

TWELFTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2008-2011)**

EIGHTY FIFTH REPORT

(Presented on 29th June, 2009)



SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2009

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2008-2011)**

EIGHTY FIFTH REPORT

On

**Paragraphs relating to Taxes and Transport Departments contained
in the Reports of the Comptroller and Auditor General of India
for the years ended 31 March, 2002 (RR)
and 31 March, 2006 (RR)**

	<i>Page</i>
Composition of the Committee ..	v
Introduction ..	vii
Report ..	1
Appendices :	
I Summary of main Conclusions/Recommendations ..	27
II Notes furnished by the Government ..	31
III Additional notes furnished by the Government ..	82

COMMITTEE ON PUBLIC ACCOUNTS (2008-2011)

INTRODUCTION

Chairman :

Shri Aryadan Muhammed

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Smt. K. K. Shylaja Teacher

Shri M. V. Sreyams Kumar

Legislature Secretariat :

Shri P. D. Rajan, Secretary

Smt. V. Jayalekshmi Amma, Additional Secretary

Shri Wilson V. John, Deputy Secretary

Smt. A. Achamma, Under Secretary.

I, the Chairman, Committee on Public Accounts having been authorised by the Committee to present this Report on their behalf present the Eighty Fifth Report on paragraphs relating to Taxes and Transport Departments contained in the Reports of the Comptroller and Auditor General of India for the years ended 31 March, 2002 (RR) and 31 March, 2006 (RR).

The Reports of the Comptroller and Auditor General of India for the years ended 31 March, 2002 (RR) and 31 March, 2006 (RR) were laid on the Table of the House on 16 June, 2003 and 28 March, 2007 respectively.

The Committee considered and finalised this Report at the meeting held on 10 June, 2009.

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,
29th June, 2009.

ARYADAN MUHAMMED,
Chairman,
Committee on Public Accounts.

REPORT

TAXES & TRANSPORT DEPARTMENTS

AUDIT PARAGRAPH

Results of audit

Test check of the records of the Agricultural Income Tax Offices conducted in audit during the year 2001-02 revealed underassessment of tax amounting to Rs. 6.67 crore in 185 cases which may broadly be categorised as under.

<i>Sl. No.</i>	<i>Category</i>	<i>Number of cases</i>	<i>Amount (In crore of rupees)</i>
1	Short levy due to grant of inadmissible expenses	46	1.58
2	Exclusion of income from assessment	42	1.43
3	Incorrect computation of income	2	0.52
4	Short/non-levy of interest/penalty	7	0.38
5	Incorrect computation of tax	7	0.05
6	Other items	81	2.71
	Total	185	6.67

During 2001-02, the department accepted under assessments, etc., of Rs.74.28 lakh involved in 69 cases of which two cases involving Rs. 2.51 lakh were pointed out during 2001-02 and the rest in earlier years. At the instance of audit, the department collected an amount of Rs. 3.07 lakh in 11 cases during 2001-02. A few illustrative cases involving Rs. 1.14 crore are given in the following paragraphs.

Short levy of tax due to allowance of inadmissible deduction

(a) Under the Kerala Agricultural Income Tax Act, 1991, an assessee shall be entitled to a deduction on account of deposits under Investment Deposit Scheme at the rate of eight percent of the agriculture income liable to be taxed. However, this deduction along with the share of deduction under Section 33 AB of the Income Tax Act, 1961, shall not exceed 20 percent of the income under Rule 8 (1) of Income Tax Rules, 1962.

Assessment records (1998-99) of a tea company engaged in manufacture and sale of tea in the Office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, revealed that an assessee who had already availed of a deduction of Rs. 4.46 crore out of total income of Rs. 22.23 crore computed under Central Scheme was further allowed a deduction of Rs. 85.73 lakh on account of Investment Deposit Allowance under the Kerala Agricultural Income Tax Act. As further deduction allowed exceeded 20 percent of the income computed under Rule 8 (1) of the Income Tax Rules, the deduction of Rs. 85.73 lakh allowed was incorrect and resulted in short levy of tax of Rs. 51.44 lakh.

On this being pointed out, the department stated that the deduction allowed was correct as it was admissible under the Kerala Agricultural Income Tax Act. The reply of the department is not tenable as the deduction on account of Investment Deposit Allowance was required to be restricted to 20 percent of the income computed under Central Scheme under Rule 8 (1) of the Income Tax Rules.

The case was reported to Government in April 2002; their reply has not been received (November 2002).

(b) In computing the agricultural income of an assessee, any expenditure enumerated in the Act incurred wholly and exclusively for deriving the agricultural income but not for personal expenditure is an allowable deduction. Income tax paid by an assessee under Income Tax Act, 1961, is not a permissible deduction under the Kerala Agricultural Income Tax Act, 1991.

(i) In Ernakulam, while finalising (December 2000) the assessment of a company for the assessment year 1998-99, the assessing officer incorrectly allowed deduction of Rs. 4.39 lakh claimed by the assessee towards expenses on income tax paid under Income Tax Act, 1961. This resulted in short levy of tax of Rs. 2.63 lakh.

On this being pointed out (August 2001) in audit, the department stated (August 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

(ii) In the Office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, an assessee was allowed a deduction of Rs. 2.87 lakh on account of expenditure on cattle feed though this was not related with the activities of the business from which the income was derived. This resulted in short levy of tax of Rs. 1.52 lakh.

On this being pointed out in audit, the department stated (August 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

(iii) In Thiruvananthapuram, while finalising (March 2001) the assessment of a company for the assessment year 1996-97, the assessing officer allowed a deduction of Rs.3.40 lakh towards expenditure on weeding against Rs.0.73 lakh allowed during 1995-96 without recording any reason for such abnormal increase during 1996-97. This resulted in short levy of tax of Rs.1.49 lakh.

On this being pointed out (April 2001) in audit, the department stated (July 2001) that the assessment had been revised (July 2001) raising additional demand of Rs.1.49 lakh. Further report has not been received (November 2002).

The case was reported to Government in August 2001; their reply has not been received (November 2002).

[Paragraphs 3.1 and 3.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2002 (R.R).]

Notes received from the Government on the above audit paragraphs are included as Appendix II.

The Committee enquired about the reason for inadmissible deduction of income and thereby short levy of tax in respect of a company at Ernakulam during 1998-'99. The total income of the company was Rs.22.33 crore. After allowing a deduction of Rs.4.46 crore from total income, an amount of Rs.85.73 lakh was also allowed to deduct under Investment Deposit Allowance as per Kerala Agricultural Income Tax Act, thereby exceeding the permissible deduction of 20% of total income. An amount of Rs.51.44 lakh was short levied towards Agricultural Income Tax in this case.

2. The witness Secretary, Taxes Department informed that the department had accepted the audit objection and assessment was modified accordingly. Though the company approached court, the Hon'ble High Court had ordered against the company and directed to repay an amount of Rs. 92 lakh given as concession. The Commissioner, Commercial Taxes Department said that Audit's view that allowance of deduction exceeding the provision of Income Tax Act was correct, but the assessment was done under section 41 of the Kerala Agricultural Income Tax Act 1991, in which there was no such condition that the admissible deduction, should not exceed 20% of income.

3. The Committee found that Investment Deposit Allowance was allowed for deduction from Agriculture Income Tax as per Kerala Agricultural Income Tax Act. There was no such provision in Agricultural Income Tax Act that deduction allowed as per Central Income Tax Act and deduction allowed as per Agricultural Income Tax should not exceed 20% of the income. According to Investment Deposit Scheme 1993, a Kerala State Government Scheme and as per SRO 1613/93 the deduction under the scheme not exceeding 8% of the agricultural income tax liable to tax under the Act along with the share of deduction provided under the Central Scheme shall not exceed 20% of the income computed under rule 8(1) of the Income Tax Rules, 1962. The Committee was of the opinion that the audit objection would stand as per the Rules. But the Rules made would not stand since there was no such provision in the Act. The Committee wanted to know whether the appeal was rejected by the court on the ground that Rules were framed without sufficient provisions in the Act. It was also enquired as to whether Government had argued that the tax was revised based on the Rules. The Committee directed to submit a detailed report on the issue. The Commissioner, Commercial Taxes explained that though the department had filed appeal in the case, it was rejected.

4. The Committee emphasized the need to amend the Kerala Agricultural Income Tax Act 1991 so as to make a provision in it for deduction of investment deposit allowance from total income. It was further directed that no Rules should be framed in any circumstances, on matters where there were no sufficient provisions in the respective Act.

5. The Committee enquired about the details regarding the short levy of tax of Rs. 2.63 lakh from a firm in Ernakulam due to incorrect allowance of deduction of Rs. 4.39 lakh claimed by the assessee towards Income Tax paid under Income Tax Act, 1961. The witness informed that it had been reassessed and tax had been collected as per revised assessment.

6. The Committee was of the opinion that Income Tax did not come under the Schedule of the Act. The Committee desired that Income Tax paid should be treated as an expenditure and that it should also be included in the schedule so that deduction could be allowable. The amendment to the Kerala Agricultural Income Tax Act 1991 had to be done accordingly.

7. The Committee found that in the office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, an assessee was allowed deduction of Rs. 2.87 lakh on account of expenditure on cattle feed though that was not related with activities of the business from which income was derived. This resulted in short levy of Rs. 1.52 lakh. In his reply, the Commissioner, Commercial Taxes Department informed that the assessment had been revised.

8. The Committee enquired as to why during the assessment of a company in Thiruvananthapuram for the year 1996-'97, the assessing officer allowed deduction of Rs. 3.40 lakh towards weeding expense as against Rs. 0.73 lakh allowed during 1995-96 without recording any reason for such abnormal increase during the assessment year. This resulted in short levy of tax of Rs.1.49 lakh. The witness replied that the deduction was eligible and was allowed on the basis of the order from the Appellate Authority.

Conclusions/Recommendations

9. **As per SRO 1613/93, deduction under Investment Deposit Scheme, not exceeding 8% of the Agricultural Income Tax liable to be levied under the Kerala Agricultural Income Tax Act along with the share of deduction provided under the Central Scheme shall not exceed 20% of income computed under rule 8(1) of Income Tax Rules, 1962. The Committee is of the view that the Rules made will not stand since there is no such provision in the Act. Therefore, the Committee recommends to amend the Kerala Agricultural Income Tax Act, 1991 so as to make a provision in it for deduction of Investment Deposit Allowance from the total income. It is also strongly recommended that no Rules shall be framed in any circumstances, on matters where there are no sufficient provision in the respective Acts.**

10. **The Committee recommends that Income Tax paid must be treated as an expenditure and that it should be included in the schedule of the Kerala Agricultural Income Tax Act, 1991 so that deduction can be allowed. An amendment to the said Act has to be done accordingly. The Committee regrets to note that though the department had agreed to furnish a detailed report about the grounds on which the Court had rejected the appeals in respect of deduction of Investment Deposit Allowance, the same is yet to be submitted to the Committee. Hence, it is suggested to furnish the required report without further delay.**

AUDIT PARAGRAPH

Non/short realisation of interest/penalty

(a) Under the Kerala Agricultural Income Tax Act, 1991, any person who fails to pay tax in pursuance of a demand notice, shall pay simple interest at the rate of 15 percent per annum for every month of delay or part thereof, on the unpaid tax. The Act further provides that the assessing officer may forward to the Collector a certificate under his signature specifying the arrears due which should include element of interest payable by an assessee, and the Collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as if it were arrears of land revenue.

(i) In Ernakulam, in the certificates issued (June 1995 and May 1996) by the assessing officer to the Collector for the recovery of arrears of Rs. 80.08 lakh due from a domestic company for the assessment years 1990-91 and 1991-92, interest of Rs. 17.32 lakh due for non-payment of tax was not included.

On this being pointed out in audit, the department stated (August 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

(ii) The Inspecting Assistant Commissioner, Ernakulam, while recommending (February 2001) revenue recovery proceedings against a company for non-payment of balance tax of Rs.2.27 crore for the assessment year 1998-99, advised recovery of interest of Rs.2.83 lakh for one month against interest of Rs. 5.66 lakh due for two months. This resulted in short demand of interest of Rs. 2.83 lakh.

On this being pointed out in audit, the assessing officer stated (July 2001) that the revenue authorities would collect the interest for the period from the date of service of demand notice till date of recovery and hence there was no loss of revenue. The reply is not tenable as the revenue authorities are liable to collect that amount which has been shown in the revenue recovery certificates. As such interest which became due for two months i.e. up to the date of issue of certificate should have been advised. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

(iii) The Inspecting Assistant Commissioner, Ernakulam, issued (January 1999) a certificate to the Collector for the recovery of an amount of Rs. 69.93 lakh from a domestic company towards arrears of tax for the assessment year 1995-96 and interest up to December 1998. On receipt of chalan for Rs. 69.93 lakh realised in March 1999, the assessing officer removed the item from the revenue recovery register treating the case as closed without recovery of interest for the period January 1999 to March 1999. This resulted in non-realisation of interest of Rs.2.28 lakh.

On this being pointed out in audit, the department stated (September 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

(b) The Kerala Agricultural Income Tax Act, 1991, requires every assessee to pay advance tax on the estimated total agricultural income which shall not be less than 80 per cent of the total agricultural income as per return before the end of February of the previous year failing which the assessee shall pay interest at the rate of 15 percent per annum for every month of delay or part thereof. In addition he shall be liable to pay a penalty at rate of two percent of such amount.

In the Office of the Inspecting Assistant Commissioner (Special), Ernakulam, it was noticed (August 2001) that interest/penalty for non-payment of advance tax of Rs.40 lakh by a domestic company for the assessment year 1998-99 was levied short by Rs. 6.29 lakh.

On this being pointed out in audit, the department stated (August 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

[Paragraph 3.3 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2002 (R.R)].

Note received from the Government on the above audit paragraph is included as Appendix II.

11. The Committee found that in the certificate issued (June 1995 & May 1996) by the assessing officer, Ernakulam to the District Collector, for the recovery of arrears of Rs. 80.08 lakh due from a domestic company for the assessment years 1990-91 and 1991-92 and interest of Rs. 17.32 lakh due for non-payment of tax was not included which was against the provisions in the Kerala Agricultural Income Tax Act 1991. The Committee enquired about the latest position of this case. The Commissioner, Commercial Taxes Department replied that assessment was revised but the firm approached Court against it. It had been advised for Revenue Recovery. The case was pending before the Appellate Tribunal and therefore the amount had not been realised.

12. The Committee then pointed out the case related to the Office of the Inspecting Assistant Commissioner, Ernakulam where the assessing officer, while recommending revenue recovery proceedings against a company for non-payment of balance tax of Rs. 2.27 crore for the assessment year 1998-99,

advised recovery of interest of Rs. 2.83 lakh for one month against interest of Rs. 5.66 lakh due for two months. The Committee enquired whether the amount of Rs. 2.83 lakh short demanded towards interest had been collected as the department stated earlier that a fresh Revenue Recovery Certificate had been issued on 31-1-2004. The Commissioner, Commercial Taxes Department replied that the said case was related to Kerala State Forest Development Corporation and the same was pending before the Tribunal. The reply seemed to be a bail in advance which implied difficulty in realising the amount from a government owned company.

13. The Committee enquired whether R.R.C. had been issued for realisation of interest of Rs. 2.28 lakh short levied from a company under the jurisdiction of Inspecting Assistant Commissioner, Ernakulam. The witness, Secretary, Taxes Department answered in the affirmative.

Conclusion/Recommendation

14. No Comments.

AUDIT PARAGRAPH

Incorrect determination of taxable income

(a) Under the Income Tax Rules, 1962, income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it were income derived from business and 40 percent of such income shall be deemed to be income liable to tax under the Income Tax Act, 1961. The remaining 60 percent of the composite income so computed by the Income Tax Officer shall be reckoned as agricultural income from tea.

In Ernakulam, while finalising (December 2000) the assessment for 1998-99 of a domestic company deriving income from tea and other agricultural products, the assessing officer erroneously reckoned income from tea as Rs. 61.90 lakh instead of income of Rs. 82.51 lakh as determined (March 2000) by the Central Income Tax Authority. This resulted in exclusion of income of Rs. 20.61 lakh and short levy of tax of Rs. 12.37 lakh.

The case was pointed out to the department in August 2001; their final reply has not been received (November 2002).

The case was reported to Government in April 2002 ; their reply has not been received (November 2002).

(b) In Thiruvananthapuram, while finalising (March 2001) the assessment of a company, the assessing officer omitted to reckon the income from slaughter tapping of 3000 rubber trees. This resulted in exclusion of income of Rs. 1.85 lakh and short levy of tax of Rs. 1.11 lakh.

On this being pointed out (April 2001) in audit, the department stated (July 2001) that the assessment had been revised (July 2001) raising additional demand for Rs. 1.11 lakh. Further report has not been received (November 2002).

The case was reported to Government in August 2001; their reply has not been received (November 2002).

(c) As per the Kerala Agricultural Income Tax Act, 1991, if any person fails to furnish the return of income as required under the Act, the assessing officer shall make the assessment to the best of his judgement after taking into account all relevant information he has gathered. The department had fixed (1996) the price of coffee at Rs.60 per kg for the assessment year 1995-96 in case of assessees who have not maintained proper accounts.

In Agricultural Income Tax and Sales Tax Office, Mannarkad, while finalising (May 2000 and March 2001), the assessments of four individual assessees who had neither produced the accounts nor had filed their returns of income for the assessment year 1995-96, the assessing officer reckoned the value of coffee at Rs. 50 per kg instead of Rs. 60 per kg fixed by the department. This resulted in short computation of income by Rs. 1.96 lakh and short levy of tax and surcharge of Rs.1.08 lakh.

On this being pointed out in audit, the department stated (October 2001) that the cases would be examined. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

[Paragraph 3.4 contained in the Report of the Comptroller of Auditor General of India for the year ended 31 March 2002 (RR)].

Note received from the Government on the above audit paragraph is included as Appendix II.

15. The Committee pointed out that in the case of a domestic company in Ernakulam the assessing officer erroneously reckoned income from tea as Rs. 61.90 lakh instead of income of Rs. 82.51 lakh as determined by the Central Income Tax Authority, during the assessment for the year 1998-99. This resulted the exclusion of income of Rs. 20.61 lakh and thereby a loss of Rs. 12.37 lakh towards tax. The Committee enquired the reason for that lapse. The witness, Secretary, Taxes Department replied that the assessment had been revised and R.R.C. was pending in this case. When the Committee enquired about the reason for it, the Commissioner, Commercial Taxes Department admitted that it was an

omission on their part. The Committee then enquired whether it was done purposefully and any action had been taken against the concerned officials. The Secretary answered that action had been taken but he didn't furnish any details.

16. Referring to the case in Thiruvananthapuram, the Committee stated that while finalising the assessment of a company, the assessing officer omitted to reckon the income from slaughter tapping of 3000 rubber trees. This resulted in exclusion of income of Rs. 1.85 lakh and short levy of tax of Rs. 1.11 lakh. The Commissioner, Commercial Taxes Department replied that the income from slaughter tapping of 3000 rubber trees was later included and the assessment was revised. But in the light of appellate order the income from slaughter tapping additionally estimated in 3000 trees were deleted hence the assessment originally completed was restored.

17. The Committee then asked on what ground such an order was issued. The Committee was of the opinion that when rubber trees were sold for slaughter tapping, the new party (contractor) would tap the rubber for 2 or 3 years and there would be an agreement for that. As per Agricultural Income Tax Act, tapping is eligible for tax assessment. If the new party had paid tax for tapping then the problem would be solved. The Committee wanted to be produced with a detailed report regarding the issue such as whether the seller had produced sale agreement and tax had been paid by the contractor. The Committee also directed to submit a copy of the order of the Tribunal.

18. The Committee enquired as to why the assessing officer (Sales Tax Office, Mannarkad) reckoned the value of coffee at a lower rate of Rs. 50 per kg. instead of Rs. 60 per kg. fixed by the department during the finalisation of assessments for the year 1995-'96 of four individual assesseees, who had neither produced accounts nor had filed their returns of the income within the time frame as stipulated in the Act. This in turn caused short levy of tax and surcharge of Rs. 1.08 lakh. The Commissioner, Commercial Taxes Department replied that out of those four cases, one case was reassessed and an amount of Rs. 21,890 was pending in R.R. in that case. In the other three cases there were no scope for revision because they were below the re-assessable limit.

Conclusion/Recommendation

19. The Committee wants to be submitted with a detailed report regarding the issue of omission of income from slaughter tapping of 3000 rubber trees during the assessment of tax. The report should contain the details of sale agreement, remittance of tax by the buyer etc. A copy of the order of the Appellate Authority excluding the income derived from slaughter tapping from the assessment should also be furnished.

AUDIT PARAGRAPH

Loss of revenue due to time-bar of assessments

As per the Kerala Agricultural Income Tax Act, 1991, all assessments shall be completed within a period of two years from the date of filing of return.

In the Agricultural Income Tax and Sales Tax Office, Kottarakkara, although an assessee firm filed its returns for the assessment years 1996-97 and 1997-98 in June 1997, the assessments for these years were not been finalised till April 2001. This resulted in the assessment becoming time-barred and loss of revenue of Rs. 2.57 lakh.

On these being pointed out in audit, the department stated (August 2001) that legal opinion had been sought for from the higher authorities. Further report has not been received (November 2002).

The cases were reported to Government in April 2002; their reply has not been received (November 2002).

[Paragraph 3.5 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2002 (RR)].

Note received from the Government on the above audit paragraph is included as Appendix II.

20. The Committee enquired whether the amount of Rs. 2.57 lakh tax due and interest thereon due to time barred assessment in respect of the assessee under STO, Kottarakkara had been collected. The Secretary, Taxes Department replied that tax as well as interest had been paid by the assessee.

Conclusion/Recommendation**21. No Comments.**

AUDIT PARAGRAPH

Incorrect exemption from tax

Under the Kerala Agricultural Income Tax Act, 1991, the total agricultural income of any charitable trust does not include any agricultural income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied or set apart for application to such purposes in the State. The Rules framed under the Act require the assessee to file details of agricultural income expended for charitable purposes in the State in the prescribed form.

In Agricultural Income Tax and Sales Tax Office, Aluva, while finalising (November 1999) the assessments for the assessment years 1995-96 to 1998-99 of a Religious and Charitable Association, the assessing officer did not levy tax on the total agricultural income of Rs. 13.21 lakh on the ground that it had been expended for religious and charitable purposes. However, a test check (December 2000) of the returns filed by the assessee revealed that no such expenditure had been incurred by the assessee out of this income. As such the exemption granted was incorrect and resulted in short realisation of tax and surcharge of Rs. 6.02 lakh.

On this being pointed out (December 2000) in audit, the department stated (June 2001) that the assessments had been revised (April 2001) raising demands for Rs. 6.26 lakh. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

[Paragraph 3.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2002 (RR)].

Note received from the Government on the above audit paragraph is included as Appendix II.

22. The Committee enquired as to why the assessing officer exempted the total agricultural income of Rs. 13.21 lakh of the firm on the ground that it had been expended for religious and charitable purpose, though no such expenditure had been incurred by the assessee out of that income. The witness, Secretary, Taxes Department replied that the assessment had been revised. But first and second appeals were decided in favour of the assessee. The revision case was pending in the Honourable High Court.

Conclusion/Recommendation

23. The Committee wants to be submitted with a detailed report on the case of exclusion of agricultural income for a Religious and Charitable Association in Aluva including the reason for the Appellate authority taking decision in favour of the assessee.

AUDIT PARAGRAPH

Short levy due to inadmissible composition of tax

(a) As per the Kerala Agricultural Income Tax Act, 1991 and Rules made thereunder, any person eligible to opt for composition of tax payable by him for any accounting year shall file his application for the purpose to the assessing

officer on or before the first day of July of the relevant assessment year and the assessing officer, after satisfying himself that the particulars specified in the application are correct, may grant permission for the same.

In Mannarkkad, the tax payable by an individual assessee for the assessment year 1997-98 was permitted to be compounded (August 1997) though the assessee had not filed application for composition of tax on or before 1 July 1997. This resulted in short levy of tax and surcharge of Rs. 1.85 lakh.

On this being pointed out (August 2000) in audit, the department stated (May 2001) that the assessment had been revised (February 2001) creating additional demand of Rs. 1.85 lakh. Further report has not been received (November 2002).

The case was reported to Government in August 2001; their reply has not been received (November 2002).

(b) Under the Kerala Agricultural Income Tax Act, 1991, for persons who were permitted to compound the agricultural income tax payable for any year, no tax was payable on the first three hectares of agricultural land up to 31 March 2001. This limit was increased to five hectares with effect from 1 April 2001.

In Kanjirappally, while permitting (between May 2000 and March 2001) 127 assesseees to compound the tax payable by them for the assessment year 2000-01, the assessing officer exempted the first 5 hectares from levy of tax in each case against 3 hectares permissible under the Act. This resulted in short levy of tax and surcharge of Rs. 1.40 lakh.

On this being pointed out (November 2001) in audit, the department stated (May 2002) that action was being taken to revise the assessments. Further report has not been received (November 2002).

The matter was reported to Government in April 2002; their reply has not been received (November 2002).

(c) Under the Kerala Agricultural Income Tax Act, 1991, any person holding not more than 20 hectares of land and deriving agricultural income can compound the tax payable by him and pay in lieu thereof a lumpsum at the rates specified in the Act. The limit of 20 hectares was increased to 500 hectares with effect from 1 April 2000.

In Kanjirappally, although the agricultural holdings of two individual assesseees exceeded 20 hectares, the assessing officer permitted (August 1999

and October 2000) them to compound the tax payable by them for the assessment year 1999-2000. This resulted in short levy of tax and surcharge of Rs. 1.30 lakh.

On this being pointed out, the department stated (January 2001 and November 2001) that the cases would be examined. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

[Paragraph 3.7 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2002 (RR)].

Note received from Government on the above audit paragraph is included as Appendix II.

24. The Committee came to know that Government had lost an amount of Rs.1.85 lakh due to inadmissible composition of tax allowed to an assessee who hadn't filed application for composition of tax on or before 1st July, 1997 as prescribed in Kerala Agricultural Income Tax Act, 1991. The Committee enquired whether composition of tax was admissible without receipt of application from the assessee. The witness, Secretary, Taxes Department replied that without application for composition of tax, the same should not be admitted and that in the particular case the assessing authority committed mistake. It was disclosed in the earlier reply of the Government that though the assessment was revised the same had been cancelled in Appeal. The Committee opined that the department didn't show any seriousness in this matter.

Conclusion/Recommendation

25. The Committee blames the department for committing such a mistake and suggests that this should not be repeated in future.

AUDIT PARAGRAPH

Results of audit

Test check of records of the offices of the State Excise and Registration departments conducted during the year 2005-06 revealed short demand of gallonage fee, non demand of interest, non/short realisation of revenue under

stamp duty and registration fee etc., amounting to Rs. 46.95 crore in 154 cases which may be categorised as under:

<i>(in crore of rupees)</i>			
<i>Sl. No.</i>	<i>Category</i>	<i>No. of cases</i>	<i>Amount</i>
A. State excise			
1	Short demand of gallonage fee	2	1.29
2	Non demand of interest on delayed remittances	3	0.14
3	Non/short demand of differential cost of establishment	12	0.11
4	Other lapses	11	0.24
B. Stamp duty and registration fees			
1	Undervaluation of documents	36	0.30
2	Irregular remission	8	0.02
3	Other lapses	82	44.85
Total		154	46.95

During the year 2005-06 the department accepted under assessments etc., of Rs. 40.62 lakh involved in 35 cases of which 13 cases involving Rs. 6.03 lakh were pointed out during 2005-06 and rest in earlier years. At the instance of audit, the department recovered an amount of Rs. 9.85 lakh in 28 cases of which eight cases involving Rs. 3.39 lakh pertained to 2005-06.

In one case, the Excise Department recovered Rs. 2.72 lakh in July 2006 in full after this was pointed out in audit.

Registration Department in June 2006 reversed an excess allocation of transfer duty of Rs. 8.72 lakh made to a panchayat after this was pointed out in audit.

A few illustrative cases involving Rs. 1.75 crore are given in the following paragraphs:

Short realisation of gallonage fee

Under the Foreign Liquor Rules, gallonage fee at the rate prescribed by Government is payable on the quantity of Indian Made Foreign Liquor (IMFL) sold by FL 9 licensees* Gallonage fee for 2004-05 was Rs. 3.20 per bulk litre (BL) of IMFL and beer.

* FL 9 licence—licence of possession and supply of foreign liquor in wholesale, by bonded warehouse.

Scrutiny of consumption statement in the office of the Circle Inspector of Excise at Kerala State Beverages Corporation Warehouse, Nedumangad revealed that the licensee sold 135.68 lakh BL of IMFL and beer during 2004-05. But the licensee paid gallonage fee of Rs. 3.08 crore against due of Rs. 4.34 crore. The department did not raise any demand for shot payment of gallonage fee. This resulted in short levy of Rs. 1.26 crore.

After this was pointed out in October 2005, the department accepted the audit observation; further reply has not been received (December 2006).

This was reported to Government in May 2006, reply has not been received (December 2006).

[Paragraphs 5.1 and 5.2 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006 (RR)].

26. Getting on to this audit observation about the short levy of gallonage fee amounting to Rs. 1.26 crore from FL-9 Licensee, Kerala State Beverages Corporation, Nedumangad, the Committee enquired the reason for the difference in quantity of sale of Indian Made Foreign Liquor (IMFL) from KSBC Warehouse, Nedumangadu as the consumption statement in the office of Circle Inspector of Excise showed sale of 135.68 lakh Bulk Litre against Government's statement of sale of 96,22,744.655 BL.

27. The witness, Secretary Taxes Department replied that the actual sale was 96.22 BL and gallonage fee in full had been paid by KSBC for that sale. IMFL was also transferred from one godown to another and that could not be considered as sale. The case had been examined by the concerned Deputy Commissioner and he reported that the transfer was only between godowns.

Conclusion/Recommendation

28. The Committee enquires as to why there was contradiction in the statements of the Circle Inspector of Excise, Nedumangadu and the Deputy Commissioner regarding the quantity of sale of Indian Made Foreign Liquor by Kerala State Beverages Corporation. In the statement of the Circle Inspector there was no reference of transfer of Indian Made Foreign Liquor between godowns. The Committee suspects a purposeful manipulation in this case and directs to submit a detailed report on the issue.

AUDIT PARAGRAPH

Short collection of cost of establishment

The Excise Commissioner, vide orders dated 1 June 1999 revised the rates of average cost of pay and allowances and contributions towards leave salary, pension and DCRG etc., recoverable on account of deputing excise supervisory staff for supervision of distilleries, Kerala State Beverages Corporation Warehouses (KSBCWH) etc., with effect from 1 March 1997. The Commissioner of Excise clarified in August 2000 that recovery is to be based on the scale of pay of the incumbents working in the institutions.

Scrutiny of records of KSBCWH, Alappuzha and Attingal and Chicops distillery, Menonpara revealed that cost of establishment of two excise officials for the period between May 2002 and March 2003 was not recovered at KSBCWH, Alappuzha. In other two cases, the cost was recovered on the basis of the scale of pay of the sanctioned post instead of the scale of pay of the incumbents. These resulted in short collection of cost of establishment amounting to Rs. 2.34 lakh relating to the period from May 2002 to March 2005.

This was pointed out to the department between August 2003 and October 2005 and reported to Government in June 2006. Government stated in October 2006 that Rs. 2.15 lakh had been remitted from the bonded warehouses and Rs. 0.12 lakh had been demanded from the distillery. Further report had not been received (December 2006).

Under Kerala Service Rules, combined rate of leave salary and pension contribution of Government servants on deputation to foreign service shall be 25 percent of the maximum of the scale of pay of the post from which deputation is sanctioned.

In three institutions*, leave salary and pension contribution of excise officers posted on deputation were realised at 25 percent of the average cost. This resulted in short recovery of leave salary and pension contribution amounting Rs. 2.06 lakh relating to the period from April 2000 to March 2005.

After this was pointed out between July and October 2005, the department stated in January 2006 that Rs. 1.36 lakh had been remitted in November 2005 from bonded warehouse at Palakkad. Further report has not been received (December 2006).

This was reported to Government in June 2006; reply has not been received (December 2006).

[Paragraph 5.3 contained in the Report of the Comptroller and Auditor General of India for the year ended on 31 March 2006 (R.R)].

* Chicops distillery, Menonpara, Empee distillery, Kanjikode and KSBCWH, Palakkad.

29. The Committee enquired about the reason for short collection of cost of establishment in respect of personnel deputed from Excise Department to Kerala State Beverages Corporation Warehouses to supervise the transactions. The Committee also pointed out that instead of remitting the amount of pension contribution and leave salary at a rate of 25% of the maximum of the scale of pay of the incumbents, it was recovered on the basis of the scale of pay of sanctioned post and in some other cases it was calculated on the average amount. Though the department informed earlier that they have recovered the balance amounts, the Committee expressed dissatisfaction on non-submission of the report on the matter by the department in time. It was also suggested to furnish RMT in time and the Secretary assured to do so. The department had furnished the RMT vide letter dated 23-1-2008 which is included as Appendix III.

Conclusion/Recommendation

30. No Comments

AUDIT PARAGRAPH

Short levy of stamp duty and registration fee

Under the Kerala Stamp Act, 1959, instruments on conveyance of property situated in panchayat, municipal and municipal corporation areas attracted stamp duty at Rs. 2, Rs. 3 and Rs. 4 respectively for every Rs. 100 or part thereof of the fair value of property or amount or value of such conveyance whichever is higher, during the period from 2 December 2003 to 31 March 2005. Surcharge on stamp duty under the Kerala Panchayat Raj Act, 1994 and Municipalities Act, 1994 was two percent during the above period. Fair value under the Kerala Stamp (Fixation of Fair Value of Land) Rule, 1995 was in force from 5 January 2004 to 18 February 2004. Under Registration Act, 1908, fee for registration of instrument of conveyance is two percent of value.

In 13 sub registry offices*, on 361 instruments of conveyance registered between 5 January 2004 and 18 February 2004, stamp duty and registration fee were levied on aggregate consideration of Rs. 3.30 crore shown in the instruments instead of on fair value of Rs. 8.29 crore worked out on the basis of fair value approved by the Revenue Divisional Officers. This resulted in short levy of stamp duty, surcharge and registration fee of Rs. 30.33 lakh.

The cases were reported to the department between April 2005 and March 2006; their reply has not been received (December 2006).

* Enadimangalam, Kareelakulangara, Kodungalloor, Kondotty, Kuthuparamba, Mathamangalam, Mundoor, Nemom, Parappanangadi, Ponnani, Ranni, Sreekantapuram and Varkala.

This was reported to Government in May 2006; their reply has not been received (December 2006).

[Paragraph 5.4 contained in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2006 (RR)].

Note received from the Government on the above audit paragraph is included as Appendix II.

31. When the Committee pointed out the short levy of stamp duty and Registration fee in 13 Sub Registry Offices for an amount of Rs. 30.33 lakh, during the period from 5-1-2004 to 18-2-2004, the witness, Secretary, Taxes Department replied that on enquiry, cases of short levy of stamp duty, surcharge and registration fee were found in 135 documents amounting to Rs. 10.77 lakh and that action was taken to realise it. The remaining cases were booked for under valuation.

32. The Committee asked whether any action had been taken against the erring officers concerned in this regard. The witness replied that financial liability of Rs. 10.77 lakh had been fixed on the concerned officers, and action had been taken against the Sub Registrars for causing revenue loss to government.

Conclusion/Recommendation

33. The Committee observes that most of these incidents are purposeful and expresses dissatisfaction on the working of Internal Audit Wing of the Department since they do not show any dexterity in finding out such lapses. The Committee strongly recommends to take adequate steps for the revamping and proper functioning of the Internal Audit Wing of the Department.

AUDIT PARAGRAPH

Non levy of entry tax

Kerala Tax on Entry of Goods into Local Areas Act, 1994, provides for levy of tax on entry into any local area of the State, for use or sale therein of any motor vehicle which is liable for registration in the state under the Motor Vehicles Act, 1988. The Registration authority shall not register the vehicles, unless vehicle owners submit proof of payment of entry tax. Entry tax on motor vehicle is 13.8 percent of purchase value during 2004-05.

In sub regional transport office, Thripunithura earth moving equipment (a vehicle) purchased from Bangalore in April 2004 by a firm in Kochi was granted registration in January 2005 without payment of entry tax. Reckoning value of Rs. 17 lakh shown in insurance policy as purchase value, entry tax amounting to Rs. 2.35 lakh was not levied.

This was pointed out to the department in September 2005; reply has not been received (December 2006).

The case was reported to Government in December 2005; reply has not been received (December 2006).

[Paragraph 5.5 contained in the Report of the Comptroller and Auditor General of India for the year ended on 31 March 2006 (RR)].

Note received from the Government on the above audit paragraph is included as Appendix II.

34. It was understood from the audit paragraph that the government had lost an amount of Rs. 2.35 lakh due to non-levy of entry tax on an earth moving vehicle brought from Bangalore during 2004-'05. The Committee asked how a vehicle purchased from outside the state was granted registration without the payment of entry tax in Sub Regional Transport Office, Thrissur.

35. The witness, Additional Chief Secretary, Transport Department replied that even though initially it appeared as if the purchase was effected in Bangalore and it was brought subsequently to Kerala, later on, the department found that the purchase was effected in Kerala and as such Entry tax was not attracted. Another thing, which he pointed out was that the Honourable High Court had subsequently decided to strike down the Entry tax itself.

36. The Committee did not agree with the Secretary's contention and disclosed that Honourable High Court's verdict came after the particular incident in question and both could not be linked with. The Committee also wanted to know as to why the department had not furnished Report on this issue in time, if they were clear about the issue. Instead, the department had not submitted RMT statements even after 2 years. The Secretary, Transport Department admitted that it was a mistake and he deeply regretted.

37. The Committee also wanted to know the outcome of the explanation sought from the Sales Tax Officer, Palarivattom, regarding the collection of Entry tax in this matter. The Additional Transport Commissioner replied that no specific reply regarding the collection of entry tax had been received. But reply was received from Taxes department informing the collection of tax pertaining to certain other categories. But it was not clear whether entry tax was collected or not. The Committee, at this juncture wanted to know the department's stand regarding collection of entry tax in this particular issue. The witness, Secretary, Taxes Department replied that the vehicle was brought from outside the state before the Order of the Honourable High Court striking down entry tax and was liable to pay entry tax. Pointing to the Transport Department's stand that

purchase was effected within the state, the Committee wanted to know as to how the vehicle was brought to the state if it was purchased in Bangalore. The Additional Transport Commissioner replied that an agency might have brought the vehicle from Bangalore and transferred it to another company in Kerala. Then the problem would be whether that agency had remitted the Entry Tax.

38. The Committee directed to report whether the purchase was effected within the state or outside the state. The Additional Transport Commissioner stated that the vehicle might have got temporary Registration in Bangalore as transportation licence and later it got pucca registration in Kerala State after its sale in the State.

39. The Committee was of the opinion that the vehicle was bought from Bangalore and subsequently it was brought to Kerala and got registered. Therefore entry tax was applicable for the vehicle. It was also stated in the Government reply that Registration Certificate of the vehicle was detained till date for want of proof of payment of Entry Tax. Then the Committee wanted to know whether Registration Certificate of the vehicle had been issued or not. The Additional Transport Commissioner, Transport Department replied that a Register number had been allotted to the vehicle and that it was a mistake done by the department. He further clarified that the fault occurred due to the non-vigilance happened on the part of the department in ascertaining the actual details of the sale. The department considered only the sale documents issued by the dealer in Kochi. The Committee saw this as a wilful action of the officer who gave registration to the vehicle without levying entry tax and opined that this should have been avoided. To a further query of the Committee as to whether any action had been taken for examining the case, the Additional Transport Commissioner answered that no specific reply in this regard had been received from Taxes Department.

40. The Committee wanted to know whether any such case had been reported in any other office. The witness replied that one similar case had been reported and that disciplinary action was going on against the officer concerned in that case. The Committee opined that some officials in the Transport department were wilfully doing false things to help clients to evade Entry Tax for getting bribe.

41. The Secretary, Taxes Department and the Additional Transport Commissioner assured the Committee that action would be taken against the officers concerned for wilful negligence after examining the matter.

42. Intervening in the discussion, the Secretary, Finance (Expenditure) Department argued that the purchase was made from Bangalore and the sale was

effected in Kerala. Hence no entry tax was payable except the Local Vehicle Tax. Disagreeing with this contention, the Committee stucked on to its earlier stand that since the vehicle was a new one, payment of entry tax was compulsory. The Finance Secretary explained that if entry tax was collected, there would be no scope for collection of Local Vehicle Tax. The Committee wanted to know the rates of Entry Tax and Sales Tax and which one was high. The witness replied that both were somewhat same.

43. The Committee asked the department to take action against the officer who did not furnish clear reply regarding the collection of entry tax. It was also directed to examine whether any revenue loss had occurred in the issue and to take measures for not to repeat such incidents in future. The witness assured to do so.

44. To a specific query of the Committee as to whether any circulars were issued to instruct that such lapses should not be repeated, the Commissioner, Commercial Taxes Department answered this being the first case circulars have not been issued but assured that effective steps would be taken to ensure that such incidents do not recur in future oppositely but assured that proper steps would be taken for not to recur such incidents.

45. The Committee visited Amaravila Check Post on 27-3-2008 in connection with the examination of audit paragraph. The Committee found that the Motor Vehicle Weigh Bridge at the Check post was not functioning. The Commissioner, Commercial Taxes Department informed the Committee that nearly 700-750 vehicles coming from outside the State and about 50 vehicles going out from the State were being checked in the Check post daily. He further informed that contract had been given through tender for constructing a new Weigh Bridge with the condition that the contractor should acquire land himself, and function it on Build, Operate and Own basis (BOO).

46. The officials produced the following registers which are to be maintained in the check posts, as demanded by the Committee.

- | | |
|---|------------------|
| 1. Register of Vehicle of Check | Register No. I |
| 2. Register of particulars of cases detected | Register No. II |
| 3. Register of goods seized and confiscated | Register No. III |
| 4. General Diary | |
| 5. Register of Despatch of declaration | |
| 6. Register of commodities sent outside state | |
| 7. Register of commodities brought into state | |
| 8. Bank Guarantee Register | |

47. On examination/verification of the above Registers, the Committee noticed that the entries in the Registers were not complete and authenticated. Full address of the parties were not recorded and the concerned officers had not signed in the Registers. This made the identification of those parties difficult.

48. The Committee asked whether periodical review and inspection of the Registers were being conducted by the higher authorities. The Commissioner, Commercial Taxes Department replied that inspections were being done and directions given in the Inspection Reports. To this, the Committee commented that even though irregularities were mentioned in the Inspection Reports they lacked entries regarding the details of Registers inspected.

49. The Committee then enquired whether separate Register was maintained for the reconciliation of revenue receipts. The Commissioner, Commercial Taxes Department replied that there was no such Register in the Check Post. The Committee pointed out that as per the Kerala Financial Code Vol. I every Head of Office should consolidate revenue collection and remittances in a Register and arrange to reconcile the same with the treasury figures. There was also a circular dated 27-7-2000 of the Commissioner of Commercial Taxes which instructed that the reconciliation of receipts of previous month should be done in the succeeding month itself.

50. The Committee pointed out a grave mistake happened in the check post earlier which was not detected by the staff of the check post due to lack of reconciliation of accounts. The police department remitted Rs. 2.35 crore towards entry tax in March 2004. The amount was remitted in the Head of Account "0021" relating to Income Tax instead of the Head of Account '0040'-Entry tax. The mistake was revealed in the Audit and not by the department. The Committee was of concern that such wrong remittances might have happened earlier and asked whether the department had examined the matter and whether any action had been taken by the department to get back the amount of Rs. 2.35 crore. The C.C.T. replied that when payment was made, it had to be assured that the remittance was made in proper Head of Account and countersigned by the concerned officer.

51. The Committee suggested that the amount remitted wrongly in the Head of Account relating to Income Tax should be credited back to the Head of Account relating to Entry Tax. The Committee recommended to take up the matter with the Home Department and the D.G.P. to refund the amount wrongly remitted and credit it to the correct Head of Account and the Commissioner of Commercial Taxes agreed to do it.

52. The Committee opined that lapse in the timely reconciliation of accounts was the main cause for such mistakes and enquired about the reasons for non-reconciliation. The C.C.T. informed that timely reconciliation was not done due to pressure of work; but reconciliation upto June 2007 had been completed in the Office of the Inspecting Assistant Commissioner, Neyyattinkara.

53. The Committee suggested to take steps for making it mandatory that chalans remitted towards Sales Tax, Entry Tax etc. should be got countersigned by the concerned officers of the Taxes Department and that remittances were made in the check posts.

54. The C.C.T. informed that instruction had already been issued by the department. He also added that after the implementation of VAT, instructions were issued to all departments to take VAT Registration. But even Forest Department had not taken VAT Registration.

55. Then the Committee opined that due to lack of VAT Registration the departments would not get reduction in input tax. It was recommended that all Departments should compulsorily take VAT Registration and that reconciliation of accounts of previous month be conducted in the succeeding month itself.

56. The Committee opined that though the Taxes department was one which generate income to Government, it was not reconciling collections in the check post itself as specified in the circular issued earlier. Even the reconciliation done in the office of Inspecting Assistant Commissioner, Neyyattinkara was not regular. The C.C.T. replied that reconciliation in the Office of the Inspecting Assistant Commissioner, Neyyattinkara was easy due to computerisation. Treasury figures and department figures were available in the 'web'. To a question of the Committee regarding the action used to be taken by the department in such cases, the C.C.T. informed that a case was found out and protective assessment had been filed against the party. He had taken registration at three places by binami and sold goods for crores of rupees. The Committee opined that criminal case should have been taken against such persons.

57. The Committee then wanted to know the position of advance tax. The C.C.T. replied that though there were 107 items under entry tax, only 12 items came under advance tax. Advance tax could be collected only from registered dealers which would be adjusted later. Advance tax was not attracted for goods which were brought for own use. While commenting on the progress in tax collection, the Committee opined that collection of tax had not increased despite increase in prices of commodities and that collection of VAT had decreased considerably. To a question on the details of items in which tax

collection increased, the C.C.T informed that it was in Registration of land. As far as vehicle tax was concerned, it was disclosed that tax collection from this category amounted to Rs. 1.47 crore till then.

58. Then the Committee asked about the smuggling of spirit across the borders. The Joint Commissioner, Excise Department, replied that those cases were less in number. 36,780 litres of spirit and 9 lorries were seized in the check post at Amaravila during the year 2007. But there was no facility in the Check Post to check the vehicles due to lack of space. The C.C.T. added that as per the new directions of Public Works Department, no developmental activities were permitted in places located between 35m and 45m from the central line of National Highway. Only temporary inspection and quick disposal was allowed which in turn adversely affected proper checking of smuggling.

Conclusions/Recommendations

59. **The Committee views it as strange that a vehicle (earth moving equipment) purchased from outside the state (Bangalore) was granted registration without payment of entry tax in Sub Regional Transport Office, Thrippunithura. In contradiction to Government reply that Registration Certificate of the vehicle has been detained for want of proof of payment of entry tax, the Additional Transport Commissioner stated that a Register number had been allotted to the vehicle and that it was a mistake on the part of the department. The department considered only the sale documents issued by the dealer in Kochi. The Committee sees this as a wilfull action of the officer who gave registration to the vehicle without levying entry tax. The Committee opines that some officials in the Transport Department are wilfully doing false things to help clients to evade Entry Tax merely for getting bribe. This misdeeds should be prevented at any cost.**

60. Referring to the action of the Sales Tax Officer, Palarivattom in the non-submission of a clear reply regarding the collection of entry tax to the vehicle in question, the Committee recommends to take disciplinary action against the officer and to examine whether any revenue loss occurred in this case.

61. **The Committee understands that there is lack of infrastructure facilities in the check posts and opines that strengthening of infrastructure facilities such as fixing of 'Weigh Bridge' is essential in the check post. The Committee recommends that reconciliation of accounts (Receipts) in the check post of the previous month be conducted in the succeeding month itself.**

62. The Committee realises that most of the departments have not taken VAT Registration and due to this, the departments do not get reduction in input tax. Therefore the Committee recommends that all departments shall compulsorily take VAT Registration.

63. The Committee observes that the remittance of entry tax in the Head of Account of 'Income Tax' was not detected in time due to lack of reconciliation of accounts at the proper time. The Committee recommends to take up the matter with the Secretary, Home department and the Director General of Police to refund the amount of Rs. 2.35 crore remitted in the wrong Head of Account. It is further recommended that in future, it should be assured that the remittances towards Sales Tax, Entry Tax etc. are made in the proper Head of Account and that the chalans be countersigned by a competent officer in the Taxes Department.

Thiruvananthapuram,
29th June, 2009.

ARYADAN MUHAMMED,
Chairman,
Committee on Public Accounts.

APPENDIX I

SUMMARY OF MAIN CONCLUSIONS/RECOMMENDATIONS

<i>Sl. No.</i>	<i>Para. No.</i>	<i>Department Concerned</i>	<i>Conclusions/Recommendations</i>
(1)	(2)	(3)	(4)
1	9	Taxes	As per SRO 1613/93, deduction under Investment Deposit Scheme, not exceeding 8% of the Agricultural Income Tax liable to be levied under the Kerala Agricultural Income Tax Act along with the share of deduction provided under the Central Scheme shall not exceed 20% of income computed under rule 8(1) of Income Tax Rules, 1962. The Committee is of the view that the Rules made will not stand since there is no such provision in the Act. Therefore, the Committee recommends to amend the Kerala Agricultural Income Tax Act, 1991 so as to make a provision in it for deduction of Investment Deposit Allowance from the total income. It is also strongly recommended that no Rules shall be framed in any circumstances, on matters where there are no sufficient provision in the respective Acts.
2	10	”	The Committee recommends that Income Tax paid must be treated as an expenditure and that it should be included in the schedule of the Kerala Agricultural Income Tax Act, 1991 so that deduction can be allowed. An amendment to the said Act has to be done accordingly. The Committee regrets to note that though the department had agreed to furnish a detailed report about the grounds on which the court had rejected the appeals in respect of deduction of Investment Deposit Allowance, the same is yet to be submitted to the Committee. Hence, it is suggested to furnish the required report without further delay.

(1)	(2)	(3)	(4)
3	19	Taxes	The Committee wants to be submitted with a detailed report regarding the issue of omission of income from slaughter tapping of 3000 rubber trees during the assessment of tax. The report should contain the details of sale agreement, remittance of tax by the buyer etc. A copy of the order of the Appellate Authority excluding the income derived from slaughter tapping from the assessment should also be furnished.
4	23	"	The Committee wants to be submitted with a detailed report on the case of exclusion of agricultural income for a Religious and Charitable Association in Aluva including the reason for the Appellate authority taking decision in favour of the assessee.
5	25	"	The Committee blames the department for committing such a mistake and suggests that this should not be repeated in future.
6	28	"	The Committee enquires as to why there was contradiction in the statements of the Circle Inspector of Excise, Nedumangadu and the Deputy Commissioner regarding the quantity of sale of Indian Made Foreign Liquor by Kerala State Beverages Corporation. In the statement of Circle Inspector there was no reference of transfer of Indian Made Foreign Liquor between godowns. The Committee suspects a purposeful manipulation in this case and directs to submit a detailed report on the issue.
7	33	"	The Committee observes that most of these incidents are purposeful and expresses dissatisfaction on the working of Internal Audit Wing of the Department since they do

(1)	(2)	(3)	(4)
			not show any dexterity in finding out such lapses. The Committee strongly recommends to take adequate steps for the revamping and proper functioning of the Internal Audit Wing of the Department.
8	59	Taxes & Transport	The Committee views it as strange that a vehicle (earth moving equipment) purchased from outside the state (Bangalore) was granted registration without payment of entry tax in Sub Regional Transport Office, Thrippunithura. In contradiction to Government reply that Registration Certificate of the vehicle has been detained for want of proof of payment of entry tax, the Additional Transport Commissioner stated that a Register number had been allotted to the vehicle and that it was a mistake on the part of the department. The department considered only the sale documents issued by the dealer in Kochi. The Committee sees this as a wilfull action of the officer who gave registration to the vehicle without levying entry tax. The Committee opines that some officials in the Transport department are wilfully doing false things to help clients to evade Entry Tax merely for getting bribe. This misdeeds should be prevented at any cost.
9	60	Taxes	Referring to the action of the Sales Tax Officer, Palarivattom in the non-submission of a clear reply regarding the collection of entry tax to the vehicle in question, the Committee recommends to take disciplinary action against the officer and to examine whether any revenue loss occurred in this case.

(1)	(2)	(3)	(4)
10	61	Taxes & Transport	The Committee understands that there is lack of infrastructure facilities in the check posts and opines that strengthening of infrastructure facilities such as fixing of 'Weigh Bridge' is essential in the check post. The Committee recommends that reconciliation of accounts (Receipts) in the check post of the previous month be conducted in the succeeding month itself.
11	62	All Administrative Departments	The Committee realises that most of the departments have not taken VAT Registration and due to this, the departments do not get reduction in input tax. Therefore the Committee recommends that all departments shall compulsorily take VAT Registration.
12	63	Taxes, Transport and Home	The Committee observes that the remittance of entry tax in the Head of Account of 'Income Tax' was not detected in time due to lack of reconciliation of accounts at the proper time. The Committee recommends to take up the matter with the Secretary, Home department and the Director General of Police to refund the amount of Rs. 2.35 crore remitted in the wrong Head of Account. It is further recommended that in future, it should be assured that the remittances towards Sales Tax and Entry Tax etc. are made in the proper Head of Account and that the chalans be counter-signed by a competent officer in the Taxes department.

APPENDIX II

ACTION TAKEN NOTES ON C & AG'S REPORTS

I (a) Department	Commercial Taxes Department
(b) Subject/Tittle of the Review Paragraph	Short levy of tax due to allowance of Inadmissible deduction
(c) Paragraph No.	3.2 (a)
(d) Report No. and year	C&AG's Report for the year ended 31-3-2002 (RR)
II (a) Date of receipt of the Draft Para/Review in the Department	15-4-2002
(b) Date of Department's reply	Reply not given
III Gist of Paragraph/Review	In IAC (Spl.) Ernakulam, while finalising the assessment in respect of M/s. Tata Tea Ltd. for the year 1998-99, the assessee Company, had already availed a deduction of Rs. 4.46 Crore computed under the Central Scheme was further allowed a deduction of Rs. 85.73 Lakh on account of investment deposit scheme allowable under the KAIT Act. As further deduction allowed exceeded 20% of the Income computed under Rule 8 (1) of the Income Tax Rules. The deduction of Rs. 85.73 lakh was incorrect and resulted in short levy of tax of Rs. 51.44 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 <i>Remedial action taken</i> | | |
| (1) | Improvement in system and procedure including internal controls. | The original assessment was revised on 30-5-2002 under section 41 of the AIT Act, 1991. |
| (2) | Recovery of overpayment pointed out by Audit. | Additional demand created for Rs. 55,72,308. |
| (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 allowance of Inadmissible deduction
	(c) Paragraph No.	3.2 (b) (i)
	(d) Report No. and year	C&AG's Report for the year ended 31-3-2002 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	20-3-2002
	(b) Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While finalising the assessment of Oil Palm India Ltd. for the year 1998-99 the assessing authority allowed a deduction of Rs. 4.39 lakh claimed by the assessee towards expenses on Income Tax. The same resulted in a short levy of tax Rs. 2.63 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 Accountant General has given sanction to set apart Rs. 3,07,80,660 as income assessable for AIT purpose. If the assessing authority has fixed a lesser income than that there is scope for further audit by the Accountant General

- 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.
- In this case, the assessing authority has disallowed Rs. 1,24,76,610 from the expense approved by the Accountant General, the Company has claimed Rs. 5,13,242.90 as prior period expense and at the same time has offered Rs. 10,60,938.75 as prior period adjustment in the income side. As the assessing authority has taken Rs. 10,60,938.75 as income then the company is entitled for deduction of the entire prior period expenses of Rs. 5,12,242.90. If the notice is issued to revise the assessment on the above audit observation, there is every chance of claim from the company to delete the prior period income of Rs. 10,60,938.75 in which case, there will be a loss of Rs. 6,22,387.75 (Rs.10,60,938.75-4,38,551) to the Department.

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 allowance of Inadmissible deduction
(c) Paragraph No.	3.2 (b) (ii)
(d) Report No. and year	C&AG's Report for the year ended 31-3-2002 (RR)
II (a) Date of receipt of the Draft Para/Review in the Department	20-3-2002
(b) Date of Department's reply	Reply not given
III Gist of Paragraph/Review	In the Office of the Inspecting Assistant Commissioner (Special), Ernakulam, Assessing authority has allowed a deduction of Rs. 2.87 lakhs on account of expenditure on cattle feed though this was not related with activities of the business from which the Income was derived. This resulted in short levy of tax of Rs. 1.52 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. | Assessment was revised under section 41 of the KAIT ACT Fixing balance loss Rs. 4,12,093. |
| (2) Recovery of overpayment pointed out by Audit. | Not applicable |
| (3) Recovery of under assessment, Short levy or other dues. | Since the assessment was completed on no loss, no Agricultural Income Tax is outstanding against the assessee company for the year 1998-99. |
| (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 allowance of Inadmissible deduction
	(c) Paragraph No.	3.2 (b) (iii)
	(d) Report No. and year	C&AG's Report for the year ended 31-3-2002 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	23-3-2002
	(b) Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	In Agricultural Income Tax Office, Thiruvananthapuram while finalising the assessment in respect of M/s. Union Cardamom (P) Limited for the year 1996-97, the assessing officer allowed a deduction of Rs. 3.40 lakh towards expenditure on weeding expense as against Rs. 0.73 lakh allowed during the preceding year.
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 AITO has fully allowed the weeding expense in view of the direction contained in the appellate order No. ITA 21/01 dated 20-1-2002.
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 assessing authority arrived at his findings that the expense claimed were fully related to matured area and are duly covered by records.

VI *Remedial action taken*

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| (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

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| I (a) Department | Commercial Taxes Department |
| (b) Subject/Title of the Review Paragraph | Non Short realization of interest/ penalty. |
| (c) Paragraph No. | 3.3 (a) (i) |
| (d) Report No. and year | C&AG's Report for the year ended 31-3-2002 (RR) |
| II (a) Date of receipt of the Draft Para/Review in the Department | 15-4-2002 |
| (b) Date of Department's reply | Reply not given |
| III Gist of Paragraph/Review | The Revenue Recovery Certificate issued by the assessing authority to the collector for Recovery of arrears of 80.08 crore due from a domestic Company for the assessment years 1990-91 and 1991-92, interest of Rs. 17.32 lakh due for non-payment of tax was not included. |
| 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. | Revised Revenue Recovery Certificate was issued on 23-1-2004 for the full amount of interest. |
| (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 demand of interest
	(c) Paragraph No.	3.3 (a) (ii)
	(d) Report No. and year	C&AG's Report for the year ended 31-3-2002 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	23-3-2002
	(b) Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	While Recommending in Revenue Recovery against M/s. Kerala Forest Development Corporation Ltd. for non payment of balance tax of Rs. 2.27 crore for the assessment year 1998-99, interest of Rs. 2.83 lakhs was advised for Revenue Recovery as against Rs. 5.66 lakhs due for two months resulting in short demand of interest of Rs. 2.83 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. | Nil |
| (2) Recovery of overpayment pointed out by Audit. | Fresh Revenue Recovery Certificate for Rs. 2.83 lakhs has been issued on 31-1-2004. |
| (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 realisation of interest
	(c) Paragraph No.	3.3 (a) (iii)
	(d) Report No. and year	C&AG's Report for the year ended 31-3-2002 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	20-3-2002
	(b) Date of Department's reply	Reply not given
III	Gist of Paragraph/Review	The inspecting Assistant Commissioner (Special), Ernakulam issued a certificate to the Collector for the Recovery of an amount of Rs. 69.93 lakhs from the Rehabilitation Plantation Limited towards arrears of tax for the assessment year 1995-96 and Interest upto 12/98. On receipt of Chalan for Rs. 69.93 lakh realized in March 1999, the assessing officer removed the item from the RR Register treating the case as closed without recovery of Interest for the period 1/99 to 3/99. This resulted in non realisation of interest of Rs. 2.28 lakh.
IV	(a) Does the Department agree with the facts and figures included in the paragraph ?	No

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|---|--|
| (b) If not, Please indicate areas of disagreement and also attach copies of relevant documents in support. | (The assessment was modified on 14-5-2002 in the light of the appellate order No. AITA.5/98 dated 20-10-2001, the total demand has become reduced and the amount realized. The Revenue Recovery Certificate has become in excess of Rs. 8,27,551. Therefore even if the removal of the above item from the Revenue Recovery Register on the part of the assessing authorities is a mistake but the same does not effect the State revenue. |
| 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 IV (b) |
| VI <i>Remedial action taken</i> | |
| (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 Review/Paragraph	Non/Short realization of Interest/Penalty
	(c) Paragraph No.	3. 3 (b)
	(d) Report No. and Year	C & AG Report for the year ended 31-3-2002 (RR)
II	(a) Date of receipt of the Draft Para/Review in the Department	15-4-2002
	(b) Date of Department's Reply	Reply not furnished
III	Gist of Paragraph/Review	In the office of the Inspecting Assistant Commissioner (Special) Ernakulam, it was noticed (August 2001) that interest/penalty for non payment of advance tax of Rs. 40 lakhs by a domestic company for the year 1998-99 was levied short by Rs. 6.29 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 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 demanding interest Under Section 37(4) for Rs. 3,11,487 was issued on 24-1-2004. Penalty of Rs. 7,20,000 imposed as per order dated, 14-2-2006 and made good the short levy.

ACTION TAKEN NOTES ON C&AG'S REPORTS

I	(a) Department	Commercial Taxes Department
	(b) Subject/Title of Review/Paragraph	Non/Short realization of Interest/Penalty
	(c) Paragraph No.	3. 3 (iii) (b) (i)
	(d) Report No. and Year	C & AG Report for the year ended 31-3-2002
II	(a) Date of receipt of the Draft Para/Review in the Department	15-4-2002
	(b) Date of Department's Reply	6-4-2006
III	Gist of Paragraph/Review	In the office of the Inspecting assistant Commissioner (Special), Ernakulam, while levying (March 2001) penalty for non-payment of advance tax by a domestic company for the assessment year 1998-99, the assessing officer reckoned a payment of Rs. 40 lakh made (April 1997) by the assessee towards tax for the assessment year 1997-98 as advance tax for the assessment year 1998-99. This resulted in short levy of penalty 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*

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| (1) Improvement in system and procedures including internal controls | The Audit Objection has been examined with the assessment records and on seeing that the Audit Observation is correct a penalty of Rs. 7,20,000 was imposed vide order dated 14-2-2006 and demand notice was issued. Based on the request of the assessee the penalty has been modified by implementing the order u/s. 37 of the AIT Act 1991 dated 14-1-2003 and giving effect to the Appellate order No. AITA 29/2003 dated 14-7-2005 the penalty amount of Rs. 7,20,000 has been reduced to Rs. 3,55,879. Since the assessee had requested to modify their assessments from 1987-88 to 1998-99 in the light of Appellate order there will be excess to refund. Therefore the collection of penalty has not been enforced. |
| (2) Revcovery 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 ON 31-3-2002

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|-----|---|--|
| I | (a) Department | Commercial Taxes Department |
| | (b) Subject/Title of Review/Paragraph | Non/Short realization of Interest/Penalty |
| | (c) Paragraph No. | 3. 3 (iii) (b) (2) |
| | (d) Report No. and Year | C & AG Report for the year ended 31-3-2002 |
| II | (a) Date of receipt of the Draft Para/Review in the Department | 15-4-2002 |
| | (b) Date of Department's Reply | 27-3-2004 |
| III | Gist of Paragraph/Review | In the office of the Inspecting Assistant Commissioner (Special) Ernakulam, while levying (March 2001) interest for non-payment of advance tax by a domestic company for the assessment year 1998-99, the assessing officer reckoned a payment of Rs. 40 lakh made (April 1997) by the assessee towards tax for the assessment year 1997-98 as advance tax for the assessment year 1998-99. This resulted in short levy of penalty of Rs. 3.11 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 interest has been demanded u/s. 37 (4) of the AIT Act 1991 ie. Rs. 4,50,669 at 15% of Rs. 90,00,000 for one month and Rs. 30,05,944 for 9 months. But as per appeal AITA No. 17/04 dated 26-11-2004 it has been directed to delete Rs. 90,00,000 from calculating interest since the assessee submitted cheque on 23-2-1998 and the same has been acknowledged by the assessing authority. Accordingly the interest has been modified as under :
- 80% of Rs. 2,00,07,430 is Rs. 1,60,05,944 less Rs. 90 lakhs paid before 28-2-1998. The balance is Rs. 70,05,944. Interest for 18 months at 15% Rs.7,00,594. Less interest already demanded on 28-3-2001 Rs. 4,50,669. Thus the short demand of interest comes to only Rs. 2,49,925. The collection of this balance interest has not been enforced as the tax will be in excess if the assessment orders for the year 1987-88 to 1998-99 are modified as per the appellate orders.
- (2) Revcovery 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 : Incorrected determination of
Paragraph taxable income
- (c) Paragraph No. : 3-4 (a)
- (d) Report No. and year : C&AG's Report for the
Year ended 31-3-2002 (RR)
- II (a) Date of receipt of the Draft : 20-4-2002
Para/Review in the Department
- (b) Date of Department's reply : 26-12-2003
- III Gist of Paragraph/Review : In Ernakulam, while fixing the
AIT Income from Tea for the
assessment year 1998-99 in
respect of M/s. Hoper Plantation
the assessing authority
erroneously reckoned income
from tea Rs. 61.90 lakh instead
of the actual income of Rs. 82.51
lakh as determined in the
Central Income tax authority.
This resulted in exclusion of
Income of Rs. 20.61 lakh and
short levy of tax of Rs. 12.37 lakh.
- IV (a) Does the Department agree : Yes
with the facts and figures
included in the paragraph ?
- (b) If not, Please indicate areas of : Not applicable
disagreement and also attach
copies of relevant documents in
support.
- V (a) Does the Department agree : Yes
with the audit conclusions?

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

VI *Remedial action taken*

- (1) Improvement in system and procedure including internal controls. : To make good the loss of Income the assessing authority has received the assessment on 5-12-2002. As per the revised order.
- (2) Recovery of overpayment pointed out by Audit. : Balance income fixed for 98-99 is Rs. 79,88,819 the tax due at 65% worked out to be Rs. 51,92,752, Out of this a sum of Rs. 15 lakh was remitted by the assessee Balance is pending under Revenue Recovery.
- (3) Recovery of under assessment, Short levy or other dues. : Disciplinary action is being initiated against the Delinquent Officer.
- (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 : Incorrected determination of taxable income
- (c) Paragraph No. : 3-4 (b)
- (d) Report No. and year : C&AG's Report for the Year ended 31-3-2002 (RR)
- II (a) Date of receipt of the Draft Para/Review in the Department : 15-4-2002
- (b) Date of Department's reply : Reply not given
- III Gist of Paragraph/Review : In Thiruvananthapuram while finalizing the assessment in respect of M/s Union Cardamom (P) Ltd. for the year 96-97, the assessing authority omitted to reckon the slaughter tapping income from 3000 number of rubber trees resulting in exclusion of income of Rs. 1.85 lakh and short levy of Rs. 1.11 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 appellate order in TA. 21/2001 date 20-1-2002 the slaughter income additionally estimated in 3000 trees based on the inspection report dated 28-12-1996 were deleted in the assessment order for the year 96-97, also and hence the assessment originally completed as per proceedings dated 30-3-2001 was restored.

- 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 the reply to item IV (b) above

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 : Incorrected determination of
Paragraph taxable income
- (c) Paragraph No. : 3-4 (c)
- (d) Report No. and year : C &AG Report for the
Year ended 31-3-2002 (RR)
- II (a) Date of receipt of the Draft : 15-4-2002
Para/Review in the Department
- (b) Date of Department's reply : Reply not given
- III Gist of Paragraph/Review : In AIT & STO, Mannarkkad,
while finalising the assessment
of for individual assesseees who
had neither produced the
accounts not had filed their
returns, of income for the
assessment year 1995-96, the
assessing officer reckoned the
value of coffee at Rs. 50 per kg
instead of Rs. 60 per kg. fixed
by the Department. This resulted
in short computation of income
by Rs. 1.96 lakh and short levy
of tax and surcharge of Rs. 1.08
lakh
- IV (a) Does the Department agree : Yes
with the facts and figures
included in the paragraph ?
- (b) If not, Please indicate areas of : Not applicable
disagreement and also attach
copies of relevant documents in
support.
- V (a) Does the Department agree : Yes
with the audit conclusions ?

- (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. : Shri Thomas, Karukppally Assessment was revised under section 39 (1) & 12 (1) on 18-6-2002 demanding Rs 21,890. the amount is pending collection under Revenue recovery.
- (2) Recovery of overpayment pointed out by Audit. : Shri Mathi, S/o Devasya He disposed of his properties and shifted his residence to mannarkkad. Hence the assessment in respect of Shri Mathai was cancelled on 26-4-2005 and initiated procedure for completing escaped assessment.
- (3) Recovery of under assessment, Short levy or other dues. : 3. Smt . Molly, W/o Immanuel Jacob. Her plot was inspected and found that she had only 5.27 acres of cultivated area which was below assessable limit. Hence the assessment was recorded as a case of "Nil" Demand.
- (4) Modification in the schemes and programmes including financing pattern : 4. Smt. Threassiamma, W/o Ouseph. On enquiry, it was found that there was no coffee cultivation possessed by the assessee. Hence the assessment was cancelled on 26-1-2005 and initiated action for completing escaped assessment.
- (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 ON 31-3-2002

- I (a) Department : Commercial Taxes Department
- (b) Subject/Title of the Review Paragraph : Incorrected determination of taxable income
- (c) Paragraph No. : 3-4 (c)
- (d) Report No. and year : C &AG Report for the Year ended 31-3-2002
- II (a) Date of receipt of the Draft Para/Review in the Department : 15-4-2002
- (b) Date of Department's reply : 29-6-2005
- III Gist of Paragraph/Review : In Agricultural Income Tax and Saltes Tax Office, Mannarkkad, while finalising (May 2000 and March 2001), the assessment of four individual assesseees who had not filed their returns of income for the assessment year 1995-96, the assessing officer reckoned the value of coffee at Rs. 50 per kg instead of Rs. 60 per kg. fixed by the Department. This resulted in short computation of income by Rs. 1.96 lakh and short levy of tax and surcharge of Rs. 1.08 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 procedures, including internal controls. : While completing AIT assessment of 4 individual cases for the assessment year 1995-96 by exparte at AIT office, Mannarkkad, the income from coffee valued at Rs. 50 per kg. instead of Rs. 60 per kg. fixed by the Deputy Commissioner, Palakkad. This resulted in loss of revenue of Rs. 1.08 lakh. The audit Objection has been examined with the assessment records of the case.

1. Shri Thomas Kanikapally

The assessment in this case for the year 1995-96 was completed as exparte on 4-5-2000. In the assessment value of coffee taken as Rs. 50 per kg. instead of Rs. 60 per kg. this resulted in short levy of Rs. 21,890. To make good the loss the assessment has been revised on 18-6-2002 and demanded Rs. 21,890 and the demand was advised for R.R.

2 Mathai, S/o Devassia

Mathai was holding only 5 acres of land which

has been disposed by him to his two brothers years back and Mathai had shifted his residence and the exparte assessment completed has been cancelled on 26-4-2005. Since the possession is below the assessable limit, no scope for assessment.

3 Molly, W/o Immanual Jacob

The assessment of Smt.Molly for 1990-91 to 1996-97 were completed exparte on 29-3-2001. In appeal the Appellate Assistant Commissioner Palakkad vide AITA Nos. 146 to 151/2001 dated 12-11-2001 directed the assessing authority to modify the assessments after conducting plot inspections. Accordingly plot inspection was conducted and found that Smt. Molly was only in possession of 5.27 acres, which is below the assessable minimum and the assessments were recorded as a case of Nil demand. Hence there is no loss of revenue.

4. Thresiamma, W/o. Ouseph

The assessment in respect of Smt. Thresiamma for the year 1994-95 to 1999-2000 was completed exparte and the assessment order was returned by the postal authorities stating 'insufficient address'. The enquiries of the Agricultural Income Tax Officer revealed that by relying on the details in the Basic Tax Register, the assessing authority wrongly assessed the income of another Thresiamma who had no coffee cultivation. Therefore the assessment made on Smt. Thresiamma was cancelled on 26-4-2005. Hence there is no loss of revenue in this case as pointed out in Audit.

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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. | : | .. |
| (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 : Loss of revenue due to Time-bar
assessment.
- (c) Paragraph No. : 3.5
- (d) Report No. and year : C&AG's Report for the year ended
31-3-2002 (RR)
- II (A) Date of receipt of the Draft : 20-4-2002
Para/Review in the Depart-
ment
- (b) Date of Department's reply : 24-11-2004
- III Gist of Paragraph/Review : In the Agricultural Income Tax and
Sales Tax Office, Kottarakkara,
although an assessee firm filed its
returns for the assessment years
1996-97 and 1997-98 in 6/1997, the
assessments for these years were not
been finalized till April 2001. This
resulted in the assessment becoming
time-barred and loss of revenue of
Rs. 2.57 lakh
- IV (a) Does the department agree : No
with the facts and figures
included in the paragraph ?
- (b) if not, please indicate the : Since the assessee firm have remitted
areas of disagreement and the tax already, no loss of revenue is
also attach copies of relevant seen in this case.
documents in support
- V (a) Does the department agree : No
with the audit conclusions ?

- (b) if not, please indicate the specific areas of disagreement with reasons for disagreement and also attach copies of relevant documents, where necessary ? : Since the assessee firm have already remitted tax, no issue of time bar assessment.

VI *Remedial action taken*

- (1) Improvement in system and procedure including internal controls : Not applicable
- (2) Recovery of over payment pointed out by audit : Not applicable
- (3) Recovery of under assessment, short levy, other dues : Not applicable
- (4) Modification in the scheme 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 Tax
- (c) Paragraph No. : 3.6
- (d) Report No. and year : C&AG's Report for the year ended 31-3-2002 (RR)
- II (A) Date of receipt of the Draft
Para/Review in the Department : 20-3-2002
- (b) Date of Department's reply : 1-1-2003
- III Gist of Paragraph/Review : In the Agricultural Income Tax and Sales Tax Officer, Aluva, while finalising the assessment of M/s. Bethel Foundation for the assessment year 1995-96 to 1998-99 the assessing Officer did not levy tax on total Agricultural Income of Rs. 13.21 lakh on the grounds that it had been expended for Religious and Charitable purpose. On Verification of the returns filed by the assessee no such expenditure had been incurred by the assessee out of this Income. As such the exemption granted was incorrect and resulted in short realization of tax and surcharge of Rs. 6.02 lakhs.
- IV (a) Does the department agree
with the facts and figures
included in the paragraph ? : Yes
- (b) if not, please indicate the
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 the 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 procedures including internal controls : Assessment revised under section 41 of the Agricultural Income Tax Act. Assessee filed appeal before Appellate Assistant Commissioner. The learned Appellate Assistant Commissioner allowed the appeal. The Department has filed second appeal before STAT. The STAT, Ernakulam Branch has dismissed the appeal filed by the State. So the Department has proceeded for filling TRC against the Tribunal order before the Honourable High Court of Kerala.

(2) Recovery of over payment 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 inadmissible
composition of tax
- (c) Paragraph No. : 3.7(a)
- (d) Report No. and year : C&AG Report for the year ended 31-
3-2002 (RR)
- II (a) Date of receipt of the Draft : 20-3-2002
Para/Review in the Depart-
ment
- (b) Date of Department's reply : Reply not given
- III Gist of Paragraph/Review : In Mannarkkad, the tax payable by an
individual assessee for the assessment
year 1997-98 was permitted to be
compounded though the assessee had
not filed application for composition
of tax on or before 1st July 1997.
This resulted in short levy of tax and
surcharge of Rs. 1.85 lakh
- IV (a) Does the department agree : Yes
with the facts and figures
included in the paragraph ?
- (b) If not, please indicate the : Not applicable
areas of disagreement and
also attach copies of relevant
documents in support
- V (a) Does the department agree : Yes
with the audit conclusions ?
- (b) If not, please indicate the : Not applicable
specific areas of disagree-
ment with reasons for dis-
agreement and also attach
copies of relevant documents
where necessary.

VI *Remedial action taken*

- | | | |
|--|---|---|
| (1) Improvement in system and procedures including internal controls | : | Based on the audit, the assessment for the year 1977-98 was revised on 23-2-2001 under section 39(4) of the AIT Act 1991. The Appellate Assistant Commissioner, Palakkad as per order No. AITA.84/01 dated 25-5-2001 has annulled the revised order, and restored the original order completed under section 13 of the Agricultural Income Tax Act. |
| (2) Recovery of over payment 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 misclassification of
goods
- (c) Paragraph No. : 3.7(b)
- (d) Report No. and year : Report of the C&AG for the year
ended 31-3-2002 (RR)
- II (A) Date of receipt of the Draft : 24-4-2002
Para/Review in the Depart-
ment
- (b) Date of Department's reply : Reply not given
- III Gist of Paragraph/Review : In Kanjirappally, while permitting
(between May 2000 and March
2001), 127 assesseees to compound tax
payable by them for the year 2000-01,
the assessing officer exempted the
first 5 hectares from levy of tax in
each case against 3 hectares
permissible under the Act. This
resulted in the short levy of tax and
surcharge of 1.40 lakhs.
- IV (a) Does the department agree : Yes
with the facts and figures
included in the paragraph ?
- (b) If not, please indicate the : Not applicable
areas of disagreement and
also attach copies of relevant
documents in support.
- V (a) Does the department agree : Yes
with the audit conclusions ?

- (b) If not, please indicate the 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 procedures including internal controls : Annexure attached
- (2) Recovery of over payment 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

ANNEXURE TO ACTION TAKEN NOTES PROFORMA

1. T.20/2000-01—Thressiamma Mathew (Sl. No. 76)

The original assessment was completed under sec. 13 of the AIT Act on 13-3-2001. The assessee expired on 2-8-1999. Therefore the assessment became irregular as per Sec. 13 (2) of AIT Act. Since the assessee had possessed the agricultural holdings for less than 180 days. Her entire properties had been bequeathed to six persons vide her will deed dated 4-6-1999. The recipient assesseees had already included the land in their AIT return for the year 2000-01. Hence the audit objection seems devoid of merit.

2. J.40/2000-01—P. J. Dominic for P. D. Joseph (Sl. No. 31)

Shri P. D. Joseph expired on 9-4-1996 and he bequeathed his entire properties to four persons as per his will deed dated 11-1-1996. On appeal, the Appellate Assistant Commissioner, Kottayam vide order No. ITA 35/01 has ordered to modify the assessment in accordance with the will deed. The previous years assessments were also been set aside by the appellate Assistant Commissioner, Kottayam vide order No. ITA-15, 340/98 and 158/99. In this case also the audit objection seems devoid of merit.

3. G.17/2000-01—George Thomas:

The above assessment has been enlisted has Sl.No. 22 and Sl.No. 127 in duplication. The assessment has already been revised.

4. A.110—J. Abraham

The above assessment has been enlisted as Sl.No. 86 and Sl.No. 113 in duplication. The assessment has already been revised.

Out of a total 127 assessment, 123 were already revised.

ACTION TAKEN NOTES ON C&AG's REPORTS

- I (a) Department : Commercial Taxes Department
 (b) Subject/Title of Review/Paragraph : Short levy due to inadmissible composition of tax
 (c) Paragraph No. : 3.7 (b)
 (d) Report No. and Year : C & AG Report for the year ended 31-3-2002
- II (a) Date of receipt of the Draft Para/Review in the Department : 24-4-2002
 (b) Date of Department's Reply : 28-2-2005, 16-12-2005, 13-12-2006
- III Gist of Paragraph/Review : In Kanjirappally, while permitting (between May 2000 and March 2001) 127 assessees to compound the tax payable by them for the assessment year 2000-01, the assessing officer exempted the first 5 hectares from taxation in each case against 3 hectares permissible under the Act. This resulted in short levy of tax and surcharge of Rs. 1.40 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 : Not Applicable
 specific areas of
 d i s a g r e e m e n t
 with reasons for disagree-
 ment and also attach
 copies of relevant
 documents where
 necessary.

VI *Remedial action taken*

- (1) Improvement in system : The Audit objection has been examined
 and procedures, with the assessment records of AIT & ST
 including internal Office, Kanjirappally and the assessments
 controls of these 127 cases has been revised and
 the additional demand has been collected
 and adjusted from the excess payment
 made during previous years.
- (2) Revcovery of overpay : ..
 ment 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 findings of sample
 check by audit

ACTION TAKEN NOTES ON C&AG's REPORTS

- I (a) Department : Commercial Taxes Department
- (b) Subject/Title of Review/Paragraph : Short levy due to inadmissible composition of tax
- (c) Paragraph No. : 3.7 (c)
- (d) Report No. and Year : C & AG's Report for the year ended 31-3-2002 (RR)
- II (a) Date of receipt of the Draft Para/Review in the Department : 20-4-2002
- (b) Date of Department's Reply : Reply not given
- III Gist of Paragraph/Review : In Kanjirappally, while finalizing the assessment in respect of two individual assessee for the year 1999-2000, the assessing authority permitted the assesseees to compound the tax payable by them even though the assesseees had more than 20 Hectars of land by each of them. This resulted in short levy of tax and surcharge of Rs. 1.30 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 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 procedures, including internal controls : The original assessment were cancelled under section 35 of the AIT Act (1991). The assessment were completed afresh under Section 39 (3) of the AIT Act.
- (2) Recovery of overpayment pointed out by audit : Not Applicable
- (3) Recovery of under assessment, short levy or other dues : The assessee made excess payment
- (4) Modification in the schemes and programmes including financing pattern : Not Applicable
- (5) Review of similar cases/ complete scheme/project in the light of finding of sample check by Audit. : Not Applicable

ACTION TAKEN NOTES OF COMPTROLLER & AUDITOR GENERAL'S
REPORT

- I (a) Department : Registration
- (b) Subject/Title of Review/Paragraph : Short levy of stamp duty and Registration Fee when fair value of land was in force.
- (c) Paragraph No. : 5.4
- (d) Report No. and Year : 23774/PAC-A2/07/Fin. Dated 13-4-2007. Report of the Comptroller and Auditor General of India for the year ended 31-3-2006.
- II (a) Date of receipt of the Draft Para/Review in the Department : 2-5-2007
- (b) Date of Department's Reply :
- III Gist of Paragraph/Review : The fair value of land under the Kerala Stamp (Fixation of Fair Value of Land) Rule 1995 was in force from 5th January 2004 to 18th February 2004. Accountant General has remarked that in 13 Sub Registry Offices, on 361 instruments of conveyance registered during the above period stamp duty and registration fee were levied on aggregate consideration of Rs. 8.29 crore marked out on the basis of fair value approved by the Revenue Divisional Officers. this resulted in short levy of stamp duty, Registration fee and surcharge of Rs. 30.33 lakh.
- IV (a) Does the Department agree with the facts and figures included in the paragraph ? : No

- (b) If not, please indicate : Accountant General has reported that the areas of disagreement : short levy of Rs. 30.33 lakh occurred. The and also attach copies : Department conducted an enquiry in this of relevant documents : matter through the District Registrar concerned in 13 Sub Registry Offices, in support : and the departments finding is that in some cases the short levy has occurred because the order concerning the fair value has not reached the offices in time. It was received on much later dates. Most of the documents thus registered were reported for under valuation. Those documents which were not reported for under valuation and those registered without considering the fair value even after getting the order have been taken in consideration with the report of the Comptroller and Auditor General and the departments finding is that there is short levy of stamp duty, surcharge and registration fee on 135 documents. The total revenue loss is calculated as Rs. 10,77,453.
- V (a) Does the Department : agree with the Audit conclusions
- (b) If not, please indicate : The reason for the short levy is that the areas of disagreement : order concerning the fair value has not with r e a s o n s : reached, the Sub Registry Offices in for disagreement and : time. also attach copies of : relevant documents : where necessary.
- VI *Remedial Action Taken*
- (1) Improvement in system : It was reported by the District Registrars and procedures, : that the order of fair value was received including internal : in respective Sub Registrar Offices only controls : after the date of taking effect. The Sub

- (2) Recovery of overpayment pointed out by audit : Registrar Officers couldn't strictly adhere to the fair value prescribed. The total short levy of Stamp Duty and Registrar Offices under the 14 District Registrar Offices during the period from 5-1-2004 to 18-2-2004 is tabulated below.
- (3) Recovery of under assessment, short levy as other dues : A total amount of 6.60 crores is seen to be short levied on account Registration Fee and Stamp Duty. The District Registrars are instructed to fix liability on the concerned Sub Registrar Officers vide Letter No. ARA.1.9266/07 dated 11-3-2008 of the Inspector General of Registration.
- (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.

<i>Districts</i>	<i>Total No. of Documents</i>	<i>Deficit SD</i>	<i>Deficit RF</i>	<i>Total</i>
Thiruvananthapuram	1332	6415470	2456046	8871516
Kollam	667	1275004	559161	1834165
Pathanamthitta	359	3781165	1387466	5168631
Alappuzha	869	1990580	908852	2899432
Kottayam	943	4627133	2065848	6692981
Idukki	312	1335670	664974	2000644
Ernakulam	936	4022743	1826598	5849341
Thrissur	1674	7034593	2984434	10019027
Palakkad	847	4744887	2016818	6761705
Malappuram	1620	5630086	2435195	8065281
Kozhikode	917	2056773	911982	2968755
Wayanad	298	885370	438368	1323738
Kannur	972	2115784	993096	3108880
Kasargod	166	298295	146890	445185
Total	11912	46213553	19795728	66009281

ACTION TAKEN NOTE ON COMPTROLLER AND AUDITOR
GENERAL OF INDIA'S REPORT FOR 31-3-2006

- I (a) Motor Vehicles Department
 (b) Non-levy of entry tax
 (c) 5.5
 (d) DP. 3378/2006-07/72 dated 24-4-2006
- II (a) SRA(HQ) I/MVT/I/22-28/05-06/341, 342 dated 21-1-2005.
 (b) 18-9-2006, 14-9-2007.
- III *Gist of Paragraph/Review*

During the local audit of Sub R.T. Office, Thrippunithura Earth Moving equipment (a vehicle) purchased from Bangalore in April, 2004 by a firm in Kochi was granted registration in January, 2005 without payment of entry tax. Reckoning value of Rs. 17 lakh shown in insurance policy as purchase value, entry tax amounting to Rs. 2.35 lakh was not levied.

- IV (a) Yes
 (b) N.A.
- V (a) Yes
 (b) N.A.

- VI (a) *Remedial action taken*

The Earth Moving Equipment bearing chassis number SL 642 and Engine No. 06-1155-040006 is registered as KL-07/AU 9344 on the strength of the sale certificate is form No. 21 issued by Ingersoll Rand Limited, Bangalore without the remittance of entry tax, which caused the revenue loss of Rs. 2,04,000 as tax due on the probable purchase value of Rs. 17,00,000. The Invoice No. 14/047/04-05 dated 3-5-2004 produced by the registered owner, the General Manager, M/s Gea Energy System, Villanasserry, Maradu, Kochi revealed that, the Earth Moving Equipment Ingersoll Rand Make vibratory soil compactor model SD 110 is sold to the General Manager on 3-5-2004 by the India Technical Limited, Corporate Office, Ravipuram, Ernakulam.

The Registered owner had wrongly filed the Form No. 21 issued by the manufactures M/s Ingersoll Rand instead of the supplier M/s India Tech Ltd. for the registration of the said equipment. Form No. 21 issued by Ingersoll Rand Ltd., Bangalore reveals that the said equipment is delivered to the General

Manager, Geo Energy Systems through M/s India Tech Ltd. Kochi on 28-4-2004. The Earth Moving Equipment is purchased by the General Manager, M/s Gea Energy system on 3-5-2004 from M/s India Tech Ltd. Ravipuram, Ernakulam and not directly from Bangalore.

The Assistant Commissioner, Commercial Taxes, Special Circle II, Ernakulam intimated that M/s India Tech Ltd. filed the monthly return for 5/2004 disclosing a taxable turnover of Rs. 5,56, 83,111 with a tax liability of Rs. 25,61,423. This includes the tax collected by their Head Office amounting to Rs. 25,61,423 (including ST and AST). Verification of the sales register of the assessee revealed that the sales made from Head Office includes the sale of 1 machinery to Gea Energy Systems vide invoice No. IH/047/04-05 dated 25-3-2004 (Machine Number 04-110-04-207).

As per Form 21, the vehicle Highway Earth Moving Equipment Machine No. 04-110-04-207 sold to the General Manager, M/s Gea Energy Systems(1) Ltd. X/222-D, Ist Floor, Villanassery building, Maradu, Ernakulam on 28-4-2004 through M/s India Tech Ltd., Corporate Office, PB. No. 240, 39/4006. Kelmer's Complex, Sreekandath Road, Ravipuram and registered as KL.-07/AU 9344.

Further Government cannot proceed with the enforcement of collection of entry tax as Hon'ble High Court has held that demand and collection of entry tax under the Act of 1994 is illegal.

In these circumstances, no entry tax is seen due in respect of the vehicle. Hence the para may be dropped.

APPENDIX III

GOVERNMENT OF KERALA

Taxes (G) Department

No. 219/G3/2008/TD. *Dated, Thiruvananthapuram, 23rd January, 2008.*

From

The Secretary to Government

To

The Secretary,
Kerala Legislative Assembly,
Thiruvananthapuram.

Sir,

Sub :—Committee on Public Accounts (2006-08)—P.A.C. Meeting held on 9th January 2008—Remedial Report submitting—Reg.

As I promised in the PAC meeting held on 9-1-2008, I am to forward herewith a remedial report on paragraph 5.2, 5.3 of report of the Comptroller and Auditor General of India for the year ended 31st March 2006.

State Excise*Para 5.2—Short Realization of Gallonage Fee*

As per the Accountant General's report the total quantity of liquor sold was 1,35,68,406.95 Bulk Litres of Indian Made Foreign Liquor and Beer.

With reference to the above draft para, short realization of Gallonage Fee at Nedumangad Warehouse for 2004-05, KSBC has given below the month wise consumption of IMFL and Beer in Bulk Litres.

<i>Month</i>	<i>Monthly consumption in Bulk litre</i>
April 2004	914906.52
May	770816.675
June	792405.095
July	861292.86
August	967964.815

(1)	(2)
September	730573.56
October	704104.05
November	688823.86
December	868867.36
January	745987.43
February	732748.23
March	848872.25
Total	9627362.705

The rate fixed by Government for Gallonage Fee for both IMFL and Beer for the year 2004-05 was Rs. 3.20 per Bulk Litre. Thus the total Gallonage Fee payable by KSBC was,

$$= 9627362.70 \text{ bulk litre} \times \text{Rs. } 3.20 \text{ per bulk}$$

$$= \text{Rs. } 3,08,07,560.65$$

and this was paid vide chalan details given below.

<i>Total bulk litres of IMFL and Beers sold</i>	<i>Rate</i>	<i>Amount</i>
9627362.70	3.20	30807560.65
<i>Chalan No.</i>		<i>Total</i>
1336/12/04/2005	1060279.00	
1314/12/04/2005	1656102.00	
1357/06/04/2005	21241112.00	
1350/06/04/2005	6850050.00	30807543.00
<i>Rounding off difference</i>		<i>16.35</i>

No gallonage fee will be levied on the liquor transferred from FL 9 shop to other FL 9 Shops since it is not considered as a sale by the Kerala State Beverage Corporation. Hence the report may be accepted and para dropped.

5.3.1—*Short Collection of cost of establishment*

(a) KSBC, BWH, Alappuzha

Keys to Para-Part II A Para I of the Local Audit Report of 2002-03 issued vide Letter No. SRA (HR)/IV/EX-I/20-157/03-04/1122 to 1124 dated 15-12-2003.

As amount of Rs. 2,04,974 being the arrears of cost establishment from 05/02 to 03/03 has been remitted by the Kerala State Beverages Corporation as per TR No. 30 & 31 dated 21-10-2003 at District Treasury, Alappuzha. The arrear noted in the draft Para was Rs. 2,12,531. Hence, there is a difference of Rs. 7,557. The Deputy Commissioner of Excise, South Zone, Thiruvananthapuram has reported that an amount of Rs. 1,63,843 has been remitted as per Chalan No. 74 dated 7-10-2005 at District Treasury Office, Alappuzha. The balance amount Rs. 7,557 is included in the above said amount remitted.

(b) KSBC, BWH, Attingal

Keys to Para-Part II B Para II of the Local Audit Report for 2004-05 issued vide Letter No. SRA (HQ)/IV/EX-1/20-480/05-06/357 to 359 dated 16-12-2005.

The Deputy Commissioner of Excise, South Zone, Thiruvananthapuram has reported that an amount of Rs. 9,951 being the arrear cost of establishment for the period from 10/04 to 03/05 raised in the said audit has been remitted by the Kerala State Beverages Corporation vide Chalan TR No. 155 dated 31-7-2006 at Sub Treasury Office, Attingal.

(c) Chicops Distillery, Menonpara

Para II B — Para I

Demand notice for Rs. 11,682 was issued to the Chicops Distillery and no remittance has been made so far. It is also reported that the company has not been functioning since, 2003.

5.3.2—*Short collection of cost of establishment*

(a) Empee Distillery, Kanjikode

Keys to para —Part II A Para I of the Local Audit Report for 2004-05 issued vide Letter No. SRA (HQ)/IV/EX-I/20-451/05-06/212 to 214 dated 23-8-2005.

The Deputy Commissioner of Excise, Central Zone has reported that the demand of arrears of cost of establishment has been stayed by the Honourable High Court of Kerala vides order dated 30-8-2005 in W.P (C) No. 25526/05. No posting of the case was made afterwards. Necessary instructions have been issued to Excise Inspector of the said firm by the Deputy Commissioner of Excise, Central Zone, Kochi to vacate the stay order.

(b) KSBC, BWH, Palakkad

Keys to Para—Part II A Para I of the Local Audit Report for 2004-05 issued vide Letter No. SRA (HQ)/IV/EX-I/20-462/05-06/260 to 262 dated 6-10-2005.

The Deputy Commissioner of Excise, Central Zone, Kochi has reported that an amount of Rs. 1,36,294 being the short collection of cost of establishment has been remitted by the Kerala State Beverages Corporation as per TR No. 367 dated 25-11-2005 at District Treasury Office, Palakkad.

(c) Chicops Distillery, Menonpara

Keys to Para—Part II A Para II of the Local Audit Report for 2004-05 issued vide Letter No. SRA (HQ)/IV/EX-I/20-484/05-06/368 to 370 dated 19-12-2005.

The Deputy Commissioner of Excise, Central Zone, has reported that a demand notice for Rs. 24,214 was issued to the company and no remittance has been made so far. Chittur Sugars is a co-operative establishment. The steps taken for the rejuvenation of the firm were discussed in a meeting convened by the Honourable Chief Minister on 17-10-2007. The suggestions and recommendations made by the expert committee for modernization of the Chicops distillery is now under the consideration of the Government.

Yours faithfully,

P. MARA PANDIYAN,
Secretary to Government.
