In sales Tax Office, Special Circle Kollam while finalizing the assessment for the year 1994-95 in respect of M/s. NAZ Cashew, a sales turnover of Rs. 16.55 lakh was exempted from tax on the strength of the declaration in form 18A without the documents of export required to be filed. The incorrect exemption resulted in short levy of tax of Rs. 1.27 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable

#### VI Remedial action taken

- (1) Improvement in sytem and procedure including internal controls

The original assessment was revised under section 19 of the KGST Act aggrieved by the above order the assessee filed appeal before Deputy Commissioner (Appeals). The Deputy Commissioner (Appeals) modified the order directing the assessee to produce the evidences of export before the assessing authority and allowed the claim to the extend proved.

- (2) Recovery of overpayment pointed out by Audit

Accordingly the assessee filed necessary evidences to prove his claim and found it sufficient and the assessment for the year 1994-95 has been revised on 25-8-2001 by allowing exemption to the turnover of Rs. 16.55 lakh.

- (3) Recovery of under assessment, Short levy or other dues

No loss of revenue as pointed out in the audit

- (4) Modification in the schemes and programmes including financing pattern

Not applicable

- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Not applicable.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Incorrect exemption from levy of tax
(c)	Paragraph No.	2.4 (a) (5)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	26-4-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	In sales Tax Office, Special Circle Kollam while finalizing the assessment in respect of M/s. Surumi Cashew, Kollam for the year 1994-95, the assessing officer incorrectly included sales turnover of Rs. 16.25 lakh for which export had not been provided also in the turnover of Rs. 72.08 lakh exempted from levy of tax towards sales in the course of export. This resulted in short levy of tax and surcharge of Rs. 1.25 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary
- Not applicable

VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- Not applicable
- (2) Recovery of overpayment pointed out by Audit.
- Not applicable
- (3) Recovery of under assessment, Short levy or other dues
- Based on the audit, the assessment was revised under section 19 of the Act creating an additional demand of Rs. 1.25 lakh on 18-3-2000. The amount is still pending under Revenue Recovery.
- (4) Modification in the schemes and programmes including financing pattern
- Not applicable
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit
- Not applicable.

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Short levy due to incorrect exemption
(c) Paragraph No.	2.4 (a) (6)
(d) Report No. and year	2000-2001
II (a) Date of receipt of the Draft Para/Review in the Department	23-5-2001
(b) Date of Department's reply	6-11-2001
III Gist of Paragraph/Review	In ST Special Circle, Kollam, turnover of Rs. 14.12 lakh was exempted as sales in the course of export from levy of tax, though the goods exported were not those involved in the sale resulting in a short levy of Rs. 1.09 lakhs.
IV (a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	No

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Based on the audit, the assessment was revised on 27-1-2000. Against this order, the assessee filed appeal. By disposing the appeal, the Deputy Commissioner (Appeals), Kollam has directed the assessing authority to give exemption of turn over of Rs. 14,12,048 as the disallowance exemption in the revised order dated 8-2-2000. As such the audit objection does not stand.

#### VI Remedial action taken

- |   |                 |
|---|-----------------|
| (1) Improvement in system and procedure including internal controls                                   | Not applicable  |
| (2) Recovery of overpayment pointed out by Audit  | Not applicable  |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable. |

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Short levy of tax due to incorrect exemption for levy of Tax
(c) Paragraph No.	2.4 (a) (vi)
(d) Report No. and year	Report of the C&AG for the year ended 31-3-2001
II (a) Date of receipt of the Draft Para/Review in the Department	23-5-2001
(b) Date of Department's reply	6-11-2001
III Gist of Paragraph/Review	In Sales Tax Office, Special Circle, Kollam while finalizing the assessment of a Cashew dealer for the year 1994-95 exempted a turnover of Rs. 14.12 lakh claimed by the assessee as in the course of export from levy of tax, though the goods exported was not lose involved in the sale. The incorrect exemption resulted in short levy of tax and surcharge of Rs. 1.09 lakh.
IV (a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	Yes
(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary.	Not applicable

## VI Remedial action taken

- |   |  |
|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit, the assessment was revised under section 19 of the KGST Act, 1963 on 27-1-2000 creating an additional demand of Rs. 1.09 lakh. Aggrieved by the order the assessee filed appeal before the Deputy Commissioner (Appeal), Kollam while deciding the appeal the Deputy Commissioner (Appeal) vide order STA. 83/00 dated 24-4-2000 has stated that the records show that the goods sold by the appellant and exported are one and the same and the appellant is eligible for exemption for, sales in this respect under section 5 (3) of the CST Act. The disallowance to the tune of Rs. 14.12 lakh in the revised assessment is not according to law and the assessing authority was directed to give exemption for sale of Kernels amounting to Rs. 14.12 lakh. |
| (2) Recovery of overpayment pointed out by Audit  | In the light of the Appellate order the assessment was revised on 8-2-2000 giving exemption to a tune of Rs. 14.12 lakh. So no loss of revenue involved in this case.  |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short demand of tax
(c)	Paragraph No.	2.4 (a) (vii)
(d)	Report No. and year	Report of the C&AG for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	19-7-2001
III	Gist of Paragraph/Review	While finalizing the assessment of an SSI Unit CST on a total taxable turnover of Rs. 54.55 lakhs was assessed at the rate of 4% the tax was adjusted against eligibility for exemption from payment available to the unit, instead of levying and demanding CST of Rs. 1.09 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary
- Not applicable

#### VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- Based on the audit, the assessment was revised on 4-8-2000. The additional demand created was paid as per chalan No. 7195 dated 22-7-2000.
- (2) Recovery of overpayment pointed out by Audit
- Not applicable
- (3) Recovery of under assessment, Short levy or other dues
- Not applicable
- (4) Modification in the schemes and programmes including financing pattern
- Not applicable
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit
- Not applicable.

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Incorrect grant of exemption from tax
(c) Paragraph No.	2.4 (a) (vii) (a)
(d) Report No. and year	C&AG Report for the year ended 31-3-2001
II (a) Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b) Date of Department's reply	19-7-2001
III Gist of Paragraph/Review	In Sales Tax Office, Ist Circle, Kalamassery, while finalizing the CST assessment of M/s. Shalia Enterprises for the year 1995-96 a total and table turnover of Rs. 54.55 lakh was assessed at 4% and the tax was adjusted against eligibility for exemption from payment of KGST available to the Unit instead of levying and demanding CST of Rs. 1.09 lakh.
IV (a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary
- Not applicable

#### VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- Based on the audit, objection the CST assessment was revised on 4-8-2000 and created an additional demand of Rs. 1.09 lakh.
- (2) Recovery of overpayment pointed out by Audit
- The additional demand created was paid as per Chalan No. 7185 dated 22-7-2000.
- (3) Recovery of under assessment, Short levy or other dues
- Not applicable
- (4) Modification in the schemes and programmes including financing pattern
- Not applicable
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit
- Not applicable.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Incorrect grant of exemption from tax
(c)	Paragraph No.	2.4 (b) (i)
(d)	Report No. and year	Report of C&AG for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	5-5-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While finalizing the assessment for the year 1993-94 of the Industrial Unit M/s. Nagarjuna Herbal Concentrates Limited, the assessing Officer incorrectly allowed exemption form tax of Rs. 62.59 lakh against the balance exemption of Rs. 37.97 lakh admissible. This resulted in non demand of tax Rs. 24.62 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable

#### VI Remedial action taken

- (1) Improvement in system and procedure including internal controls

The assessment was cancelled under section 25 of the Act on 16-2-2001 and revised on 14-1-2003 levied tax and interest. The assessee filed appeal before Deputy Commissioner (Appeals) and the Deputy Commissioner (Appeal) has modified the order. The assessment was revised and the balance amount is pending.

- (2) Recovery of overpayment pointed out by Audit

Not applicable

- (3) Recovery of under assessment, Short levy or other dues

Not applicable

- (4) Modification in the schemes and programmes including financing pattern

Not applicable

- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Not applicable.

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Incorrect grant of exemption from tax
(c) Paragraph No.	2.4 (b) (ii)
(d) Report No. and year	C&AG Report for the year ended 31-3-2001
II (a) Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b) Date of Department's reply	Reply not given
III Gist of Paragraph/Review	In Sales Tax Office, Ist Circle, Thalassery, while finalising the assessment of M/s. Thalasserry Social Service Society for the year 1995-96, the entire turnover of Rs. 35.10 lakh was incorrectly exempted from tax even though the profit of the Institution was neither spent nor set a part for the charitable purpose. This resulted in non-levy of tax surcharge of Rs. 1.93 lakh.
IV (a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable

#### VI Remedial action taken

- (1) Improvement in system and procedure including internal controls

Based on the audit objection the assessment was revised on 1-10-1999 creating an additional demand of Rs. 1.93 lakh. Aggrieved by the order, the assessee filed appeal before Appellate Assistant Commissioner, Ernakulam. The Appellate Assistant Commissioner, Ernakulam vide order No. STA 712/99 dated 24-1-2000 dismissed the appeal. The assessee filed 2nd appeal before Sales tax Appellate Tribunal, Ernakulam.

- (2) Recovery of overpayment pointed out by Audit

The Tribunal vide orders No. TA 101/00 dated 27-7-2000 has held that the Appellant charitable institution is eligible for exemption under SRO 1727/93 Sl. No. 5 of Schedule (7) and followed the appeal.

- (3) Recovery of under assessment, Short levy or other dues

Not applicable

- (4) Modification in the schemes and programmes including financing pattern

Not applicable.

- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Not applicable.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Incorrect grant of exemption
(c)	Paragraph No.	2.4 (b) (iii)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	23-5-2001
(b)	Date of Department's reply	8-11-2001
III	Gist of Paragraph/Review	While finalizing the assessment of an SSI unit, the assessing officer incorrectly allowed exemption for a period prior to the period of eligibility fixed by the D.I.C. an additional fixed capital investment. This resulted in short levy of tax of Rs. 1.92 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary
- Not applicable

#### VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- The assessment was revised on 30-3-2000 making good of the short levy.
- (2) Recovery of overpayment pointed out by Audit
- Rs. 97,428 was adjusted from the excess payable made from 1995-96 and the balance amount of Rs. 97,308 was collected on 25-6-2001.
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- Not applicable
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit
- Not applicable.

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Short levy due to Incorrect exemption
	(c) Paragraph No.	2.4 (b) (iv)
	(d) Report No. and year	C & AG Report for the year ended 31-3-2001
II	(a) Date of receipt of the Draft Para/Review in the Department	16-4-2001
	(b) Date of Department's reply	19-7-2001
III	Gist of Paragraph/Review	In Sales Tax Office, IInd Circle, Kozhikkode, while finalising the assessment of a Khadi and Village Industries Unit for the year 1994-95 the assessing authority exempted the sales turnover of products purchased from others, and also allowed exemption for the manufactured product. This incorrect exemption resulted in short levy of tax of Rs. 1.77 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V	(a) Does the Department agree with the audit conclusions?	Yes

(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary

Not applicable

VI Remedial action taken

(1) Improvement in system and procedure including internal controls

Based on the audit objection the assessment was revised under section 19 of the KGST Act on 26-6-1999 by creating an additional demands of Rs. 1,76,810.

(2) Recovery of overpayment pointed out by Audit

The additional demand created with interest of Rs. 45,968 was collected on 29-3-2000.

(3) Recovery of under assessment, Short levy or other dues

Not applicable

(4) Modification in the schemes and programmes including financing pattern

Not applicable

(5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Not applicable.

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Incorrect exemption allowed resulting in short demand of tax and incorrect refund.
	(c) Paragraph No.	2.4 (b) (v) and 2.11
	(d) Report No. and year	C&AG Report for the year ended 31-3-2001
II	(a) Date of receipt of the Draft Para/Review in the Department	1-6-2001
	(b) Date of Department's reply	13-2-2002
III	Gist of Paragraph/Review	In Sales Tax Office, Chenganoor, while finalising the assessment of M/s. Metal Allied Industrial Unit for the year 1994-95 which was eligible for balance exemption of Rs. 1.09 lakh at the beginning of the year 1994-95 was collectively exempted from levy of tax on the entire turnover of Rs. 46.35 lakh from goods manufactured and sold by them. Further from the total tax Rs. 4.39 lakh collected and remitted by the Unit on the sale of goods not manufactured by them the available exemption of Rs. 1.09 lakh was set off and accordingly Rs. 1.04 lakh was refunded terming it an excess remittance. This resulted in short levy of tax of Rs. 2.49 lakh (1.40 to 1.09).
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable

V (a) Does the Department agree with the audit conclusions?	Yes
(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable
VI Remedial action taken	
(1) Improvement in system and procedure including internal controls	Based on the audit, the assessment for the year 1994-95 and 1995-96 were revised on 16-6-1999 creating additional demand. The tax & surcharge due Rs. 3,22,077 and Rs. 8,35,760 respectively for the year 1994-95 and 1995-96. Aggrieved by the revised Order the assessee filed appeal before the appellate Assistant Commissioner, Alappuzha who reduced the rate of tax from 10% to 6% as per order No. STA 22 & 23/01 dated 3-1-2001.
(2) Recovery of overpayment pointed out by Audit	The Assessment for the years were revised on 14-12-2001 and amount of Rs. 2,22,468 was collected from the assessee through Revenue Recovery vide Ch. No. 1087, 1088 & 1089 dated 27-9-2000.
(3) Recovery of under assessment, Short levy or other dues	Not applicable
(4) Modification in the schemes and programmes including financing pattern	Not applicable
(5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit	Not applicable.

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Short levy due to incorrect exemption
	(c) Paragraph No.	2.4 (b) (vi)
	(d) Report No. and year	
II	(a) Date of receipt of the Draft Para/Review in the Department	16-4-2001
	(b) Date of Department's reply	10-7-2001
III	Gist of Paragraph/Review	While finalizing the assessment for the years 1995-96, in respect of M/s. Sudarsan Oil Mills, Harippad the assessing authority incorrectly exempted the interstate purchase value of Copra amounting to Rs. 29.34 lakhs form levy of tax resulting in the short levy of Rs. 1.32 lakhs.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V	(a) Does the Department agree with the audit conclusions?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Not applicable  |
| (2) Recovery of overpayment pointed out by Audit.   | Not applicable  |
| (3) Recovery of under assessment, Short levy or other dues  | Assessment was revised and an additional demand of Rs. 1.32 lakh was created. Out of this, an amount of Rs. 41,152 has been adjusted from the excess amount paid by the assessee for the year 1991-92 and an amount of Rs. 1,10,000 has been collected as per chalan No. 495 dated 9-1-2000 (including interest). |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short/Non-levy of interest
(c)	Paragraph No.	2.5
(d)	Report No. and year	2000-01 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	23-5-2001
(b)	Date of Department's reply	3-8-2002
III	Gist of Paragraph/Review	While finalizing the assessments for the years 1995-96 and 1996-97 of M/s. Rajan Cashew Company the assessing authority did not levy interest for the failure to pay before filing annual return the tax due on the admitted turnover resulting in short levy of Rs. 5.26 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support.	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

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|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Notice demanding interest of Rs. 4,35,767 for the year 1995-96 and Rs. 90,620 for the year 1996-97 were issued to the assessee on 22-6-1999. The assessee remitted Rs. 4,35,767 on 6-7-1999 and Rs. 90,620 vide chalan No. T. 72 dated 6-7-1999. |
| (2) Recovery of overpayment pointed out by Audit  |  |
| (3) Recovery of under assessment, Short levy or other dues  |  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short/Non-levy of interest
(c)	Paragraph No.	2.5 (i)
(d)	Report No. and year	2000-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b)	Date of Department's reply	15-11-2002
III	Gist of Paragraph/Review	While finalising the assessment for the year 1995-96, in respect of M/s. Dhanya Foods, Kollam, the assessing authority did not levy interest for the delay in payment of tax on the turnover conceded in the annual return resulting in a short levy of Rs. 11.71 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |  |
|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Not applicable   |
| (2) Recovery of overpayment pointed out by Audit  | Not applicable   |
| (3) Recovery of under assessment, Short levy or other dues  | The assessee has sought concession under the amnesty scheme and paid Rs. 4,68,364 being 40% of the arrear of Rs. 11,70,909 as per chalan No. 176 dated 31-3-2000.  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Final assessment order was remanded by Deputy Commissioner, Kollam and the proposal to levy interest is illegal in the light of Hon. Supreme Court decision in the case of the state of Kerala Vs. Joy Varghese in 112 STC 651 (1997-5 KTR 372 and Maruti Wire Industries case in 122 STC. 410 (2001-9 KTR-273 (SC) under section 23 (3) of the Act. |

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Short/Non-levy of interest
	(c) Paragraph No.	2.5 (ii)
	(d) Report No. and year	2000-2001
II	(a) Date of receipt of the Draft Para/Review in the Department	1-6-2001
	(b) Date of Department's reply	1-1-2003
III	Gist of Paragraph/Review	Non-levy of interest for non-remittance of collected tax from M/s. Aluminium Industries Ltd., Kundara for the year 1991-92.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V	(a) Does the Department agree with the audit conclusions?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

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|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Fresh assessment was made on 5-2-2002 and interest for the period from 11/99 to 6/01 (upto advice for RR) of the final demand reckoned at 64% amounting to Rs. 5,29,096 was demanded on 13-7-2002 and the collection is under Revenue Recovery No.95/02 dated 27-2-2002. |
| (2) Recovery of overpayment pointed out by Audit  |  |
| (3) Recovery of under assessment, Short levy or other dues  |  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short/Non-levy of interest
(c)	Paragraph No.	2.5 (iii)
(d)	Report No. and year	2000-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b)	Date of Department's reply	23-8-2001
III	Gist of Paragraph/Review	While finalising the assessment of M/s. Travancore Plywood Industries, Punalur for the year 1994-95, the assessing authority computed interest due from the assessee from the date of issue of demand notice only, which resulted in short levy of interest for Rs. 1,15,444.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

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|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Disciplinary action initiated against the delinquent Assistant Commissioner (Assessment), Special Circle, Kollam was finalized by giving a warning as per G.O. (Rt) No. 612/03/TD. Dated 26-9-2003.                                 |
| (2) Recovery of overpayment pointed out by Audit  |   |
| (3) Recovery of under assessment, Short levy or other dues  | The balance interest of Rs. 1,15,144 was demanded on 1-7-1999 and the assessee failed to remit the same. Hence the amount has been advised for collection under RR as per RRC No. 135/99-2000 dated 17-9-1999 and is still pending. |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Non-levy of interest
	(c) Paragraph No.	2.5 (iv)
	(d) Report No. and year	C&AG Report for the year ended 31-3-2001
II	(a) Date of receipt of the Draft Para/Review in the Department	20-3-2002
	(b) Date of Department's reply	25-6-2003
III	Gist of Paragraph/Review	In Mattancherry, while finalising the assessment for the year 1996-97 of a works contractor who had opted to pay tax at compounded rate. Interest was not levied on a part of the admitted tax which was not paid in time. This resulted in non-levy of interest of Rs. 6.25 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V	(a) Does the Department agree with the audit conclusions ?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

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|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Interest demand under section 23 (3) issued to the defaulter assessee and the assessment was revised on 22-5-2001. |
| (2) Recovery of overpayment pointed out by Audit  | Form No. 16 was issued to the awarder to realize the payment of the assessee. Collection still pending.            |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short/Non-levy of interest
(c)	Paragraph No.	2.5 (v)
(d)	Report No. and year	2000-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	18-8-2003
(b)	Date of Department's reply	18-8-2003
III	Gist of Paragraph/Review	While finalising the assessment for the year 1995-96 & 1996-97 of M/s. Vijaya Hotel & Bar, the assessing officer levied interest of Rs. 0.35 lakh against Rs. 3 lakhs for belated payment of tax resulting in the short levy of interest of Rs. 2.65 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

(1) Improvement in system and procedure including internal controls

(2) Recovery of overpayment pointed out by Audit

(3) Recovery of under assessment, Short levy or other dues

Notice issued on 23-5-2000 and the entire dues were collected as per details below.

<i>Amount</i>	<i>Ch.No. Date</i>
Rs. 1,00,000.00	1201/19-12-00
Rs. 62,387.00	1025/9-6-2001
Rs.1,00,000.00	1265/20-12-2000
Rs. 2,111.00	1026/19-6-2001
Total	2,65,498.00

(4) Modification in the schemes and programmes including financing pattern

(5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short/Non-levy of interest
(c)	Paragraph No.	2.5 (vi)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While finalising the assessment of M/s. Premier Morarji Chemicals Company for the year 1989-90, the assessing officer did not levy interest for delay in payment of conceded and collected tax of Rs. 64 lakhs which resulted in non-levy of interest of Rs. 1.45 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Notice issued to the assessee company to remit Rs. 2,30,085 and the amount is pending collection under RR vide RRC No.18/2000-01 dated 20-7-2000.

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Non-levy of turnover tax
	(c) Paragraph No.	2.6 (1)
	(d) Report No. and year	C&AG Report for the year ended 31-3-2001
II	(a) Date of receipt of the Draft Para/Review in the Department	18-4-2001
	(b) Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While finalizing the assessment of Coffee Board for the year 1992-93, the assessing Officer did not levy turnover tax on the purchase turnover tax on the purchase turnover of Rs. 4,135.84 lakhs relating to coffee. This resulted in non levy of Turnover Tax of Rs. 20.68 lakhs.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V	(a) Does the Department agree with the audit conclusions ?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |  |
|---|--|
| (1) Improvement in system and procedure including internal controls                                   | The assessment was remanded by the Deputy Commissioner (Appeal) Kozhikode.                       |
| (2) Recovery of overpayment pointed out by Audit  | The remanded assessment was completed on 28-2-2005 creating additional demand of Rs. 46.66 lakh. |
| (3) Recovery of under assessment, Short levy or other dues  |  |
| (4) Modification in the schemes and programmes including financing pattern                            |  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Non-levy of turnover tax
(c)	Paragraph No.	2.6 (2)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While finalising the assessment of M/s. Malabar Cashew and Allied Products, for the year 1992-93, the assessing officer did not levy turnover tax on purchase turnover of raw cashew amounting to Rs. 1,721.81 lakh resulting in a short levy of Rs. 8.61 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Based on the audit, the assessment was revised on 28-8-2001 under section 35 of the Act making good the short levy.

The amount was advised for the revenue recovery as per No. RRC 125/2001 dated 9-10-2001. Collection details awaited.

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Short levy of tax due to non-levy of turnover tax
(c) Paragraph No.	2.6 (ii)
(d) Report No. and year	C & AG report for the year ended 31-3-2001
II (a) Date of receipt of the Draft Para/Review in the Department	3-4-2001
(b) Date of Department's reply	Reply not given
III Gist of Paragraph/Review	While finalizing the assessment of M/s. Malabar Cashew and Allied Products for the year 1992-93, the assessing officer has not levied turnover tax on purchase turnover of raw cashew for Rs. 1,72,181 lakhs. This resulted in short levy of revenue Rs. 8.61 lakhs.
IV (a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions ?	Yes

- (b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary
- Not applicable.

#### VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- Based on the Audit, the assessment was cancelled under section 35 on 18-7-2001. The Assessment was completed a fresh making good the short levy of Turnover Tax and the dues were advised for collection under RR.
- (2) Recovery of overpayment pointed out by Audit
- Not applicable
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- Not applicable
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit
- Not applicable.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Non-levy of Turnover Tax
(c)	Paragraph No.	2.6 (iii)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	18-4-2001
(b)	Date of Department's reply	10-7-2001
III	Gist of Paragraph/Review	While finalizing the assessment of M/s. Kerala Solvant Extraction Ltd. for the year 1991-92 the assessing officer did not levy Turnover Tax at half per cent on the second sales. Turnover of Coconut Oil cake amounting to Rs. 485.13 lakh. This resulted in Non-levy of Turnover Tax of Rs. 2.43 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit the assessment for 1991-92 was set aside for fresh disposal under section 35 on 30-10-2000. Fresh assessment was completed on 6-4-2000 creating additional demand of Rs. 2,42,563. |
| (2) Recovery of overpayment pointed out by Audit  |   |
| (3) Recovery of under assessment, Short levy or other dues  |   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Non-levy of Turnover Tax
(c)	Paragraph No.	2.6 (iv)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	23-8-2001
III	Gist of Paragraph/Review	While finalizing the assessment of an arrack contractor for the year 1992-93 levy of tax at compounded rate based on the rental amount payable for Arrack shops, the assessing officer omitted to ascertain the sale turnover of arrack and levy Turnover tax as such Turnover tax of Rs. 1.39 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit the assessment was cancelled under section 35 on 21-1-1999 and completed afresh on 23-3-1999 taking into consideration of the audit objection and the amount was advised for Revenue Recovery.     |
| (2) Recovery of overpayment pointed out by Audit  |   |
| (3) Recovery of under assessment, Short levy or other dues  | The disciplinary action initiated against Sri. S. Sanal Kumar, Sales Tax Officer, Chavakkad is finalized by awarding him a punishment of barring 2 increments without cumulative effect in the existing scale of pay. |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Non-levy of Turnover Tax
(c)	Paragraph No.	2.6 (v)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	23-8-2001
III	Gist of Paragraph/Review	While finalizing the assessments for 1988-89 & 1990-91 even though the assessee had not produced the prescribed declaration, last purchase turnover of pepper Betelnut and Ginger were not subjected to Turnover tax. This resulted in short levy of tax amounting to Rs. 1.24 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |  |
|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit the assessment was cancelled under section 35 on 27-1-1999 and subsequently completed afresh on 1-11-1997 creating on additional demand of Rs. 1.24 lakh. |
| (2) Recovery of overpayment pointed out by Audit  | Under Revenue Recovery   |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Non-levy of Turnover Tax
(c)	Paragraph No.	2.6 (vi)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b)	Date of Department's reply	Reply not yet furnished
III	Gist of Paragraph/Review	While finalizing the assessment of a dealer for the year 1995-96, the turnover tax was not levied turnover of Rs. 21.38 lakh relating to the sale of Indian Made Foreign Liquor resulting in the non-levy of turnover tax of Rs. 1.07 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Assessment was revised and an amount of Rs. 1 lakh was collected as per chalan No. 3118 dated 31-3-1999 and Rs. 6898 as per chalan No. 3000 dated 5-1-2001.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Mistake in Computation
(c)	Paragraph No.	2.7 (i)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	22-3-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	The Assistant Commissioner (Assessment), Kollam while finalizing the assessment of M/s. Aluminium Industries, Kollam for the year 1995-96 tax due at 10% of the turnover of Rs. 173.17 lakh was incorrectly computed as 1.73 lakh instead of 17.32 lakh resulting in a short levy of Rs. 17.14 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |  |
|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Assessment was revised under section 43 on 30-9-2000 creating an additional demand of Rs. 17,14,386. |
| (2) Recovery of overpayment pointed out by Audit  |  |
| (3) Recovery of under assessment, Short levy or other dues  | The amount has been advised for revenue recovery as per No. RRC. 222/01 dated 23-1-2001.             |
| (4) Modification in the schemes and programmes including financing pattern                            |  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit |  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Mistake in Computation
(c)	Paragraph No.	2.7 (2)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	23-5-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While finalizing the AST assessment of M/s. Aluminium Industries, Kundara for the year 1990-91, Computation of AST @25% on the tax due of Rs. 3,81,50,283.18 was worked out to Rs. 93,37,570.75 instead of at Rs. 95,37,570.75 which resulted in a short levy of Rs. 2,00,000.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

The assessment was revised creating an additional demand of Rs. 2 lakh. The amount has been advised for revenue recovery vide RRC. No. 282/99-2000 dated 11-10-1999.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short levy due to mistake in Computation
(c)	Paragraph No.	2.7 (ii)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	23-5-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While finalizing the CST assessments of M/s. Aluminium Industries, Kundara for the year 1990-91, tax levied on the entire turnover at the local rate under section 8 (2) of the CST Act computing tax and Additional Sales Tax thereon while computing AST at the rate of 25% on the tax due of Rs. 3,81,50,283.18. AST worked out to Rs. 93,37,570.75 instead of Rs. 95,37,570.75. This resulted in short levy of Rs. 2,00,000.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit CST Assessment was cancelled by the Deputy Commissioner on 29-1-1999.    |
| (2) Recovery of overpayment pointed out by Audit  | The assessment was completed a fresh on 16-6-1999 creating additional demand of Rs. 2 lakh. |
| (3) Recovery of under assessment, Short levy or other dues  | The amount is under Revenue Recovery.   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Statement on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Mistake in Computation
(c)	Paragraph No.	2.7 (3)
(d)	Report No. and year	Report of the C&AG for the year ended 31-3-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	In Sales Tax Special Circle, (Produce), Mattancherry, while finalising the assessment for the year 1995-96, the balance tax due from the assessee was computed after deducting incorrectly an amount of Rs. 3.42 lakh remitted by another assessee resulting a short levy of tax Rs. 3.42 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

(1) Improvement in system and procedure including internal controls

The assesseees are sister concerns. They remitted the dues:

(2) Recovery of overpayment pointed out by Audit.

*Amount (Rs)      Chalan      Date*

1,79,091      11      21-12-1998

(3) Recovery of under assessment, Short levy or other dues

81,428      20      18-1-1999

24,899      28      1-3-1998

56,925

3,42,343

=====

(4) Modification in the schemes and programmes including financing pattern

(5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

**Action taken Statement on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Mistake in Computation
(c)	Paragraph No.	2.7 (4)
(d)	Report No. and year	Report of the C&AG for the year ended 31-3-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	22-3-2001
(b)	Date of Department's reply	1-8-2001
III	Gist of Paragraph/Review	In Sales Tax Special Circle, (Produce), Mattancherry, while finalising the assessment of 1995-96, an amount of Rs. 1.36 lakhs remitted in Febuary 1995 and given credit to against the tax for 1994-95 was again given credit to against the tax for 1995-96 resulting in short levy of Rs. 1.36 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

Based on the audit, the assessment for the year 1995-96 was revised on 18-7-2000 under section 43 of the KGST Act. No balance outstanding.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short demand of tax
(c)	Paragraph No.	2.7 (5)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b)	Date of Department's reply	9-7-2001
III	Gist of Paragraph/Review	While finalising the CST assessment of M/s. Solar Solvent extractions (P) Ltd. for the year 1991-92, the tax due was worked out to Rs. 3.84 lakhs. But demand notice was issued for Rs. 0.65 lakh only resulting in short demand of Rs. 3.18 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support.	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit demand notice dated 1-11-2000 was issued for the balance amount of Rs. 3,17,990. |
| (2) Recovery of overpayment pointed out by Audit  | Not applicable  |
| (3) Recovery of under assessment, Short levy or other dues  | The amount was collected under Revenue Recovery   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Mistake in Computation
	(c) Paragraph No.	2.7 (6)
	(d) Report No. and year	2000-2001 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	18-1-2001
	(b) Date of Department's reply	1-8-2001
III	Gist of Paragraph/Review	While revising the assessment of M/s. Aqua Systems for the year 1994-95 on 28-10-1999 under section 19 of the KGST Act an amount of Rs. 2.9 lakhs remitted by the assessee and already given credit to in the original assessment was again given credit to in the assessment of the conceded turnover resulting in a loss of Rs. 2.90 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V	(a) Does the Department agree with the audit conclusions ?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- (1) Improvement in system and procedure including internal controls
- (2) Recovery of overpayment pointed out by Audit
- (3) Recovery of under assessment, Short levy or other dues
- (4) Modification in the schemes and programmes including financing pattern
- (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit

The assessment for the year 1994-95 was rectified under section 43 of the Act making good the loss as per order dated 7-6-2000.

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Short demand due to excess adjustment of remittances
	(c) Paragraph No.	2.7 (7)
	(d) Report No. and year	C&AG Report for the year ended 31-3-2001
II	(a) Date of receipt of the Draft Para/Review in the Department	22-3-2001
	(b) Date of Department's reply	30-7-2001
III	Gist of Paragraph/Review	While finalising the assessment of M/s. Greevas Cotton & Co. Ltd. Ernakulam for the year 1993-94, an amount of Rs. 1.39 lakh representing excess collection tax ordered to be forfeited to Government was incorrectly deducted from tax computed. This resulted in short demand of tax of Rs. 1.39 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support.	Not applicable
V	(a) Does the Department agree with the audit conclusions ?	Yes
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Assessment was revised under section 43 of the KGST Act on 1-10-1999. |
| (2) Recovery of overpayment pointed out by Audit  | The Amount was fully recovered.                                       |
| (3) Recovery of under assessment, Short levy or other dues  |   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Short demand of tax due to excess credit
(c)	Paragraph No.	2.7 (8)
(d)	Report No. and year	C & AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	2-3-2001
(b)	Date of Department's reply	1-8-2001
III	Gist of Paragraph/Review	In Sales Tax Office, First Special Circle, Ernakulam, while finalising the assessment for the year 1993-94 of M/s. Williard India Limited, the balance tax due from them was computed after in correctly deducting an amount of Rs. 1.37 lakhs remitted by another assessee. This resulted in short demand of tax of Rs. 1.37 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Meanwhile the assessee preferred appeal before Deputy Commissioner (Appeals) Ernakulam. Deputy Commissioner (Appeals) Ernakulam vide order STAT 22/00 dated 30-8-2000 remanded the assessment for fresh disposal. |
| (2) Recovery of overpayment pointed out by Audit  | The assessment was completed afresh on 28-11-2001. Credit was given excluding Rs. 1.36 lakh thereby curing the defect pointed out by the Accountant General.  |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Non-levy of penalty
(c)	Paragraph No.	2.8 (1)
(d)	Report No. and year	C & AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	22-3-2001
(b)	Date of Department's reply	1-8-2001
III	Gist of Paragraph/Review	While finalizing the assessment of Sri. C.K. Asokan, Meena Silicate, for the years 1994-95 to 1996-97, the assessing authority did not levy penalty for filing untrue and incorrect return.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit, penalty under section 45A was imposed for the years 1994-95 to 1996-97. |
| (2) Recovery of overpayment pointed out by Audit  |   |
| (3) Recovery of under assessment, Short levy or other dues  | Under Revenue recovery  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Non-levy of penalty
	(c) Paragraph No.	2.8 (2)
	(d) Report No. and year	2000-2001 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	22-3-2001
	(b) Date of Department's reply	27-12-2001
III	Gist of Paragraph/Review	While finalising the assessment of M/s. Sakthimatha Cashew Company, Kollam for the year 1995-96 the assessing authority did not impose penalty for evading payment of tax of Rs. 4.76 lakh by filing untrue return resulting in a loss of Rs. 10.48 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	No
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	The Revision Petition filed by the assessee was disposed of by the Deputy Commissioner, Kollam by reducing the penalty to Rs. 5,23,971 as per order dated 26-6-2001.
V	(a) Does the Department agree with the audit conclusions ?	No
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Same as that of item IV b.

## VI Remedial action taken

- |   |  |
|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit, a penalty of Rs. 10,47,942 was imposed on the assessee.  |
| (2) Recovery of overpayment pointed out by Audit  |  |
| (3) Recovery of under assessment, Short levy or other dues  | The amount was advised for Revenue recovery as per RRC No. 25/2000 dated 16-5-2000. Aggrieved by the order the assessee filed revision petition. The petition was finalized by reducing the penalty to Rs. 5,23,971 as per order No. R.P. 163/00 dated 26-6-2001. The assessee had paid Rs. 3,49,314 and the balance Rs. 1,74,657 is pending collection. |
| (4) Modification in the schemes and programmes including financing pattern                            |  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit |  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Non-levy of penalty
(c)	Paragraph No.	2.8 (3)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b)	Date of Department's reply	24-8-2001
III	Gist of Paragraph/Review	While finalising the assessment of M/s. National Cashew Company, Kollam for the year 1994-95, although the assessing authority detected an un-accounted transaction involving a turnover of Rs. 15.60 lakh and brought the same to tax but, he did not levy penalty on the assessee which resulted in non-levy of penalty of Rs. 3.64 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   |   |
| (2) Recovery of overpayment pointed out by Audit  |   |
| (3) Recovery of under assessment, Short levy or other dues  | The amount which is due to Government has been advised for Revenue Recovery as per Order No. 88/00 dated 24-8-2000. |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Incorrect grant of concessional rate of tax
(c)	Paragraph No.	2.9 (1)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	10-7-2001
III	Gist of Paragraph/Review	While finalising the assessment of Shri C.K. Asokan, Meena Silicate, Cherthala for the years 1994-95 and 1995-96 the assessing authority levied tax @ 4% instead of @ 10% on a sale turnover of Rs. 54.51 lakhs and Rs. 62.13 lakh respectively resulting in a loss of Rs. 7.70 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | The assessment for the year 1994-95 was revised on 25-7-2000 and the assessment for the year 1995-96 was revised on 28-4-2001.                        |
| (2) Recovery of overpayment pointed out by Audit  |   |
| (3) Recovery of under assessment, Short levy or other dues  | The amount which is due to Government was advised for Revenue recovery as per RRC No. 936/95-96 dated 5-9-2000 and RRC No. 40/2000-01 dated 7-4-2001. |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Incorrect grant of concessional rate of tax
	(c) Paragraph No.	2.9 (ii) C & AG Report for the year ended 31-3-2001
	(d) Report No. and year	C & AG Report for the year 31-3-2001
II	(a) Date of receipt of the Draft Para/Review in the Department	30-3-2001
	(b) Date of Department's reply	27-2-2004
III	Gist of Paragraph/Review	While Finalising the assessment of an SSI Unit, whose turnover crossed the limit of Rs. 50 lakh from 1991-92, the assessing authority levied tax on the reduced rate of 4% on Rs. 50 lakh out of the total taxable turnover of Rs. 112.12 lakh. This resulted in short levy of tax and surcharge of Rs. 4.40 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	No
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	In the light of the decision of the Hon'ble High Court of Kerala in JOJO Frozen Foods Ltd. Vs. State of Kerala reported in (2002) 10 KTR 242.
V	(a) Does the Department agree with the audit conclusions?	No
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Same as para IV (b)

VI Remedial action taken	
(1) Improvement in system and procedure including internal controls	Not applicable
(2) Recovery of overpayment pointed out by Audit	Not applicable
(3) Recovery of under assessment, Short levy or other dues	Not applicable
(4) Modification in the schemes and programmes including financing pattern	Not applicable
(5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit	Not applicable.

[IN THE HIGH COURT OF KERALA AT ERNAKULAM]  
JOJO FROZEN FOODS LTD.

V

STATE OF KERALA

S. SANKARASUBBAN and S. MARIMUTHU, JJ.

August 7, 2001.

RATE OF TAX—SMALL SCALE INDUSTRY NOTIFICATION GRANTING REDUCTION IN RATE OF TAX ON GOODS MANUFACTURED BY SSI WITHIN STATE WHOSE TOTAL TURNOVER DOES NOT EXCEED RS. 50 LAKHS EFFECTIVE FROM APRIL 1, 1995—EXPLANATION TO NOTIFICATION STATING THAT DURING THE FIRST YEAR IN WHICH THE TURNOVER CROSSES THE LIMIT, HIGHER RATE WILL BE APPLIED ONLY ON THE TURNOVER ABOVE RS. 50 LAKHS EFFECTIVE FROM APRIL 1, 1995—UNIT CROSSING RS. 50 LAKHS IN 1994-95—ENTITLED TO BENEFIT OF NOTIFICATION FOR ASSESSMENT YEAR 1995-96—KERALA GENERAL SALES TAX ACT (15 OF 1963), NOTIFICATION II G. O. (P) No. 154/93/TD DATED NOVEMBER 3, 1993 (S.R.O. No. 1728/93) III G. O. (P) No. 87/36/TD DATED MARCH 31, 1995 (S. R. O. No. 429/95); II G. O. (P) No. 126/96/TD DATED JULY 29, 1996 (S. R. O. No. 585/96).

***Where the assessee contended that for the year 1995-96, he was entitled to the benefit under the Notification S. R. O. No. 429 of 1995 and it was rejected by the authorities, in revision.***

*Held, allowing the revision, that the interpretation given by the assessing authority as well as the Tribunal is not correct. Even though S.R.O. No. 1728 of 1993 came earlier, so far the small-scale units whose turnover is less than Rs. 50 lakhs are concerned, they got concession of reduction in tax only by S.R.O. No. 429 of 1995 with effect from April 1, 1995. Thus, as per the notification from April 1, 1995, the small-scale industrial units whose turnover do not exceed Rs. 50 lakhs are entitled to reduction in tax on goods, which are manufactured within the State. The amendment came by S. R. O. No. 585 of 1996 with effect from July 29, 1996. By that amendment, an explanation was added. As per this explanation, where the turnover exceeds Rs. 50 lakhs during the first year in which the turnover crosses the limit, the higher rate will be applied only on the turnover above Rs. 50 lakhs. This explanation shall be deemed to have come into force with effect from April 1, 1995. It is admitted that during the previous year 1994-95, the turnover of the assessee was above Rs. 50 lakhs and that it crossed Rs. 50 lakhs in 1994-95. So, if 1994-95 is taken into consideration as the first year, then the assessee will be entitled to the benefit. As the assessee rightly contended the exemption has come into*

*force only with effect from April 1, 1995, and hence that should be treated as the starting period. The small scale industrial units whose turnover is below Rs. 50 lakhs are entitled to reduction in tax from April 1, 1995. But such units may cross some times Rs. 50 lakhs. It is stated that for the first year in which Rs. 50 lakhs crosses, higher rate will be applied only for the turnover in excess of Rs. 50 lakhs. Hence, the first year will be the first year will respect to S. R. O. No. 429 of 1995. If that is taken into account, the assessee will be entitled to the benefit of the explanation (see para 3 ).*

TRC No. 166 of 2001

*K. I. Mayankutty Mather and Sunil Shanker* for the petitioner.

*C. K. Abdul Rahim, Government Pleader,* for the respondent.

#### JUDGMENT

The Judgment of the Court was delivered by

*S. Sankarasubban, J.*—A question of interpretation of S.R.O. No. 1728 of 1993 as amended by S.R.O. No. 429 of 1995 and S.R.O. No. 585 of 1996 arises in this case. The year in question is the assessment year 1995-96. The assessee is a small-scale industrial unit. According to the assessee, as per S. R. O. No. 429 of 1995, small scale industrial unit whose turnover does not exceed Rs. 50,00,000 were entitled to deduction of tax. Subsequently, By S.R.O. No. 585 of 1996, an explanation was added wherein it is stated that where the turnover of the unit exceeds the limit of Rs. 50,00,000 during the first year in which the turnover crosses the limit higher rate will be applied only on the turnover above Rs. 50,00,000. This explanation shall be deemed to have come into force with effect from April 1, 1995. The assessee contended that for the year 1995-96, the assessee is entitled to the benefit of the explanation. But this was rejected by the authorities. Hence, this revision.

2. S. R. O. No. 1728 of 1993 was issued by the Government on November 4, 1993. By this notification, deduction in tax was allowed for certain goods. Schedule IV of the above S.R.O. deals with certain items. Item 8 is as follows: “Small-scale Industrial units whose total turnover does not exceed Rs. 50 lakhs is entitled to deduction on the sale of goods manufactured by them within the State and the rate of tax is 4 per cent”. Even though S. R. O. No. 1728 of 1993 came into force on November 4, 1993, item No. 8 was introduced only by S. R. O. No. 429 of 1995 with effect from April 1, 1995. The small-scale industrial units whose total turnover does not exceed Rs. 50 lakhs, the rate of tax or the goods manufactured by them within the State was reduced to 4 per cent. An explanation was added to this S.R.O. The explanation states that where turnover exceeds the limit of Rs. 50 lakhs during the first year in which the turnover crosses the limit, higher rate will be applied only on the turnover above Rs. 50 lakhs. Hence, this revision.

lakhs. This explanation shall be deemed to be come into force with effect from April 1, 1995. The argument of the learned counsel for the assessee is that increase in crossing of Rs. 50 lakhs is to be taken into account with regard to the assessment year which comes after the explanation was added, i.e., after April 1, 1995. On the other hand, learned counsel for the Revenue contended that as a matter of fact, the turnover of the assessee exceeded Rs. 50 lakhs during the previous year 1994-95, and hence, it is not entitled to the benefit of the explanation.

3. According to us, the interpretation given by the assessing authority as well as the Tribunal is not correct. Even though S.R.O. No. 1728 of 1993 came earlier, so far the small-scale units whose turnover is less than Rs. 50 lakhs are concerned, they got concession of reduction in tax only by S.R.O. No. 429 of 1995 with effect from April 1, 1995. Thus, as per the notification from April 1, 1995 the small-scale industrial units whose turnover does not exceed Rs. 50 lakhs are entitled to reduction in goods, which are manufactured within the State. Now the amendment came by S. R. O. No. 585 of 1996 with effect from July 29, 1996. By that amendment, an explanation was added. As per this explanation, where the turnover exceeds Rs. 50 lakhs during the first year in which the turnover crosses the limit, the higher rate will be applied only on the turnover above Rs. 50 lakhs. This explanation shall be deemed to have come into force with effect from April 1, 1995. It is admitted that during the previous year 1994-95, the turnover of the assessee was above Rs. 50 lakhs and that it crossed Rs. 50 lakhs in 1994-95. So, if 1994-95 is taken into consideration as the first year, then the assessee will be entitled to the benefit. As the assessee rightly contended the exemption has come into force only with effect from April 1, 1995, and hence that should be treated as the starting period. The small-scale industrial units whose turnover is below Rs. 50 lakhs are entitled to reduction in tax from April 1, 1995. But such units may cross sometimes Rs. 50 lakhs. It is stated that for the first year in which Rs. 50 lakhs crosses, higher rate will be applied only for the turnover in excess of Rs. 50 lakhs. Hence, the first year will be the first year with respect of S.R.O. No. 429 of 1995. If that is taken into account, according to us, the assessee will be entitled to the benefit of the explanation.

4. In the above view of the matter, we set aside the order of the Tribunal and held that the assessee will be entitled to the benefit of the explanation for the assessment year 1995-96. Since the matter has been remanded to the assessing authority, the assessing authority will take this into account.

T.R.C. is allowed.

Order on C.M.P No. 2062 of 2001 in T.R.C. No. 166 of 2001 dismissed.

*Tax revision case allowed.*

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Incorrect grant of concessional rate of tax
@	Paragraph No.	2.9 (iii)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	30-3-2001
(b)	Date of Department's reply	12-8-2001
III	Gist of Paragraph/Review	In Sales Tax Office, Special Circle, Thrissur while finalising the assessment in respect of M/s Southern Plastic for the year 1996-97 tax at the rate of 4% only was levied on Rs. 49.40 lakh out of a total taxable turnover of Rs. 51.73 lakh though the turnover of the unit exceeded in 1993-94 itself. This resulted in short levy of tax & surcharge of Rs. 3.26 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, Please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |  |
|---|--|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit, the assessment was revised on 16-11-2001 by creating an additional demand of Rs. 3,26,030.   |
| (2) Recovery of overpayment pointed out by Audit  | The assessee filed appeal. The appeal filed by the assessee was allowed by the Deputy Commissioner (Appeals) Ernakulam. There will be no demand by implementing the appellate order. |
| (3) Recovery of under assessment, Short levy or other dues.   | Not applicable   |
| (4) Medication in the schemes and programmes including financing pattern                              | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of tax
(c)	Paragraph No.	2.9 (iv)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	22-3-2001
(b)	Date of Department's reply	27-7-2001
III	Gist of Paragraph/Review	While finalizing the assessment of an SSI unit the tax at the reduced rate of 4% only was levied on a turnover of 1st Rs. 50 lakh instead of the normal rate of 10%. This resulted in short levy of tax and surcharge of Rs. 3.30 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

- |   |   |
|---|---|
| (1) Improvement in system and procedure including internal controls                                   | Based on the audit, the assessment created was revised under section 19 and additional demand of Rs. 3.30 lakh. |
| (2) Recovery of overpayment pointed out by Audit  | Assessee file OP before High Court. The same is pending   |
| (3) Recovery of under assessment, Short levy or other dues  |   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.   |

**Action taken Notes on C & AG's Reports**

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of the Review Paragraph	Incorrect grant of concessional rate of tax
	(c) Paragraph No.	2.9 (v)
	(d) Report No. and year	C&AG Report for the year ended 31-3-2001
II	(a) Date of receipt of the Draft Para/Review in the Department	22-3-2001
	(b) Date of Department's reply	3-3-2004
III	Gist of Paragraph/Review	While finalising the assessment for the year 1996-97 of an SSI unit engaged in manufacturing and sale of plastic flushing cistern and injection mould articles, tax was levied only at the concessional rate of 4% in respect of sales turnover of Rs. 20.38 lakh on plastic cistern brought as such from outside state.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	No
	(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Once a manufacturing activity has taken place, the assessee is entitled for the concessional rate of tax.
V	(a) Does the Department agree with the audit conclusions ?	No
	(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	The assessee is a manufacturing Unit and eligible for concessional rate of tax as per SRO 429/95.

## VI Remedial action taken

- |   |                 |
|---|-----------------|
| (1) Improvement in system and procedure including internal controls                                   | Not applicable  |
| (2) Recovery of overpayment pointed out by Audit  | Not applicable  |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable. |

**S. R. O. No. 429/95.**—In exercise of the powers conferred by Section 10 of the Kerala General Sales Tax Act, 1963 (Act 15 of 1963) the Government of the Kerala having considered it necessary in the Public interest so to do, hereby make the following amendment to Notification G. O. (P) No. 154/93/TD. dated 3rd November, 1993, published as S.R.O. No. 1728/93 in K. G. Ex. No. 1121 dated 4th November, 1993, namely:—

#### AMENDMENT

In the said Notification

1. In Clause 1, in Sub-clause (6) in item (a), for the words beginning with “half percent, provided tax has been levied” and ending with “under either of the above Acts” the words three percent where no tax is levied on such coconut oil and coconut oil cake under the said Act or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956).
2. In Schedule II,—
  - (i) In the entries in column (4) again serial No. 6, for the figure “6” the figure “8” shall be substituted;
  - (ii) After serial No. 7 and the entries against it, the following serial No. and entries shall be inserted, namely:—
 

“7A Cardamom 5                      4”
  - (iii) In the entries in column (4) again serial No. 10, for the figure “5” the figure “8” shall be substituted;
  - (iv) In the entries in column (4) again serial No. 11, for the figure “4” the figure “8” shall be substituted;
  - (v) after serial No. 17, and entries against it the following serial No. and entries thereto shall be inserted, namely:—
 

“174 Edible oils                      8                      4”

*Note:* Edible oil mentioned above includes refined or hydrogenerated oil such as groundnut oil, gingily oil, refined oil and vanaspathi, as per Circular No. 2439/B3/96/TD dated 19-2-1996.
  - (vi) In the entries in column (4) against serial No. 23, for the figure “6” the figure “8” shall be substituted;
  - (vii) after serial No. 25, and entries against it, the following serial No. and entries thereto shall be inserted, namely:—

“25A Household utensils made of Aluminium 6 4”

- (viii) In the entries in column (4) against serial No. 29, for the figure “10” the figure “6” shall be substituted;
- (ix) In the entries in column (4) against serial No. 33, for the figure “5” the figure “8” shall be substituted;
- (x) In the entries in column (4) against serial No. 34, for the figure “5” the figure “8” shall be substituted;
- (xi) In the entries in column (4) against serial No. 35, for the figure “4” the figure “8” shall be substituted;
- (xii) In the entries in column (4) against serial No. 36, for the figure “4” the figure “8” shall be substituted;
- (xiii) After serial No. 38, and the entries against it, the following serial No. and entries thereto shall be inserted, namely:—
- “38A Oil Cakes used as cattle Feed  
other than coconut Oil cake 5 4”
- (xiv) After serial No. 39, and the entries against it, the following serial No. and entries thereto shall be inserted, namely:—
- “39A Rubber Roller 10 4”
- (xv) After serial No. 40, and entries against it, the following serial No. and entries thereto shall be inserted, namely:—
- “40A Spectacles 8 4”
3. In Schedule III, serial No. 1 and the entries against it shall be omitted.
4. In Schedule IV, after item 7 and the entries against it, the following items and the entries thereto shall be inserted, namely:—
- “(8) small Scale Industrial Sale of goods manufactured  
Units whose total by them within the State 4  
turnover does not  
exceed Rs. 50 lakhs
- (9) Biscuits manufacturing Sale of Biscuits  
units within the State manufactured by them 4”  
within the State

5. In Schedule V
- (i) the existing entry in column (3) against the serial No. 3 shall be renumbered as (ii) and before the entry so re-numbered, the following entries shall be inserted in columns (3) and (4) namely:—
- (i) Machinery
- (ii) After serial No. 3 and the entries against it, the following serial No. and the entries thereto shall be inserted, namely:—
- |   |  |
|---|--|
| 3A Kerala State Electricity Board<br>National Thermal Power Corpn.<br>And Power Generating Under-<br>takings in the Joint Sector<br>(with capacity above 25 Kilo Watts) | Goods for use in the Generation<br>distribution of power |
|---|--|
6. In Schedule VI item 9 shall be omitted

This Notification shall come into force on the 1st day of April, 1995.

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of tax
(c)	Paragraph No.	2.10 (1)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	22-3-2001
(b)	Date of Department's reply	26-7-2001
III	Gist of Paragraph/Review	While finalizing the assessment of M/s. Modi Xerox Ltd., Ernakulam, for the year 1992-93, the Assistant Commissioner, Special Circle, Ernakulam levied tax at the rate of 5% instead of @6% on a taxable turnover of Rs. 226.32 lakhs relating to transfer, of right to use Xerox Machine which resulted in short levy of tax and surcharge of Rs. 2.44 lakhs.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable
VI	Remedial action taken	Based on the audit, the assessment for 1992-93 was set aside. Under Section 35 of the KGST Act by the Deputy Commissioner, Ernakulam
(1)	Improvement in system and procedure including internal controls	

vide this order in Cl. 2955/99 dated 7-6-1999 for fresh disposal. Meanwhile the assessee filed appeal before the Deputy Commissioner (Appeals) Ernakulam against the assessments from 1990-91 to 1994-95 treating FSMA and SSMA as taxable turnover as per order in STA-727, 869, 970 and 871/98 and 535/99 dated 15-11-1999. The Deputy Commissioner (Appeals) Ernakulam remanded the assessment for 1990-91 to 1994-95 with the observation that the transaction involved are works contract and not transfer of light to use, following the Judgment rendered by the Honourble High Court of Karnataka in the appellant own case in Modi Xerox Limited, Under section State of Karnataka reported 114 STC 424.

The Department has filed second appeal against the order of the Deputy Commissioner (Appeals), Ernakulam and the same are pending disposal. As such the audit objection revised in this case has lost relevancy.

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| (2) Recovery of overpayment pointed out by Audit  | Not applicable  |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable. |

**Action taken Notes on C & AG's Reports**

I (a) Department	Commercial Taxes Department
(b) Subject/Title of the Review Paragraph	Application of incorrect rate of tax
(c) Paragraph No.	2.10 (2)
(d) Report No. and year	2000-2001 (RR)
II (a) Date of receipt of the Draft Para/Review in the Department	15-3-2001
(b) Date of Department's reply	Reply not given
III Gist of Paragraph/Review	While finalising the assessment in M/s. Elegant Package, Vellanad, for the year 1992-93 to 1995-96, the sales turnover was assessed @ 2½% instead of the correct rate of 4% resulting in a short levy of ST&SC. Of Rs. 34,937 in 1995-96 and Rs. 1,81,630 in 1992-93 to 1994-95.
IV (a) Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b) If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a) Does the Department agree with the audit conclusions ?	Yes
(b) If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable
VI Remedial action taken	Fresh assessments was completed for the year 1992-93 to 1995-96 as per order dated 26-6-2001 and 30-6-2001 as original assessments canceled and remanded by the Deputy Commissioner,
(1) Improvement in system and procedure including internal controls	

Thiruvananthapuram. When fresh assessments were completed the mistake in assessment pointed out by the Accountant General was rectified and no revenue has been lost to the Government, in this case. For the years 1992-93, the demands were fully adjusted to the SSI exemption available and the assessments for the year 1994-95 was completed as a case of NIL demand, as the assessee filed Certificates in Annexure III obtained from the dealers and claimed exemption on the entire sales turnover of Rs. 21,39,275 under section 5 (3) of the CST Act as per SRO 1727/1993. Since the sales were affected to exporters for packing the goods exported.

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| (2) Recovery of overpayment pointed out by Audit  |                 |
| (3) Recovery of under assessment, Short levy or other dues  |                 |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable. |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of tax
(c)	Paragraph No.	2.10 (3)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	2-3-2001
(b)	Date of Department's reply	27-9-2001
III	Gist of Paragraph/Review	While finalising the assessment of M/s. Travancore Sulphate (P) Ltd. for the years 1992-93 and 1994-95, the assessing officer levied tax @8% only on the aggregate sales turnover of a chemical amounting to Rs. 71.10 lakh instead of 10%. This resulted in short levy of tax including surcharge of Rs. 1.55 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

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| (1) Improvement in system and procedure including internal controls                                   | The Deputy Commissioner, Thiruvananthapuram has taken up the case for Suo-Moto revision under section 35 of the Act. |
| (2) Recovery of overpayment pointed out by Audit  |  |
| (3) Recovery of under assessment, Short levy or other dues.   |  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of tax
(c)	Paragraph No.	2.10 (4)
(d)	Report No. and year	C&AG's Report for the year ended 31-3-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	15-11-2001
III	Gist of Paragraph/Review	While assessing M/s. Godrej GE appliances for the year 1994-95, the assessing officer levied tax @12% instead of 20% which led to the short levy of tax of Rs. 1,50,954.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

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| (1) Improvement in system and procedure including internal controls                                   | Assessment was revised by creating an additional demand of Rs. 1.5 lakh. The assessee filed second appeal and is pending disposal. Disciplinary action initiated against the delinquent Asst. Commissioner Shri K.U. Vijayan has been finalised by awarding a punishment of barring one increment. |
| (2) Recovery of overpayment pointed out by Audit  |  |
| (3) Recovery of under assessment, Short levy or other dues  |  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of tax
(c)	Paragraph No.	2.10 (5)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	16-4-2001
(b)	Date of Department's reply	4-3-2004
III	Gist of Paragraph/Review	While finalising the assessment for the year 1994-95 of M/s. Pace International Ltd., Kollam for the year 1994-95, the assessing authority had levied tax @7% on the sales turnover of dry fruits amounting to Rs. 34.21 lakhs resulting in a short levy of Rs. 1.13 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

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| (1) Improvement in system and procedure including internal controls                                   | In order to set right the audit objection, the Deputy Commissioner, Kollam has remanded the assessment for the year 1994-95. Subsequently, the dealer filed second appeal before the Tribunal. The Tribunal has remitted back the case to the Deputy Commissioner, Kollam. The Deputy Commissioner, Kollam has set aside the assessment again and remitted back to the assessing authority for fresh disposal. Against this, the assessee filed second appeal and is pending disposal. |
| (2) Recovery of overpayment pointed out by Audit  |  |
| (3) Recovery of under assessment, Short levy or other dues  |  |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of tax
(c)	Paragraph No.	2.10 (6)
(d)	Report No. and year	C&AG Report for the year ended 31-3-2001
II (a)	Date of receipt of the Draft Para/Review in the Department	15-5-2001
(b)	Date of Department's reply	20-12-2003
III	Gist of Paragraph/Review	While finalising the assessment in respect of M/s. Kammath Traders for the year 1994-95 and 1995-96 the assessing authority adopted rate of tax at 2.5% as against 10%. This resulted in short levy of tax Rs. 1,12,553.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	Yes
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Not applicable
V (a)	Does the Department agree with the audit conclusions ?	Yes
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable

## VI Remedial action taken

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| (1) Improvement in system and procedure including internal controls                                   | The assessments was revised on 31-10-1998. The entire amount was collected under Revenue Recovery. |
| (2) Recovery of overpayment pointed out by Audit  | Not applicable   |
| (3) Recovery of under assessment, Short levy or other dues  | Not applicable   |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable   |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable.  |

**Action taken Notes on C & AG's Reports**

I (a)	Department	Commercial Taxes Department
(b)	Subject/Title of the Review Paragraph	Application of incorrect rate of tax
(c)	Paragraph No.	2.10 (7)
(d)	Report No. and year	2000-2001 (RR)
II (a)	Date of receipt of the Draft Para/Review in the Department	22-3-2001
(b)	Date of Department's reply	18-12-2001
III	Gist of Paragraph/Review	While finalising the assessment of M/s. Meher Facricators for the year 1995-96 an 1996-97 tax was levied @ 6% for Rs. 9.2 lakhs and @ 8% for Rs. 2.9 lakhs instead of at the correct rate of 12.5% resulting in a short levy of tax Rs. 1 lakh.
IV (a)	Does the Department agree with the facts and figures included in the paragraph ?	No
(b)	If not, please indicate areas of disagreement and also attach copies of relevant documents in support	Please see reply to item VI next page
V (a)	Does the Department agree with the audit conclusions ?	No
(b)	If not, please indicate specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary	Not applicable
VI	Remedial action taken	
(1)	Improvement in system and procedure including internal controls	Based on the audit the assessment for 1995-96 and 1996-97 were revised under section 198, the Act on 13-12-1999.

levying tax at 12.5 %. Agrieved by the original and revised order the assessee filed appeal before the Appellate Assistant Commissioner, Ernakulam. The Appellate Assistant Commissioner, Ernakulam vide his order STA 810/99 and 53/2000 dated 4-8-2000 for 1995-96 and STA 813/99 and 54/2000 dated 4-8-2000 for 1996-97 has remanded the case with direction to complete the assessment after verification of the entire evidences to the light of the decision of the Honourable Supreme Court of India in the case of Builders Associate of India reported in 73 STC 370 and Sivadas and others V/s. State of Kerala reported in 2 KTR 256, the turnover of assessee is liable for exemption.

Accordingly the assessments for 1995-96 and 1996-97 were redone giving exemption for the entire turnover as per order dated 30-4-2001. Hence the audit objections raised in this case loses relevance have no merit.

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| (2) Recovery of overpayment pointed out by Audit  |                 |
| (3) Recovery of under assessment, Short levy or other dues  |                 |
| (4) Modification in the schemes and programmes including financing pattern                            | Not applicable  |
| (5) Review of similar cases/complete scheme/project in the light of findings of sample check by audit | Not applicable. |
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