

**PUBLIC ACCOUNTS COMMITTEE**

( 1986-88 )

**REFERENCE**

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**THIRTY SIXTH REPORT**

( EIGHTH ASSEMBLY )



**Report of the committee on Public Accounts on the  
Report of the Comptroller and Auditor General  
of India for the year 1981-82 (Revenue Receipts)  
on the 'Sales Tax' pertaining to the  
Finance Department.**

Presented to the House on

**15 OCT. 1987**

**ASSAM LEGISLATIVE ASSEMBLY**

**SECRETARIAT**

**DISPUR : GUWAHATI—781006**

# REFERENCE

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## COMPOSITION OF THE COMMITTEE

### Chairman :

1. Shri Abdul Muqtadir choudhury.

### Members :

2. Shri Joy Prakash Tewari.
3. „ Sirajul Haque Choudhury.
4. „ Amrit Lal Basumatari.
5. „ Rashidul Haque.
6. „ Binai Khungur Basumatari.
7. „ Durga Das Boro.
8. „ Gunin Hazarika.
9. „ Ganesh Kutum.
- \*10. „ Padma Nath Kairi.
- \*11. „ Abul Hussain Sarkar.

### SECRETARIAT

Dr. P. N. Hazarika, Secretary

Shri D. Talukdar, Special Officer

Dr. K. N. Baisya, Under Secretary

Shri J. D. Neog, Committee Officer

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Elected to the Committee with effect from 10th April, 1987.

## INTRODUCTION

1, Shri Abdul Muqtadir Choudhury, Chairman of the Committee on Public Accounts, having been authorised to submit the Report on their behalf, present this Thirty-Sixth Report of the Committee on Public Accounts on the audit paragraphs contained in chapter 2 of the Report of the Comptroller and Auditor General of India for the year 1981-82 (Revenue Receipts) on the 'Sales Tax' pertaining to the Finance Department, Government of Assam.

2. The Report of the Comptroller and Auditor General of India for the year 1981-82 (Revenue Receipt) was laid on the table of the House on 27th February, 1984.

3. The Report of the Comptroller and Auditor General of India for the year under report was considered by the Committee in its sittings held on 24th October, 20th November and 22nd November, 1986. The Committee, while considering the Report, had perused and scrutinised the parawise written replies and other incidental materials for formulating its observations/recommendations. The Committee also examined the Departmental witnesses of Finance Department for obtaining additional and further clarification on the issues that came up before the Committee during the course of examination of the audit paras.

4. The present Committee was constituted on 19th January 1986 after the General Election in the State of Assam constituting the Eighth Assembly.

5. The Committee has considered the draft Report and finalised the same in its sitting held on 24th June, 1987.

6. The Committee places on records their appreciation for the valuable assistance rendered to the Committee by Shri S. K. Podder, Accountant General (Audit), Assam and other officers and Staff of the office of the Accountant General, Assam. The Committee also expresses its thanks to the officers of the Government Department for their co-operation in furnishing information during the course of examination of the audit paragraphs.

ABDUL MUQTADIR CHOUDHURY,

DISPUR:  
The 24th June, 1987.

Chairman,  
Public Accounts Committee,  
Assam Legislative Assembly.

## REPORT

### Chapter-I

#### Result of test audit in general

1.1. Sales Tax and Taxes on Agricultural Income has continued to be the principal sources of revenue of the State during the year 1981-82. The total receipts of the Government of Assam for the year 1981-82 were Rs. 367.06 crores against the anticipated receipts of Rs. 367.47 crores. Out of the total receipts of Rs. 367.06 crores, Rs. 160.01 crores represented revenue raised by the State Government of which Rs. 101.19 crores were revenue receipts under Tax Revenue and the balance under non-Tax Revenue.

1.2. An analysis of the receipts during the year 1981-82 along with the corresponding figures of the preceding two years is shown below :

I. Revenue raised by the State Government	1979-80	1980-81	1981-82
	(in crores of Rupees)		
(a) Tax Revenue	72.07	65.78	101.19
(b) Non Tax Revenue	43.79	27.13**	58.87
	115.86	92.91	160.01
II. Receipt from the Government of India			
(a) States share of divisible Union Taxes	88.07	98.32	111.60
(b) Grants-in-aid	65.33	93.40	95.45
	153.40	191.72	207.05
III. Total receipts of the State (I & II)	269.26	284.63	367.06
IV. Percentage of I & III	43.00	32.64	43.59

1.3. The receipt from the Central Government by way of States share of divisible Union Taxes and Grants-in-aid during the year 1981-82 worked out to be 56.41 percent of the total receipts of the State. The States own receipt mobilisation amounted to Rs. 40.59 percent.

\*\*Total Receipts under Non-Tax Revenue were Rs. 264.71 crores.

This excludes Rs. 237.58 crores being written off amount of Government of India loan consequent upon consolidation and rescheduling as per recommendation of Seventh Finance Commission.

1.4. The receipt from the Tax Revenue constituted 63.24 percent of the State's own Revenue Receipts for the year 1981-82. The tax Revenue collected from the Sales Tax continued to be in increase. The analysis of the Tax revenue given below will show an increased growth compared to the preceeding two years :

	1979-80	1980-81	1981-82	(+) increase (-) decrease in 1981-82 with reference to 1980-81.
	(in crores of Rupees)			
Sales Tax	35.08	31.49	63.69	+32.20

But the Taxes on Agricultural Income has continued to be deminishing during the last three years which is not appreciable situation. This will be quite evident from the statement shown below :

	1979-80	1980-81	1981-82	(+) increase (-) decrease in 1981-82 with reference to 1980-81.
	(In crores of Rupees)			
Taxes on Agricultural Income.	17.53	15.60	14.64	(-) 0.96

1.5. During the course of examination of the audit paras when the Committee wanted to know the reasons for shortfall of taxes on Agricultural income; the Departmental representatives replied that "Agricultural income tax was not levied below Rs. 20,000, annual income. Agricultural income tax mostly came from tea estates' tea income. In paddy, nobody paid agricultural income tax. 97 percent of agricultural income tax came from tea alone. When the Committee enquired as to whether paddy, Jute, Mustard Oil Seeds should also be taxed for the purpose of taxes on Agricultural Income, the Government representatives stated that "these very small income would come which was not worth taxing. Only one or two percent would be earned from this. Jute production also would be on agricultural income tax. If a person got Rs. 15,000, as annual income he would be liable to pay income tax on agricultural production." The Committee appreciates the idea of not imposing taxes on small agricultural income on production of paddy, Jute, Mustard Seeds etc.

1.6. The Variations between the Budget estimates and actuals under the heads taxes on Agricultural Income "and sales Tax" for the preceeding two years are given below :

Head of Revenue	Year	Budget estimates (In crores of rupees)	Actuals	Variations (+) Excess (-) shortfalls	Percentage of variation
Taxes on Agricultural Income	1979-80	27.45	17.53	(-) 9.92	36
	1980-81	35.32	15.60	(-) 19.72	56
	1981-82	23.00	14.64	(-) 8.36	36
Sales Tax	1979-80	32.88	35.08	(+) 2.20	7
	1980-81	38.61	31.49	(-) 7.12	18
	1981-82	53.26	63.69	(+) 10.43	20

1.7 From the analysis given above it will be quite evident that the variations between the Budget estimates and actuals for the years 1979-80, 1980-81 and 1981-82 in respect of taxes on agricultural income and sales tax was more than ten percent except under the head "Sales Tax" in respect of the year in 1979-80. A close scrutiny will further reveal that variations between the Budget estimates and actuals for the year 1980-81 both under the taxes on agricultural income and sales Tax has been abnormally high being 56% in respect of Taxes on Agricultural income and 18% in respect of sales Tax and it was twenty percent in respect of sales for the year 1981-82. In reply to a question as to the reasons of such variations the Departmental witness stated during oral evidence as follows :

"We prepare the budget in the month of September of the financial year. We take into consideration the actuals of the last year plus a ten percent increase in the next financial year. As far as possible, we give the probable figures".

1.8 The Committee could not appreciate the grounds adduced by the Departmental witness in justification of the abnormally very high variations and feels that such variations could take place due to the faulty assessment of estimates and actuals particularly for the year, 1980-81.

Similarly the variations of 36 percent for the years 1979-80, 1980-81 and 1981-82 in respect of taxes on agricultural income appears to be unreasonable.

1.9 The Committee therefore recommends that a thorough review should be made to ascertain the causes of abnormally high variations between the budget estimates and actuals for the purpose of taking remedial measures in future. Action taken in this regards should be intimated to the Committee within three months from the presentation of this report.

#### 1.10 Arrears in assessment

The number of cases of Sales Tax and Agricultural Income tax due for assessment and actually assessed during the three years in 1979-80, 1980-81 and 1981-82 and those pending at the end of each year, as reported by the Department are indicated below :—

	Year	Total number of cases due for assessment	Number of cases assessed	Number of cases pending at the end of each year
Sales Tax	1979-80	1,15,113	62,758	52,355
	1980-81	1,17,902	62,427	55,475
	1981-82	1,25,108	59,400	65,708
Agricultural Income Tax	1979-80	4,488	905	3,583
	1980-81	3,583	1,825	1,758
	1981-82	2,301	1,775	526

1.11 The Department also stated that 96 assessing officers for Sales Tax and 4 assessing Officers for Agricultural Income Tax were deployed during 1981-82.

1.12 Sales Tax being the principal source of Revenue of the State, the assessment of such large number of cases should not fall into arrears every year though the cost of collection of Taxes increased gradually from year to year. When the Committee enquired about the main reason for slow disposal

of arrears, the Departmental witness in his oral evidence stated that nearly one lakh seventy thousand cases disposed of during that period and priority was given to dispose of old arrears cases. When the Committee asked the Departmental witness to clarify backlog of cases of one year, the representatives of the Department admitted that there was one year backlog in each year.

1.13 During oral evidence the Departmental witness informed the Committee that during the year 1981-82 one lakh seventy thousand cases were disposed of and the position of arrear improved. During 1982-83 the Department had engaged more officers for assessment works and this had also improved the position further. The Departmental witness asserted that their capability had increased as the pending figures came down to 23 thousand and the revenue of the State had increased to a great extent. In reply to a question as to the number of cases that remain to be disposed of in a year, the Departmental witness said that the Department had one lakh eighty thousand cases pending to be disposed in a year. Further he informed the Committee that a target was fixed and according to this target every officer would be required to dispose of about 130 cases in a month.

1.14 Although the Committee was not sure whether such a target would enable the officer to dispose of one lakh eight thousand cases in a year before new cases come up, the Committee feels that target so fixed should be adhered to and cases should be disposed of as targetted.

1.15 The Committee therefore recommends that the pending cases should be disposed of as per the target fixed and it should also be examined whether the responsibility of the assessing officers to assess other taxes such as amusement tax, entertainment tax may be entrusted to another set of officers to streamline the financial administration. Action taken in this regards should be intimated to the Committee within three months from the presentation of this report.

1.16 The Committee also wanted to know as to the method or means adopted to detect a case when assessing officers intentionally dropped an assessable case. The representative of the Department informed the Committee that an internal audit system to detect intentional dropped cases

had been introduced. He further stated that if an assessing officer dropped an assessable case, the internal audit would be able to detect it. In a written reply, the Department had furnished the following cases detected by the internal audit.

### 1.17 Cases detected by internal audit

Title of the Act	No. of cases	Amount of tax under assessed	Short levy/Non levy of interest
A. S. T. f. S. I. Purchases	24	40,524	14,879

However, the Committee appreciates the introduction of Internal Audit system to detect intentional dropped cases and desires that the system should be strengthened from time to time by periodical review of the position of such cases.

1.18 The Committee feels that the Government should be more vigilant to see the progress of tax assessment. The Committee therefore recommends that Government should reorganise the Tax assessment Cell of the Department and put more emphasis on the detection of unavoidable assessment cases by issuing appropriate direction to the assessing officers and responsibility should be fixed to officer/officers for intentionally dropping the tax assessment cases. Action taken on this should be intimated to the Committee within three months from the date of presentation of this report.

### 1.19 Evasion of tax :

Particulars of cases of tax evasion detected by the department during 1981-82 and the additional tax involved as reported by the department, are shown below :—

Name of the Act	Number of cases	Total tax involved Rs,
1. The Assam Sales Tax Act, 1947	274	42,95,070
2. The Assam Finance (Sales Tax) Act, 1956	450	37,02,161

3. The Assam Purchase Tax Act, 1967	21	2,54,858
4. The Central Sales Tax Act, 1956	53	14,45,080
5. The Assam Passengers and Goods Taxation Act 1962	214	17,91,046
6. The Assam professions, Trades, Callings and Employments Taxtion Act, 1947	271	1,85,150
7. The Assam (Sales of Petroleum Products including Motor Spirit and Lubricants) Taxation Act, 1955	1	129
8. The Assam Amusements and Betting Tax Act, 1939	4	5,529
9. The Assam Electricity Duty Act, 1964	2	1,78,235
<b>Total</b>	<b>1,290</b>	<b>1,18,57,258</b>

1.20 The Department in a written replies has informed the Committee that following table shows the trend of detection of evasion cases by the Department.

Year	No. of cases detected	Amount involved
1981—82	1,290	1,18,57,258
1982—83	805	1,28,33,371
1983—84	51	1,46,812
1984—85	1,411	69,72,863

1.21 It may be seen that in the year 1983-84 there was sharp fall in the number of cases detected though it shows some improvements in the following year. The above is an account of detection of evasion cases by our Enforcement Wing.

during the year 1981-82 and for a part of year 1982-83. At present our Enforcement Wing is temporarily suspended and the officers deployed therein were withdrawn and engaged for assessment work from the later part of the year 1982-83.

This has become necessary in view of the accumulation of huge pending assessment cases particularly in the arrear districts.

However, the Department is fully alive to the need for maintaining a strict vigilance on the possible points of evasion in the State. For this purpose our approach towards checking evasion has been re-oriented and our main thrust was on as below :—

### **SALES TAX**

1. Operation of the four inter-State check gates and two inter-State Check gates.
2. Deduction of sale tax at source by the Government Departments and Public Sector Undertakings
3. Security for proper payment of sales tax on coal is being collected at Jalukbari Check Gate.
4. Constant vigilance at the delivery points.
5. Stricter enforcement of delivery permit system.

### **ASSAM PASSENGER & GOODS TAX**

1. Under the A.P.G.T. Act provision was made requiring the owners of the commercial vehicles to keep compulsorily "Inspection Note Book" available in the vehicle for inspection by the tax officers.
2. Intensive drives conducted for detection of evasion/avoidance of taxes under A.P.G.T. Act.

### **PROFESSIONAL TAX**

Intensive drive for detection of evasion/avoidance of professions etc. tax have been conducted periodically.

It can reasonably be said that the above measures have yielded encouraging results as may be seen from the table below :—

Year	Total Sale Tax revenue income	Collection of tax under A.P.G.T., (In crores of rupees)	Tax deducted and deposited at source	Collection of tax at Check gate
1983-84	94.89	2.28	1.61	..
1984-85	119.03	2.75	1.94	..
1985-86	130.08	4.72	2.24	2.50

1.22 When the Committee asked as to whether Rs. 1.18 crores had been realised from the concerned assesses and the present position of the recovery, the Departmental witness while tendering his oral evidence intimated the Committee that "out of 1.18 crores evasion to the extent of 48 lakhs 26 thousand had been established. What was reported was suspected amount. Conclusively proved was Rs. 48 lakhs 26 thousand out of which about 20 lakhs had been realised and the rest was involved in litigation."

1.23 The Committee was not convinced with the reasons for not realising the tax evaded as detected by the Department for such large amount of money to the tune of 1.18 crores and expressed its anxiety over such evasion of taxes. The Committee therefore recommends that tax detection machinery should be reoriented for maintaining a strict vigilance if necessary by strengthening the tax enforcement squad for the purpose of detection of taxes and to clear up the huge accumulation of pending assessment cases. The Committee further recommends that a thorough enquiry should be made to ascertain the causes leading to the evasion of tax revenue to the tune of Rs. 1.18 crores and responsibility should be fixed on the officer/officers on whose laxity Government had to lose such colossal amount of tax revenue. Action taken should be intimated to the Committee within three months from the date of presentation of this report.

### 1.24. Uncollected Revenue

The total revenue collected and arrears of revenue pending collection as at the end of each of the three years 1979-80, 1980-81 and 1981-82, reported to be as follows :

	Total amount collected	Arrears pending collection as at the end of March ( in crores of rupees )	Percentage of arrears to total revenue
1979-80	115.86	25.48	22
1980-81	92.91	20.33	22
1981-82	160.01	29.39	18

1.25 The amount of Rs. 20.33 and 29.39 crores shown as outstanding for the year ending March, 1981 and 1982 represented the arrears on account of the following Department

	Amount pending collection, as on	
	31st March 1981	31st March 1982
	( in crores of rupees )	
1. Sales Tax, purchase Tax and Tax on Sale of Petroleum, etc.	11.90	17.83
2. Taxes on passengers and goods	1.13	1.10
3. Forest ... ..	2.50	2.59
4. Agricultural Income Tax	3.20	3.08
5. Taxes on vehicles	0.94	4.24
6. Electricity Duty	0.50	0.35
7. Taxes on Professions, etc.	0.16	0.20
Total	20.33	29.39

1.26 The arrear of collection increased from Rs. 20.33 crores to Rs. 29.39 crores in the year 1982 and this shows that the Department not only failed to maintain the trend of collection in 1981 but the trend of collection declined in

1982 except in case of taxes on vehicles. The Committee is constrained to note that the performance of the Department in the matter of collection of tax during the period under review has been unsatisfactory. During examination the Departmental witness could not put forward justification for the increased arrears of tax collection.

1.27 The Committee therefore recommends that thorough review should be made by the Department to ascertain the causes of increased arrears and intimate the steps taken to arrest such steep arrear in future.

1.28, **Outstanding audit objection and inspection reports.**

Audit observation on revenue receipts of Government made during local audit and not settled on the spot, are communicated to departmental authorities concerned and also to Government, where necessary, through inspection reports. Half yearly reports of such observations are also sent to Department/Government in July and January of each year to expedite their settlement. The points raised in the inspection reports should be settled as expeditiously as possible. In the absence of specific orders of the Government for the expeditious settlement of audit objections or prescribed procedures, if any, in that regard, it is not possible for Audit to know whether there is any failure of the department authorities in following these orders/procedures.

(a) At the end of September, 1982, 1,453 inspection reports issued upto the end of March, 1982, involving an amount of Rs. 23.33 Crores, were not settled as shown below:—

Year	Number of inspection reports	Number of Paragraphs	Amount involved
Upto	In crores of Rupees		
1979-80	1,256	6,686	21.31
1980-81	161	960	1.56
1981-82	36	188	0.46
Total—1,453		7,834	23.33

(b) Department-wise break-up of the number of outstanding inspection reports and paragraphs is given below :—

Serial Number	Name of Department	Inspection reports	Paragraphs	Amount involved
				(In lakhs of rupees)
1.	Finance (Taxation)	289	1,121	653.07
2.	Forest	143	1,491	166.50
3.	Land Revenue	881	4,567	666.98
4.	Transport	32	339	653.89
5.	Excise	38	169	180.46
6.	Registration	70	147	12.53
Total		1,453	7,834	2,333.43

(c) Receipt-wise and age-wise break-up showing the Departments having very old and large number of items are given below :—

Serial No.	Head of receipt	Name of department	Number of items	Earliest year from which outstanding
1.	Sales Tax	Taxation	695	1966-67
2.	Taxes on good and passengers	do	103	1974-75
3.	Purchase Tax	do	80	1974-75
4.	Taxes on professions, Trades, Calling & Employments	do	81	1974-75
5.	Taxes on vehicles	Transport	339	1975-76
6.	Forest	Forest	1,491	1972-73
7.	Land Revenue	Revenue	4,567	1973-74
8.	Stamps and Registration Fees	do	147	1973-74
9.	State Excise	Excise	169	1976-77

1.29 The cases are outstanding for non-receipt of final reply from Government/Department. Lack of prompt action by the different departments in settling the audit objections would lead to loss of revenue to Government due to recovery not being possible at a late stage.

1.30 The Committee while examining comptroller and Auditor General Report both Revenue and expenditure sides have come across regular instances that audit objection had piled up without any positive action being taken up for their settlement. The existing arrangements failed to evoke any desired results for settling the audit objections. During the course of examination, the Departmental witness informed the Committee that

"We are fully seized of the matter. We had a long dialogue with the Accountant General Audit and we have made considerable progress. The latest figure—

1985-86, 663 paragraphs are pending as against 1121 which are reported here involving 468 Crores. This is the latest position. We have made a concerted effort in this direction not only by the Finance Department but by the entire State Government offices. We have set up Audit Committees in which there will be a representative of the Accountant General also present. This Committee when sits will consider and drop objections on the spot without corresponding with the Accountant General. The representative of the Accountant General has been authorised to drop objections if he is satisfied. I hope there will be improvement in due course."

1.31 The Committee expressed great anxiety for huge arrears of audit objections and inspection notes involving a sum of Rs. 468 Crores and felt that the arrangement reported to have been made by the Finance Department in setting up Audit Committee for expeditious disposal of these objections should be vigorously pursued.

1.32 The Committee therefore recommends that Finance Department should constitute the Audit Committee consisting of the Departmental Representatives, Representative of the Finance Department and the Representative of the Accountant General having sufficient delegation of powers to drop the objections on the spot. Such Audit Committee should not become funds office after clearance of the arrear audit objections but should continue to function as monitoring unit in future.

## CHAPTER—2

**2.1.1 Organisation and Working of the Recovery Branch.**

The recovery work, formerly with the Deputy Commissioners and Sub-divisional officers, was transferred to the Commissioner of Taxes, Assam in a phased manner with effect from February 1976. The work was entrusted to a Recovery Branch created within the Sales Tax Department. Four Recovery officers were created in four districts in Assam under the charge of the Superintendent of Taxes (Recovery) acting as Bakijai officers for the purpose of realisation of arrears departmentally. The numbers of Officers and staff employed in the aforementioned four recovery offices, as furnished by the Department (December 1981), are indicated below :—

Nature of posts	Number as on 1st April, 1981.
Superintendent of Taxes	4
Inspector of Taxes	1
Other staff	47

1.1.2 No norms for disposal of certificate cases or targets for amounts to be realised are fixed by the department from time to time. Consequently, there is no means to assess the efficiency of the functioning of the Recovery Branch. On this being pointed out in audit the Department stated that planned programmes for collection could not be effectively implemented due to constraints such as (i) vastness of the area. (ii) shortage of staff and (iii) lack of transport facilities.

2.1.3 Even though more than five years have passed since its creation in 1976 till 1980 the Recovery Branch had not prepared a manual outlining the procedure to be followed and laid down systems for control and monitoring progress.

2.1.4 The working of the Recovery Branch was also not subjected to internal audit by the Sales Tax Departments.

2.1.5 The plans, programmes and achievements had been formulated by the Recovery Branch of the tax Department to collect dues from the defaulting assesseees. During the last six years of its existance, no definite plans programmes and targets for collecting taxes from the defaulters could be prepered. No mannual outlining the proceedure to be followed and laying down system of control over work was formulated. When the Committee wanted to know as to how in absense of definite plans programmes and targets for collection of arrear taxes the proper functioning of the Recovery Branch could be ensured. The Department in a written reply informed the Committee that the present strength of the Reeovery Branch was as follows :

Superintendent of Taxes (R)	4
Inspector of Taxes (R)	5
Other staff	59

2.1.6 The disposal of work in the offices of the Superintendents of Taxes (Recovery) is done in accordance with the procedure laid down by State Government for district and subordinate offices. Target for collection by the Superintendents of Taxes (Recovery) have not been set. However, a target of 40 per cent has been fixed recently in respect current year.

2.1.7 Superintendents of Taxes, (Recovery) are given limited powers under the Assam Land Revenue Regulation 1886. They are not given powers to attach immovable property in the course of realisation of arrear dues from defaulters. Therefore, when the necessity arisses for attachment of immovable property of judgement debtors, the cases are required to be referred to the Collector (Deputy Commissioner) concerned for realisation of dues by attaching immovable property, if any. The matter relating to preparation of a Manual has been under consideration. On enquiries with other States it has been found that no State has Manal for recovery of tax dues. Our district Collectors also don't have a Manual for the purpose of recovery.

2.1.8 During the course of examination the Committee asked the Government representatives that since there were no means to assess the efficacy of the functioning of the

Recovery Branch, how the Recovery Branch of the Sales Tax Department formulated effective device to collect arrear taxes from the defaulters. The Departmental witness in the course of his oral evidence stated before the Committee that the success of machinery depended upon how much a Superintendent of Taxes can collect or recover. The only corrective action he could take was under the Assam Land Revenue Regulation 1886. They were not given powers to attach immovable property in course of realisation of arrear dues from the defaulters. There were crores of Rupees worth Bakijai cases pending with the Deputy Commissioners. However, the recovery officers were to collect 40% of what was the total outstanding dues. We had fixed that target and we would review it. He also stated that when a review was made at the end of the year, names of large number of assesses were found in the books but could not be traced out. He further stated that the Government would consider to increase the number of Recovery Officers but the work of the Recovery Branch being not very satisfactory they were not attracted to this sort of work. However Government had to motivate these set of officers by way of special incentives if necessary by introducing special incentives schemes for the personnels of the Recovery Branch.

2.1.9 Having heard the oral evidence of the Departmental witness, the Committee felt that the organisation of the Recovery Branch was faulty in that not only the procedure etc. had not been formulated and published thereon in as much as for guidance of the Recovery Officers, the Department could not visualise the number of officers that be necessary to entertain for recovery of arrear taxes. The Committee was surprised to know that the Department had been able to spot out the cases of disinterestedness of the Officers to work in this Branch and proposed to introduce certain incentives having realised the improper functioning of the Recovery Branch and also having worked out the incentives the same had not been implemented and as far as committee could learn the scheme had been in the proposal stage.

2.1.10 The Committee therefore recommends that organisational structure of the Recovery Branch should be reviewed with immediate effect and steps taken to strengthen the Department should be intimated to the

Committee within three months from the date of presentation of this report. The Committee further recommends that the proposed incentive scheme if considered essential to activate the Department should be implemented early. Action taken in this regards should be intimated to the Committee within three month from the date of presentation of this Report.

### 2.2.1 Trends of Recovery

During the year 1980-81, the three recovery branches (Gauhati, Dhubri and Silchar) were expected to recover Rs. 503.95 lakhs in 3,547 cases (Total of these pending recovery on 1st April 1980 and these referred during 1980-81). Against this target only Rs. 11.85 lakhs were recovered in 228 cases while the expenditure on the recovery cell of these three branches was Rs. 2.70 lakhs. The amount recovered was barely 2 per cent of the amount remained to be recovered and cases involving more than half the amount for recovery were returned to Unit offices without realising any amount.

(ii) A test check of the records of the three Recovery Branches at Gauhati, Dhubri and Silchar (out of existing four branches) revealed that during the years upto 1980-81 the Recovery Branches returned to the Unit offices 220 recovery certificates involving Rs. 342.29 lakhs without effecting any recovery as per details given below —

Serial Number	Reasons for returning the cases	Numbers of cases	Amount (rupees in lakhs)
1.	Cases remanded	7	4.80
2.	Collection stayed	70	48.35
3.	Firms under liquidation including closed firms	7	22.39
4.	Dealers not traceable	129	266.53
5.	Miscellaneous	7	0.22
Total—		220	342.29

Year-wise break-up of these cases is given below:—

Year	Number of cases	Amount (rupees in lakhs)
upto 1977-78	119	76.11
1978-79	42	0.75
1979-80	20	0.10
1980-81	39	265.33
Total—	<u>220</u>	<u>342.29</u>

(iii) The recoverable amount of Rs. 492.10 lakhs as on 31st March 1981 included an amount of Rs. 9,668 in respect of 202 cases involving petty amount of less than Rs. 100 each. The State Government had not delegated any powers to Sales Tax Officers or to the Recovery Branch to write off such petty dues so as to concentrate on recovering sizable dues.

2.2.2 The Department in a written reply to the Committee intimated that out of 1245 cases at the close of the year 1978-79 relating to the Recovery office, Guwahati involving an amount of Rs. 166.72 lakhs as mentioned Annexure--A (page--19), there are at present 1,043 cases pending involving an amount of Rs. 59.60 Lakhs only.

2.2.3 Out of 1,550 cases at the close of the year 1979-80 relating to the same office involving an amount of Rs. 419.00 Lakhs, there are at present 1,248 cases pending involving an amount of Rs. 75.29 Lakhs only.

2.2.4 Out of 1,882 cases at the close of the year 1980-81 relating to the same office involving an amount of Rs. 184.52 Lakhs; there are at the present 1,626 cases pending involving an amount of Rs. 97.57 Lakhs. The position of the remaining cases at the close of the year 1980-81 in respect of the Recovery offices, Dhubri and Silchar is under review.

2.2.5 The written statement furnished about the position of recovery certificates pending with the Sales Tax Department during the last three years ending upto 31.3.81 did not show any desired result in regard to the recovery of arrear pending taxes. The Departmental witness in the course of oral evidence admitted that the position of recovery of pending cases at the close of the year 1980-81 in respect of the recovery offices at Dhubri and Silchar were under review till the time of the preparation of this report. The records of the recovery Branches at Guwahati, Dhubri and Silchar revealed that during the years upto 1980-81, 220 number of recovery certificates involving Rs. 342.29 lakhs were returned to the Unit Offices but no recovery process was initiated in a single case. The Department in a written reply to the Committee informed that the position of these cases were under review. It had also been noticed that the State Government had not delegated any powers to the Sales Tax Offices or Recovery Branch to write off petty dues for concentrating on recovering the huge arrear and pending cases. When the Committee during the course of oral evidence wanted to know as to the reasons for slow progress of recovery in arrear taxes, the Departmental witness admitted that as there was no system and since there was no target period fixed, the progress of recovery was slow.

2.2.6 The Committee was very much distressed to note that the Department entrusted the responsibility of recovering arrear revenue without fixing any limit or laying down a target for each officer to judge the performance. Nor was any attempt being made by the Department to delegate powers to write off petty dues.

2.2.7 It was found during the course of examination that out of the total of arrear amount to be recovered only 16 per cent of the recovery was effected. The Committee expresses its great concern over the huge arrear of taxes pending for collection for long years and deplors that the Department had not taken up the matter of recovery from the dealers in right directions. The Committee therefore recommends that the Government should formulate a new device to expedite the cases of recovery and take effective steps to minimise the pending recovery

cases. The Committee also suggests that Government should examine the delegation of powers to be given to tax officer or Recovery officers to write off petty arrear tax duee for better concentration in the huge recovery cases pending for long years.

### 2.3.1 Lack of co-ordination

There appeared to be little co-ordination between the Unit Offices and the Recovery Branches.

When any sales tax dues are to be recovered as arrears of land revenue under the provisions of the Acts, the Sales Tax Officer is required to issue a recovery certificate in the re-prescribed form to the Recovery Branch furnishing inter alia full details of the amount to be recovered. On receipt of the recovery certificate in the Recovery Branch, the cases are to be entered in a register and a separate case file is to be opened for each case. Thereafter, a notice for payment of demand is issued to the defaulting dealer directing him to make payment of arrears in a specified period. If the defaulter fails to make payment within the notice period, the Recovery Branch proceeds to recover the amount by attachment and sale of his movable property. After effecting recovery, the recovery certificate is returned pointing out details of recovery made. In the course of audit (October 1981 to December, 1981) of records of the Recovery Branches for the year 1980-81, it was noticed and confirmed by the department that there was no system of acknowledging receipts of recovery certificates. In the absence of any system of acknowledging receipt of recovery certificates, the Sales Tax Department was unable to ensure that all cases for which recovery certificates were issued had actually reached the Recovery Branch and (ii) all cases actually received in the Recovery Branch were entered in their registers for further action. In many cases the Sales Tax Officers did not furnish the complete information about the certificate debtor viz, the person whereabouts, business location, etc. Sometimes even on reference made from the Recovery Branch, the information was either not furnished or furnished very late. The progress of recovery was hampered or delayed in such cases and the certificate debtors could circumvent the recovery proceedings in various

ways. A few instances in which information was not furnished by Sales Tax Officer upto the date of audit (December, 1981) are given below :—

Serial No.	Certificate number	Amount covered by the certificate	Date of last reference to the Sales Tax Officer	Date upto which reply had not reached Recovery Branch.
1	6124215 of 1969-70	8,639	11.5.1981	31.12.1981
2	Nil of 1969-70	15,890	11.5.1981	do
3	1450 of 1972-73	3,115	23.5.1981	do
4	44477 of 1972-73	4,263	23.10.1981	do
5	75 of 1975-76	629	6.5.1981	do
6	63781 of 1978-79	6,014	18.7.1979	do
7	1 of 1980-81	2,118	1.1.1981	do

2.3.2 However the Superintendent of Taxes (Recovery) Guwahati reported to the audit that cases should have to be struck off but he could not adduce any reason for such struck off.

2.3.4 The Finance Department in their written reply communicated to the Committee stated that the system of acknowledging the receipt of arrear certificates by the Superintendent of taxes (Recovery) had been introduced. The Department further stated that with a view to ensure better co-ordination between the Superintendent of taxes of the unit (issuing officer of recovery certificate) and the Superintendent of taxes (Recovery), a copy of demand notice served upon the defaulter was forwarded to the

issuing officer informing him that a Bakijai case had been initiated against the defaulter concerned. To a query as to the date when the system of acknowledgement of receipts of recovery certificates was introduced, the Departmental witness stated in evidence that exact date of introduction the system was not available now with him. The Committee feels that the Department should bring this short of little information to apprise the Committee. The Committee also wanted to know as to whether the non-recovery cases should be retained or simply written off, the representative of the Government Department stated in oral evidence before the Committee that the Department wanted to retain the non-recovery cases for recovering the arrear dues in future. It was also revealed from the audit that due to non-furnishing of complete information about the certificate debtors such as their present whereabouts, business location and other ancillary information, the progress of recovery of tax dues was hampered or inordinately delayed. In many cases for not maintaining the proper information of the defaulters they could circumvent the recovery proceedings in various ways. The instances cited above were the glaring examples of laxity on the part of the Department. The Committee therefore is of opinion that the Department should ensure that at least one partner of the firm must be local man and contrary to this the firm should not be registered. The Committee also feels that without ensuring local whereabouts, business location, financial capabilities and a local partner with personal properties the firms should not be allowed to be registered even though the firms fulfil the other conditions of registration.

The Recovery Branch of the Sale Tax Department on receipt of the recovery certificate is required to initiate immediate action to recover the uncollected amount by issuing a demand notice to the certificate debtors, when the service of initial notice is done, the process of recovery of arrear tax dues by the Recovery Branch is set in motion. Audit had pointed out that 9 cases involving arrear dues of Rs. 4.23 lakhs transferred between the period of October 1978 to March, 1980 to the Recovery Branch at Silchar by the Bakijai Officers remained without action for realisation of arrear dues till December, 1981.

2.3.6 The Department in a written reply stated that out of 9 cases, M/S Pathni Tea Co. Ltd, Chandkhira involving Rs. 2,60,670.00 was purchased by the Government of India with effect from 1st January, 1965. The vendor Company retained with them all their liabilities upto 31st December 1964 as per the Sale Deed and went into voluntary liquidation with effect from 1st June, 1966. The process of liquidation was completed in November, 1969 in the United Kingdom. The matter of M/S Kalimpong Properties Ltd. A/C M/S Gambira T.E., Cachar involving Rs. 1,00,387.00 is pending with the collector 24 Parganas District, West Bengal on the basis of an inter-State certificate issued by the collector, Karimganj. Meanwhile it was gathered from the Registrar of companies, West Bengal that the defaulter company had no assets to liquidate the arrear dues. The Department further stated that the case of A/C M/S Singlacherra T.E., Cachar was related to M/S Kalimpong Properties Ltd. involving Rs. 58,213.00. All these three cases are still under review. When the Committee wanted to know the steps Government had taken to recover these huge arrears, the Departmental witness stated in evidence before the Committee that this particular case was taken up by the Government of India. The process of liquidation was done in United Kingdom. So it was not possible to do anything here. The Committee is not convinced with the grounds stated by the witness for not recovering such huge arrear amount from the defaulters company for a long period. Had there been a concerted effort from the Government of Assam, the company could not have taken shelter of liquidation. It shows that the Department could not take proper timely action for which there was a loss of about Rs. 4.23 lakhs in the arrear tax dues. The Committee also feels that there should be some means of check on transfer of stocks even if necessary by amending the loopholes or Provisions of the Existing Laws. The Committee therefore recommends that the whole issue should be examined thoroughly and a report to that effect should be furnished to the Committee within three months from the date of presentation of this report.

2.3.7 The Committee, in course of review of some of the recovery cases, finds that the amounts had become irrecoverable mainly due to delay and deficiencies in the procedural matters.

2.3.8 A recovery certificate was issued by the Guwahati Unit Office in July, 1979, for the return periods ending 30th September 1974 to 31st March 1977 in respect of an ice-cream dealer. The Superintendent of Taxes, Recovery Branch issued (11th September 1979) demand notice directing the dealer for payment of dues within seven days of receipt of the notice. The notice was received by the dealer on 21st September 1979.

2.3.9 It was noticed in audit that on a petition filed (25th May 1979) by the dealer to the Government praying for granting exemption from levy of sales tax on sale of ice-cream, the Government directed the Commissioner of Taxes to examine the petition and to stay recovery proceedings. Under the existing provisions of the Sales Tax law ice-cream is taxable and the grant of stay by Government was not in order. No decision was taken till the date of audit (December 1981).

2.3.10 In another case it was found that on receipt of a recovery certificate from the Karimganj Unit Office for recovery of Rs. 1,13,313 representing sales tax dues for the return period ending 31st March 1976 the Superintendent of Taxes, Recovery Branch issued demand notice on 24th April 1981 directing the dealer to pay the dues within 27th May 1981. The time for clearing the dues was extended upto 25th July 1981. On 6th November 1981 the Unit office reported that the dealer had paid Rs. 5,500. No further action was taken for recovery of the balance amounts (December 1981).

2.3.11 The Department in a written reply has stated that in the instant case an amount of Rs. 30,000/- has been realised from the dealer M/S Kwaliti Ice-Cream, Dispur in the meantime out of which a sum of Rs. 14,988/- has been adjusted against the full amount of dues for the period ending 30th September 1974, leaving Rs. 15,012/- to be adjusted against dues for the subsequent periods. The other periods viz. period ending 31st March 1975 to period ending 31 March 1977 are under the Hon'ble Guwahati High Court.

2.3.12. The Department in the other case has stated in a written reply that the case relates to M/S Surajmal Lalchand and sons of Chchar. The amount of Rs. 1,13,313.00 was reduced in appeal and arrear certificate was accordingly withdrawn by the Superintendent of Taxes, Karimgani.

2.3.13. The Committee finds that no action was initiated in the above cases to recover the arrear tax dues since December, 1981 as a result of which there was a definite loss to the Revenue of the State. The Committee has also noticed that the working of the Recovery Branch has not run according to the aims and objectives for which it was created. The Committee therefore recommends that the Recovery Branch should examine preparation of its manual spelling out procedures to be followed and for laying down effective system of control over work. The Committee further recommends that to speed up the recovery of arrear dues and launching timely recovery work greater co-ordination between the Officers of the unit and the officers of the Recovery Branch should be ensured.

#### **Irregular application of concessional tax rates**

2.4.1. Under the Central Sales Tax Act, 1956, inter-State sales are taxable at the concessional rate of 4 per cent (1st July 1975) provided, the sales are supported by declaration in 'C' Forms obtained from the purchasing registered dealer of the other State. Sales which are not supported by such declarations are taxable at 10 per cent or at the rate applicable to the sale or purchase of such goods under the State Act, whichever is higher.

2.4.2. The records of the Superintendent of Taxes Guwahat as pointed out by audit showed that the turn over of Rs. 16,42,029.00 in respect of two dealers for the return periods ending 31st March, 1976 to March, 1977 was taxed at the concessional rate of 4 per cent. It was recorded in the assessment orders that the sales were duly supported by declaration in Form 'C'. However, no declarations in Form 'C' made by the dealers were available in the assessment orders nor the declaration in Form 'C' could be made available to audit on requisition, consequently tax levied resulted under assessment of tax of Rs. 94,734 due to non-levy of tax at 10 per cent.

The Department in a written reply informed, the committee that the following were the Sales proceeds for the periods ending 30th September 1976 to 31st March 1977:-

Name of dealer:—

1. M/s Standard Pharmacauticals Ltd.  
Gauhati.

Period ending—  
30.9.76 to 31.3.77

Name of the Act.  
The Central Sales  
Tax Act 1956.

#### EXEMPTED AREA

Arunachal—Rs. 40,480.90 , (without "C"  
Mizoram—Rs. 99,790.48 , Form).  
Rs. 1,40,271.38

Meghalaya. Rs. 1,62,466.79 (with "C" Form)  
Total—Rs. 3,02,718.17

#### NON-EXEMPTED AREA

(Taxable @ 4%)

Tripura— Rs. 1,87,192.01 , (with 'C' Form)  
Manipur— Rs. 1,98,298.38 ,  
Nagaland—Rs. 53,830.73 ,  
Rs. 4,39,321.12

Sales to Govt. Department (with 'D' Form)  
in Meghalaya— Rs. 3,327.49  
Total— Rs. 4,42,648.61

Grand total— Rs. 7,45,367.00

2.4.4. Out of the aforesaid sale proceeds of Rs. 7,45,367.00 an amount of Rs. 3,02,718.00 was allowed deduction as exempted sales correctly and the balance amount of Rs. 4,42,649.00 was assessed to tax @4% in presence of "C" and "D" Forms, furnished by the dealer.

Tax so assessed came to Rs. 17,020.00

Period ending 31st March 1977.

The following were the sale-proceeds for the period :—

#### EXEMPTED AREA

Arunachal—	Rs. 45,608.76	(with "C" Form)
Mizoram—	Rs. 46,016.90	
Meghalaya—	Rs. 2,15,330.53	
Total—	Rs. 3,06,956.19	

#### NON EXEMPTED AREA

(Taxable @ 4%)

Tripura—	Rs. 2,11,045.65	
Manipur—	Rs. 1,45,173.31	(with "C" Form)
Nagaland—	Rs. 52,333.32	
	Rs. 4,08,552.28	
Sales to Govt. Department in Meghalaya—	Rs. 12,922.18	(with "D" Form)
Total—	Rs. 4,21,474.46	
Grand total—	Rs. 7,28,430.65	

(Not Rs. 7,28,821.00 as reported by Audit)

The dealer could not furnish "C" Form in respect of an amount of Rs. 390.40 against sales to Arunachal Pradesh and tax @10% was assessed on the same.

Out of the aforesaid sale-proceeds of Rs. 7,28,431.00 an amount of Rs.3,06,956.00 was allowed deduction as exempted sales correctly and the balance amount of Rs. 4,21,475.00 was assessed to tax @4% in presence of "C" and "D" Forms furnished by the dealer.

Tax so assessed comes to Rs. 15,924.00

Gestetner Duplicators Pvt., Ltd.  
(now it is "Indian Duplicator Co.  
Pvt., Ltd.").

The following were the period-wise sale-proceeds of the dealer under the Central Sales Tax Act, 1956.

Period Ending 31st March 1976

Sale-proceeds to Registered dealers and Govt. Departments (Taxable @4%)	Rs. 4,56,767.50
Sale-proceeds to others (Taxable @10%)	Rs. 81,541.36
Sale-proceeds to others (Taxable @12%)	Rs. 26,666.17
Total Sales—	Rs. 5,64,975.03

As against sale-proceeds to Registered dealers and Government departments for Rs. 4,56,767.50 the dealer furnished "C" and "D" Forms covering Rs. 4,02,865.44 only and therefore, the balance Rs. 53,902.06 was correctly included in the turnover taxable @10% in the assessment.

Period ending 30th September 1976

Sale-proceeds to Registered dealers and Govt. Departments (Taxable @4%)	Rs. 4,54,606.82
Sale-proceeds to others (Taxable @10%)	Rs. 94,586.30
Sale-proceeds to others (Taxable @12%).	Rs. 90,803.57
Total Sales—	Rs. 6,39,996.69

2.4.5 AS against sale-proceeds to Registered dealers and Government department for Rs. 4,54,606.82, the dealer furnished "C" and "D" Forms covering Rs. 3,82,618.22 only and therefore, the balance Rs. 71,988.60 was correctly included in the turnover taxable @ 10 per cent in the assessment.

2.4.6 Since, the assessments in respect of both the dealers for the periods mentioned above were completed in presence of "C" and "D" Forms, there was no under-assessment in either of the cases. The "C" and "D" Forms were misplaced.

2.4.7 The Committee wanted to know as to how these forms C and D were kept and why these forms could not be produced to audit at the time of test check of the official records of the Department which had resulted on underassessment of Rs. 94,734. The Committee also asked the Departmental witnesses whether they could refute the objection raised by audit. The official witness in course of his oral evidence deposed before the Committee Stated that at the time of the audit this could not be shown to them, had it been shown to them the objection could not have been raised by the audit. He however assured the Committee that the Department was now trying to improve as much as possible.

2.4.8 The Committee is however not convinced with the reasons advanced by the Department both in written and in oral in respect of declaration in Form 'C' by dealers and records kept by the office of the Superintendent of Taxes, Guwahati to that effect which resulted under-assessment of an amount in the tune of Rs.94,734/--.

**2.4.9 The Committee therefore recommends that all assessments order should be unambiguous and clear. All declarations in Form 'C' should be recorded and made available in assessment order which should invariably be shown to audit in future.**

2.4.10 To another query made by the Committee as to whether goods sold to Arunachal Pradesh, Mizoram, and Meghalaya were exempted goods as submitted by the Department in a written reply stating an amount of

Rs.3,02,781.00 as exempted goods, the Departmental representatives stated in oral evidence that a dealer was taxable at the normal rate. If a dealer claimed that he was taxable at the concessional rate, he was to produce a declaration obtained from the buyer and that particular buyer had to obtain it from the Sales Tax Officer. Arunachal and Mizoram for a long time were parts of Assam and therefore Sales to Arunachal Pradesh, Mizoram and Meghalaya were exempted from tax after they were separated. The Government of India wanted that there should be no additional burden on consumers of these areas because of bifurcation and trifurcation of these States and therefore the State Government granted exemption in respect of sales to these States. He also admitted that after sometime it was discovered that there was some misuse of this concession and therefore in respect of Meghalaya it was insisted upon that there must not be this blanket exemption.

**2.4.11 The Committee therefore feels that the Government should examine afresh the issue of the concession granted to goods sold in Arunachal Pradesh, Mizoram and Meghalaya so that substantial amount of money on exempted goods sold to these State are prevented from leakage.**

#### **Short determination of turnover due to low valuation.**

**2.5.1** It was noticed in audit (March 1982) of the records of the Superintendent of Taxes, Karimganj that a bamboo dealer extracted bamboo from bamboo mahals on payment of royalty as fixed by the forest Department and sold it in the market. In his returns for the periods ending from 30th September 1975 to 30th September 1978, he showed sales of 15,81,881 number of bamboos valued at Rs. 1,17,383 calculated at the royalty value as fixed by the Forest Department and not at the actual rates at which he sold. The dealer's turnovers, as shown in his returns, were accepted and taxed. However, the turnover of Rs.27,108 for the period ending 30th September 1978, as assessed earlier, was revised to Rs.46,675 at the instance of Zonal Assistant Commissioner, who held that 'royalty value' returned as sale price by the dealer was too low compared to the market value.

2.5.2 The sales tax assessments were mostly made thus with reference to the royalty value of bamboos. No efforts were made to determine the value of sales with reference to market conditions, even if the dealer was not in a position to produce the sale documents. A reference to the schedule of rates of the Public Works Department of the said district for the year 1975-76 revealed that the prevailing market rate of different species of bamboos varied from a maximum of Rs.400 to a minimum of Rs.45 per hundred bamboos. Even adopting the minimum rate of Rs.45 per hundred the total sale price would work out to Rs.7,11,846 as against the assessed turnover of Rs.1,36,950 for the assessment periods ending 30th September 1975 to 30th September 1978. This resulted in short determination of turnover by Rs.5,74,896 and consequential short levy of tax of Rs.32,540.

(ii) Similarly, turnover on account of sales of Rs. 30,36,800 bamboos in respect of four other dealers for periods ending 31st March 1977 to 30th September 1980 was determined at Rs.4,48,758 as against Rs. 13,66,560 computed with reference to the minimum sale price as per Public Works Departments schedule of rates for the year 1975-76. This resulted in short determination of turnover by Rs.9,17,802 and consequential short levy of tax of Rs.51,951.

2.5.3 The Department in a written reply stated before the committee that these bamboo dealers carried on their business at Mahal site Royalty rates were not accepted as sale price in their cases as contended by Audit.

2.5.4 In such trade two categories of Mahalders operate their business.

- (1) Mahalders selling goods to purchasing traders of bamboos at Mahal site where such traders bear the cost of clearing and transporting the goods from Mahal site.
- (2) Mahalders themselves bear all cost and sell the goods to consumers and Government department like P.W.D. etc.

Obviously sale price of goods charged by the first category of Mahalders is much lower than that of the second category of Mahalders.

2.5.6 The dealers in-question belong to the first category and hence P.W.D. rates are not applicable to them.

2.5.7 The Committee in the course of oral evidence wanted to know from the witness as to why there were difference of price between bamboos sold at Mahal sites and bamboos sold to consumers and Government Department the Departmental witness stated that certain species of bamboos might be sold at the Mahal site @ 10p per piece but the same bamboo, if it is sold at silchar would fetch a much higher price. Since the market price had gone much high, the difference could really very large staggering. The Committee is happy to learn that the assessment has been done according to the established law for the goods sold but express its concern about the short levy by sales tax on the assessed turnover. Had the Department followed scrupulously the P.W.D. prescribed rate prevalent at that time for selling of bamboos or ensured the market price, the short levy of tax would not have occurred.

2.5.8 The Committee therefore feels that the Department should ensure the schedules rates from the P.W.D. and examine market rate for the goods sold to determine the value of sales for proper assessment of turnover of the dealers to levy accurate sales tax.

#### **Non-assessment of inter-State sale of declared goods.**

2.6.1 Under the Assam purchase Tax Act, 1967, jute, an item of declared goods attracting levy under the Central Sales Tax Act, is taxable at the point of last purchase in the State by a dealer. The Act also provides that where tax has been levied under a law of the State in respect of sale or purchase inside the State of any declared goods and such goods are sold in the course of inter-state trade or commerce, the tax so levied shall be refunded to the dealer.

2.6.2 It was seen in the course of audit (October, 1981) of the records of the Superintendent of Taxes, Guwahati that a dealer in jute was compulsorily registered as he failed to apply for registration and submit returns for purchase tax. The turnover of the purchase of jute in the State for the return periods ending 31st December, 1978 to 30th June, 1981 was determined at Rs.15,46,450 on the basis of the declarations filed by the dealer in the check post while transporting jute outside the State and a tax of Rs.61,978 was levied under the Assam Purchase Tax Act, 1967. As the entire jute purchased in the State was sold to an un-registered dealer out of the State, the transaction should have also been assessed under the Central Sales Tax Act, 1956 treating them sales to unregistered dealers in the course of inter-State trade or commerce. Tax levied under Central Sales Tax Act at the rate of 8 per cent works out to Rs. 1,23,596 after allowing a refund of Rs. 61,978, as amount of purchase tax levied on the turnover in the State, there was an under-assessment of Rs. 61,978. Though the dealer had also failed to apply for registration and submit returns, no penalty was imposed as provided for in the Act.

2.6.3 The Department in a written reply stated that it is found on local enquiry and in the course of verification of accounts under the Assam Purchase Tax Act, 1967 that the despatches of jute by the dealer M/S Newrangrai Jagdish Prasad to places outside Assam were occasioned by reasons other than sales and the burden of proof imposed upon the dealer under section 6A of the Central Sales Tax Act was discharged by him by producing other evidences such as, Copies of Agreements, Despatch particulars, Advice notes, Commission Bills etc. instead of declarations in Form "F". Since the goods were transferred and not sold in the course of inter State trade or commerce, the dealer was not registered and assessed under the Central Sales Tax Act, 1956. The Committee in course of oral evidence desired to know as to whether the Department would follow the blanket instruction of the Government of India or they would look after the interest of the State in the issue of stock transfer, the Financial Commissioner stated before the Committee that the Central Sales Tax Act is an act of the Parliament and

its jurisdiction also covers our State. It is a fact that taking advantage of stock transfer under the provision of the Act, transaction of sales takes place off and on and as a result of that we are deprived of a sizeable portion of our revenue. We have also taken up the matter with the Government of India along with other States for certain modifications. As a matter of fact, there was once a conference at the Union Finance Minister's level in this connection. The conference was also attended by our Chief Minister and Finance Minister. In the conference different points were put forward relating to this piece of legislation. We have also placed our points along with other States so that we can get a sizeable portion of revenue. We are vitally concerned about our three items, such as, Tea, Petroleum products and Plywood as these goods are going out from our State.

2.6.4 The Committee understands that only the purchase tax was levied in the sale of Jutes outside the State to an unregistered dealer without levying the central sales tax resulting under assessment of tax due. It has also been found that though the dealer had failed to apply for registration and submit returns as required under the provisions of law, the assessing officers did not impose punishment as provided in the Act. It appears to the Committee that the Department had not acted carefully and failed to assess the entire turnover of sale of jute outside the State which was resulted huge loss to the State exchaquer.

2.6.5 The Committee therefore recommends that Government should strickly adhere to the provisions of law in assessing the turnover of inter State sale of goods leaving no room for under assessment of taxes. The Committee further recommends that responsibility should be fixed on the officer/officers for non-imopsition of penalty for non-submission of returns by the dealers in the above sale of jute.

### **Irregular exemption**

2.7.1 Under the Assam (Finance) Sales Tax Act, 1956, iron and steel, an item of declared goods, is taxable at the point of first sale in the State. The Act does not grant any

exemption for sales tax on the ground that raw materials from which a commodity is produced have suffered tax. The Supreme Court in *State of Tamilnadu Vs. Pyarelal Malhotra* 37 (1976) S.T.C. 319 have also ruled that each sub-item in an entry of declared goods, under section 14 of the Central Sales Tax Act, 1956, is a separate taxable commodity for the purpose of sales tax and the conversion of one sub-item into another for sale would attract tax again even if the original material had already been subjected to tax as one of the sub-items.

2.7.2 In course of audit (December 1981) of the records of the Superintendent of Taxes, Gauhati, it was noticed that a dealer, in his return for the period ending 31st March 1978 to 31st March 1979 claimed exemption for tax in respect of his sales of mild steel (round) valued at Rs.7,38,422 manufactured out of billets purchased locally on the ground that the billets had already suffered tax. The claim was allowed by the department.

2.7.3 The erroneous exemption resulted in the forgoing of revenue by way of sales tax of Rs.28,336 excluding the element of interest.

2.7.4 The Department in a written reply stated that the original assessment of the dealer for the period ending 31st March, 1978 under the Assam Finance (Sales Tax) Act 1956 has already been revised raising additional demand of Rs.12,899.66 (Including interest). The dealer filed an appeal against the revised assessment. The appeal was rejected.

2.7.5 The case is now under revision. The dealer has already paid Rs.2,500.00 vide Treasury challan 96 dated 9th March 1984 out of Rs.12,899.66 in the meantime.

2.7.6 The original assessment for the period ending 30th September 1978 is found to be in order. The dealer contended to have purchased finished goods such as M/S Flats, M.S. Rounds etc. from M/S Tata Iron and Steel Co Ltd. Guwahati on payment of Assam Finance (Sales Tax) during the period and claimed deduction of Rs.4,12,411.00 from the turnover for the period, as being sale-proceeds

from those locally purchased goods. The claim was allowed on the basis of documentary evidences produced. During this period there was no claim for deduction on account of sales of finished goods manufactured by the dealer from savings in burning loss.

2.7.7 The original assessment for the period ending 31st March 1979 involving sale proceeds of goods manufactured from savings in burning loss amounting to Rs 61,422.00 is in the process of setting aside under section--20 of the Assam Finance (Sales Tax) Act, 1956 to pave the way for re-assessment as in the case for the period ending 31st March 1978 as mentioned above.

2.7.8 The committee enquired as to the present position of the case and the reason for non-finalising the same for the last three years till the matter came up before the Public Accounts Committee for consideration. The Departmental witness stated before the committee during the oral evidence that the original assessment of the dealer for the period ending 31st March 1978 had already been revised. The dealer had filed an appeal against the assessment. Subsequently this was rejected. The case was still under revision. The dealer had so far made payment of Rs.2,55/- out of Rs.12,900/-. The Departmental witness also deposed before the committee that in respect of first assessment period after it was detected that the dealer had converted a portion of his materials into billets, then he was found liable to be taxed. So in respect of this period, after assessment, it was reopened and then the matter went to the Appellate Assistant Commissioner. On the basis of the judgement of the commissioner he had made some payment and the balance was yet to be recovered. Therefore this case was yet to be disposed of. The Departmental witness further added that the dealer wanted to change the assessment. But it was difficult to reopen as he was liable to tax in excess of what actually burnt. The Assistant Commissioner had referred the case to the higher authority and it was also yet to be finalised. When the commissioner was asked as to why this was being considered for revision and whether it was done at the instance of the party on the officer, the Commissioner of Taxes replied that it was done at the instance of the party.

2.7.9 The committee has failed to appreciate the argument advanced by the Departmental witness and expressed its great distress as to why the claim of the dealer for exemption, in respect of sale of mild steel manufactured out of the billets purchased locally was allowed. The committee also takes a serious view that the Department has not pursued the case to recover the balance of the tax revenue sincerely and more vigorously which clearly shows the negligence of the Government Department.

2.7.10 The committee therefore recommends that responsibility should be fixed, on the officer/officers on whose laxity the errantous exemption was granted, resulting loss of sales tax revenue. The committee further hope that the cases should be pursued effectively and the balance amount of sales tax revenue recovered from the defaulting dealers. The action taken in the case should be intimated to the committee within three months from the date of presentation of this report.

#### **Non-registration of dealers under the Assam Sales Tax Act.**

2.8.1 Under the Assam sales tax Act, 1947, a dealer is liable for registration when his gross turnover during any year exceeds Rs.12,000 (Rs.20,000 with effect from the year 1979-80). The Act empowers the Commissioner of Taxes to register a dealer compulsorily, if that dealer is found liable for registration but failed to apply.

2.8.2 It was seen in the office of the Superintendent of Taxes, Silchar (March, 1982) as a result of cross verification by Audit with the records of the Divisional Forest Officer, Silchar that two persons who supplied bamboos worth Rs.1,87,891 during the financial year 1980-81 to the Divisional Forest Officer, Silchar were not registered as dealers under the Act even though in each case the sales turnover exceeded the exemption limit of Rs.20,000. Similarly, it was seen in the same office in April 1981, as a result of cross verification with the records of the Superintendent of District Jail, Silchar, that a person who supplied canes worth Rs.18,803 in 1978-79, Rs.36,668 in 1979-80 and Rs. 16,360 in 1980-

81. to the District Jail, was not registered as a dealer under the Act. Lack of necessary arrangement for communication of information regarding bulk suppliers, by other departments of the Government to the Sales Tax Department, and failure of the Sales Tax Department to get the suppliers registered compulsorily resulted in non-levy of tax of Rs. 14,697 in these cases.

2.8.3 On this being pointed out in audit, the Superintendent of Taxes stated (March, 1982) that action was being taken in the matter. The Department in a written reply informed the Committee that actually three persons (not two persons as stated in the Comptroller and Auditor General of India's Report) supplied Bamboo to the Forest Department during the year 1980-81. On enquiry it was found that they were only casual suppliers and had no regular course of business.

2.8.4 All these cases attracted provisions under the Government Notification No.FTX.234/76/84, dated 6th December 1978. By this notification it is obligatory on the part of the purchasing Government Department/Undertaking etc. to deduct Sales Taxes from the suppliers' Bills. But in the instant cases it was not done by the purchasing department, i.e. Forest Department.

2.8.5 However, on receipt of the information, assessments have already been completed, under section 19 of the Assam Sales Tax Act. In respect of the three dealers, the tax (including interest) was assessed at Rs.3362.00 "NIL" "NIL" for the period ending 30th September 1980 and Rs. 7643.00, Rs. 1345.00, Rs.3043.00 for the period ending 31st March 1981. Realisation of the tax is under process.

2.8.6 The Committee has found that as admitted in the replies submitted to the Committee, three dealers were assessed Sales Tax at Rs.7643.00, Rs.1345.00 and Rs.3043.00 for the period ending 31st March 1981 and the realisation of these taxes were still under process. No action had yet been launched to realise the taxes from the dealer. The Committee is constrained to observe that the insincerity, negligence of the concerned officers have led to not only loss of Government revenue in

the shape of Sales Tax but also encouraged the dealers not to pay sales tax thereby evading assessment. The Committee expresses its serious concern on the inactiveness of the tax officials in realising the sales tax revenue due in time.

**2.8.7 The Committee therefore recommends that immediate action should be taken to recover the arrear tax revenue already assessed from the three dealers and result of the recovery intimated to the Committee within three months from the date of presentation of this report.**

**2.8.8** In course of the examination of the audit paras contained in the Report of the Comptroller and Auditor General of India, the Committee has come across a very pertinent point. The various Government Departments used to receive different materials from many suppliers and the suppliers are liable to pay sales tax as envisaged under the provisions of the Assam Sales Tax Act. All these cases attracted Government notification No. FTX.234/76/84, dated 6th December, 1978. According to this Government Notification it is obligatory for all Government Departments/Government Undertakings to deduct Sales Tax from their bills. But it appears that a few Government Departments have exercised this practice of deducting sales tax from the dealers for the materials supplied by them. When the Committee wanted to know as to when several Government Departments failed to strictly adhere to the instructions made under this Government Notification and the action, the Government in the Finance Department, had taken against the defaulting Departments, the Financial Commissioner in his submission stated before the Committee that "As a matter of fact, we have taken steps in this direction. We have given necessary instructions to follow the notification properly which is obligatory on the part of the Government Departments and other undertakings etc." In an another query as to whether the casual suppliers are also liable to be taxed, the Departmental witness deposed before the Committee "I am not going

to deny or to confirm that they are liable to be taxed but what I mean to say is that the relevant Department is to deduct the tax from the suppliers' bill according to the instructions issued by the department."

2.8.9 The Committee is not satisfied with the submission of the Government witnesses and stress that the machinery of enforcing the instruction contained in the Government Notification should be tightened and made absolutely effective to avoid loss of Government revenue.

2.8.10 The Committee therefore urge upon the Government to ensure implementation of the provision of above mentioned Government Notification for assessment of Sales Tax and deduction thereof by all Government Departments/Government Public Undertakings to prevent evasion of Sales Tax.

ANNEXURE—I

COMPOSITION OF THE PUBLIC ACCOUNTS  
COMMITTEE

(1983-85)

CHAIRMAN :

Shri Hemen Das

MEMBERS :

Shri Joy Chandra Bora

Shri Binoy Kumar Basumatari

Shri Narad Kumar

Dr. Tarini Mohan Barooah

Shri Dileswar Tanti

Shri Sisir Ranjan Das

Shri Danes Ali

Shri Siraj Uddin.

## ANNEXURE : II

## SUMMARY OF OBSERVATIONS/RECOMMENDATIONS

Sl. No.	Reference	Observations/Recommendation
(1)	(2)	(3)
1.	1.8	The Committee could not appreciate the grounds adduced by the Departmental witness in justification of the abnormally very high variations and feels that such variations could take place due to the faulty assessment of estimates and actuals particularly for the year, 1980-81. Similarly the variations of 36 percent for the years 1979-80, 1980-81 and 1981-82 in respect of taxes on Agricultural income appears to be unreasonable.
2.	1.9	The Committee therefore recommends that a thorough review should be made to ascertain the causes of abnormally high variations between the budget estimates and actuals for the purpose of taking remedial measures in future. Action taken in this regards should be intimated to the Committee within three months from the presentation of this report.
3.	1.15	The Committee therefore recommends that the pending cases should be disposed of as per the target fixed and it should also be examined whether the responsibility of the assessing officers to assess other taxes such as amusement tax, entertainment tax may be entrusted to another set of officers to streamline the financial administration. Action taken in this regards should be intimated to the Committee within three months from the presentation of this report.

Sl.No.	Reference	Observation/Recommendations
(1)	(2)	(3)
4.	1.18	<p>The Committee feels that the Government should be more vigilant to see the progress of tax assessment. The Committee therefore recommends that Government should reorganise the Tax assessment Cell of the Department and put more emphasis on the detection of unavoidable assessment cases by issuing appropriate direction to the assessing officers and responsibility should be fixed to officer/officers for intentionally dropping the tax assessment cases. Action taken on this should be intimated to the Committee within three months from the date of presentation of this report.</p>
5.	1.23	<p>The Committee was not convinced with the reasons for not realising the tax evaded as detected by the Department for such large amount of money to the tune of 1.18 crores and expressed its anxiety over such evasion of taxes. The Committee therefore recommends that tax detection machinery should be reoriented for maintaining a strict vigilance if necessary by strengthening the tax enforcement squad for the purpose of detection of taxes and to clear up the huge accumulation of pending assessment cases. The Committee further recommends that a thorough enquiry should be made to ascertain the cases leading to the evasion of tax revenue to the tune of Rs.1.18 crores and responsibility should be fixed on the officer/officers on whose laxity Government had to lose such colossal amount of tax revenue. Action taken should be intimated to the Committee within three months from the date of presentation of this report.</p>

Sl. No.	Reference	Observations/Recommendations
(1)	(2)	(3)
6.	1.27	The Committee therefore recommends that through review should be made by the Department to ascertain the causes of increase arrears and intimate the steps taken to arrest such steep arrear in future.
7.	1.31	The Committee expressed great anxiety for huge arrears of audit objections and inspection notes involving a sum of Rs.468 crores and felt that the arrangement reported to have been made by the Finance Department in setting up Audit Committee for expeditious disposal of these objections should be vigorously pursued.
8.	1.32	The Committee therefore recommends that Finance Department should constitute the Audit Committees consisting of the Departmental Representatives, Representative of the Finance Department and the Representative of the Accountant General having sufficient delegation of powers to drop the objections on the spot. Such Audit Committee should not be come fundus offices after clearance of the arrear audit objections but should continue to function as monitoring unit in future.
9.	2.1.10	The Committee therefore recommends that organisational structure of the Recovery Branch should be reviewed with immediate effect and steps taken to strengthen the Department should be intimated to the Committee within three months from the date of presentation of this report. The Committee further recommends that the proposed incentive scheme if considered assential to activate the Department should be implemented early. Action taken in this regard should be intimated to the Committee within three months from the date of presentation of this report.

Sl. No.	Reference	Observations/Recommendations
(1)	(2)	(3)
10.	2.2.6	<p>The Committee was very much distressed to note that the Department entrusted the responsibility of recovering arrear revenue without fixing any limit or laying down a target for each officer to judge the performance. Nor was any attempt being made by the Department to delegate powers to write off petty dues.</p>
11.	2.2.7	<p>It was found during the course of examination that out of the total of arrear amount to be recovered only 16 per cent of the recovery was effected. The Committee expresses its great concern over the huge arrear of taxes pending for collection for long years and deplores that the Department had not taken up the matter of recovery from the dealers in right directions. The Committee therefore recommends that the Government should formulate a new device to expedite the cases of recovery and take effective steps to minimise the pending recovery cases. The Committee also suggests that Government should examine the delegation of powers to be given to tax officer or Recovery officers to write off petty arrear tax dues for better concentration in the huge recovery cases pending for long years.</p>
12.	2.3.13	<p>The Committee finds that no action was initiated in the above cases to recover the arrear tax dues since December, 1981 as a result of which there was a definite loss to the revenue to the State. The Committee has also noticed that the working of the Recovery Branch has not run according to the aims and objectives for which it was created. The Committee therefore recommends that the Recovery Branch should examine preparation of its manual spelling out procedures to be followed and for</p>

Sl.No Reference

Observations/Recommendations

(1) (2)

(3)

laying down effective system of control over work. The Committee further recommends that to speed up the recovery of arrear dues and launching timely recovery work greater co-ordination between the Tax Officers of the unit and the officers of the Recovery should be ensured.

13. 2.4.8

The Committee is however not convinced with the reasons advanced by the Department both in written and in oral in respect of declaration in Form 'C' by dealers and records kept by the office of the Superintendent of Taxes, Guwahati to that effect which resulted under-assessment of an amount in the tune of Rs. 94, 734/-

14. 2.4.9

The Committee therefore recommends that all assessment orders should be unambiguous and clear. All declarations in Form 'C' should be recorded and made available in assessment orders which should invariably be should to audit in future.

15. 2.4.11

The Committee therefore feels that the Government should examine afresh the issue of the concessions granted to goods sold in Arunachal Pradesh, Mizoram and Meghalaya, so that substantial amount of money on exempted goods sold to these States are prevented from leakage.

16. 2.5.8

The Committee therefore feels that the Department should ensure the schedules rates from the P.W.D. and examine market rate for the goods sold to determine the value of sales for proper assessment of turn over of the dealers to levy accurate sales tax.

## Sl.No. Reference

## Observations/Recommendations

(1) (2)

(3)

17. 2.6.5

The Committee thtrefore recommends that Government should strickly adhere to the privisions of law in assessing the turn-over of inter State Scle of goods leaving no room for underassessment of taxes. The Committee further recommends that responsibility should be fixed on the Officer/Officers for non-imposition of penalty for non-submission of returns by the dealers in the above sale of jute.

18. 2.7.9

The Committee has failed to appreciate the argument advanced by the Departmental witness and expressed its great distress as to why the claim of the dealer for exemption in respect of sale of mild steel manufactured out of the billets purchased locally was allowed. The Committee also takes a serious view that the Department has not pursued the case to recover the balance of the tax revenue sincerely and more vigorously which clearly shows the negligence of the Government Department.

19. 2.7.10

The Committee therefore recommends that responsibility should be fixed on the Officer/Officers on whose laxity the erroneous exemption was granted resulting loss of sales tax revenue. The Committee further hopes that the cases should be persued effectively and the balance amount of sales tax revenue recovered from the defaulttting dealers. The action taken in the case should be intimated to the Committee within three months from the date of presentation of this report.

20. 2.8.6

The Committee has found that as admitted in the replies submitted to the Committee,

Sl.No. Reference

Observations/Recommendations

(1) (2)

(3)

three dealers were assessed. Sales Tax at Rs.7643.00, Rs. 1345.00 and Rs. 3043.00 for the period ending 31.3.81 and the realisation of these taxes were still under process. No action had yet been launched to realise the taxes from the dealer. The Committee is constrained to observe that the insincerity, negligence of the concerned officers have led to not only loss of Government revenue in the shape of Sales Tax but also encouraged the dealers not to pay sales tax thereby evading assessment. The Committee expresses its serious concern on the inactiveness of the tax officials in realising the sales tax revenue due in time.

21. 2.8.7

The Committee therefore recommends that immediate action should be taken to recover the arrear tax revenue already assessed from the three dealers and result of the recovery intimated to the Committee within three months from the date of presentation of this report.

22. 2.8.9

The Committee is not satisfied with the submission of the Government witnesses and stresses that the machinery of enforcing the instruction contained in the Government Notification should be tightened and made absolutely effective to avoid loss of Government revenue.

23. 2.8.10

The Committee therefore urges upon the Government to ensure implementation of the provision of above mentioned Government Notification for assessment of Sales Tax and deduction thereof by all Government Departments/Government Public Undertakings to prevent evasion of Sales Tax.