GOVERNMENT OF KERALA

REPORT
OF
THE COMMITTEE
ON
COMMODITY TAXATION

May 1976

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CHAPTER I

INTRODUCTION

By its order No. G.O. No. 113/74/TD dated 11th September 1974, the Government of Kerala set up an expert Committee with Professor I. S. Gulati, Fellow, Centre for Development Studies, Trivandrum as Chairman and the following persons as members, to study matters relating to commodity taxation in the State:

1.	Shri K. Ramunni Menon, Member, Board of Revenue, Trivandrum	Member
2.	Dr. V. Venkitanarayanan, Secretary to Government, Taxes Department, Trivandrum (1)	"
3.	Shri A. Bagchi, Senior Fellow, Indian Council of Social Science Research, New Delhi (2)	"
4.	Shri T. K. Bhagavaldas, Secretary (Taxes), Board of Revenue, Trivandrum (3)	"
5.	Shri K. V. Nambiar, Economist, State Planning Board, Trivandrum (4)	Member-Secretary

1.2 The Committee was appointed initially for a period of six months but its term was extended subsequently. When Shri J. S. Jesudasan was appointed as Secretary (Taxes) in place of Dr. V. Venkitanarayanan, the Government was requested to permit his co-option. However, the Government sanction came too late, only towards the end of March, 1976, when the drafting of the report was very nearly completed.

1.3 The Committee was required to cover specially the following areas and formulate suggestions for toning up the efficiency of tax administration in the State to help augment revenues:

1. An exhaustive study of the rate structure and commodity-wise analysis of the tax revenues for the period from 1-4-1968.

2. Detailed analysis of the administrative apparatus for tax procedures currently followed.

3. A thorough study of trade practices in respect of important agricultural and industrial commodities which are produced within the State and also which are imported into the State from the point of view of commodity taxation.

1.4 The Chairman and all the members of the Committee served in an honorary capacity. There was no separate secretariat for the Committee. The secretarial assistance was provided by the Board of Revenue, with Shri C. T. Sukumaran, Additional Secretary (Taxes) in overall charge. On his transfer, Shri N. C. Surendran took charge of the post on August 8th, 1975. In addition, the services of Shri R. Ramalingom, Assistant Director, State Planning Board, were made available to the Committee on a part-time basis.

1.5 The Committee held its first meeting on October 5, 1974 to decide on the programme of work. This meeting was inaugurated by Dr. K. G. Adiyodi, the then Minister of Finance.

1.6 Although the term 'commodity taxation' ordinarily includes, besides taxes on sales and purchases of commodities, items like excise duty on alcoholic preparations which, under the Constitution, fall within the tax jurisdiction of the State Governments, the Committee decided, in the light of its terms of reference, to restrict its study to the taxes levied on sales and purchases of commodities as administered by the Department of Sales Tax and Agricultural Income Tax. It

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(1) Since appointed Special Secretary to Education Department.

(2) Since appointed Officer on Special Duty, Department of Economic Affairs, Ministry of Finance, Government of India, New Delhi.

(3) Since appointed Deputy Commissioner, Central Zone, Ernakulam.

(4) Since redesignated as Chief, Economic Division, State Planning Board.

was also decided not to go into the question of taxation of services as that would imply unduly broadening the Committee's terms of reference. It was the Committee's understanding that it would be acting more in tune with the State Government's wishes if it devoted itself to an in-depth review of the taxation of commodities defined in the narrow sense of the term.

1.7 The Committee held most of its internal sittings at Trivandrum. It visited Quilon, Kottayam, Alleppey, Cochin and Calicut. At all these places, the Committee met representatives of various trade organisations and chambers of commerce and elicited their views and comments on the terms of reference of the Committee. No formal questionnaire was issued by the Committee since it was thought that such a procedure might circumscribe the scope of the discussions. While many organisations conveyed their views and suggestions orally, some submitted written memoranda.

1.8 The Committee also held discussions with the Kerala Cashew Development Corporation at Quilon, the Coir Board, the Tea Board, the Rubber Board, the Cardamom Board, the Marine Products Export Development Authority and the Directorate of Coconut Development at Ernakulam, and the Malabar Market Committee and the Directorate of Spices Development at Calicut. It also held discussions at Calicut with the President and Managing Director of the Central Arecanut Marketing and Processing Co-operative Society, Mangalore. A list of the organisations and associations who met the Committee and also who submitted written memoranda to the Committee is given in Annexure I.

1.9 In the course of its tour of different places, the Committee met, and held detailed discussions with, the officers of the Sales Tax Department working in different regions of the State. At Trivandrum, the Committee had discussions with the State Agricultural Production Commissioner and the Director of Agriculture. The Committee had the benefit of an informal discussion with the State Advocate General and Additional Advocate General. It held also extensive discussions with Shri K. S. Paripoornan, Government Pleader. A series of discussions were also held with the Chairman and members of the State Sales Tax Appellate Tribunal. The Committee held informal discussions with the Deputy Accountant-General, Kerala in charge of revenue audit. The Committee benefited immensely from these discussions.

1.10 The Chairman and members of the Committee also visited a number of other States to make a first hand study of the system of sales taxation and related problems in those States. Shri A. Bagchi and Shri K. V. Nambiar visited Delhi, Calcutta and Madras. They held discussions with Commercial Tax Commissioners at Delhi and Calcutta, while at Madras, they met the Secretary and other officers of Tamil Nadu Revenue Board. The Chairman and three members, Shri A. Bagchi, Shri K. V. Nambiar and Shri T. K. Bhagavaldas visited Bombay and Bangalore and held discussions with the Commissioners and other officers of the Sales Tax Department of Maharashtra and Karnataka. The Chairman and two members, Sarvasri A. Bagchi and K. V. Nambiar visited Ahmedabad and held discussions with the Commissioner and officers of the Gujarat Sales Tax Department. On their way back, they held discussions at Bombay with the Chairman and members of the Maharashtra State Sales Tax Enquiry Committee. Shri K. Ramunni Menon joined these discussions at Bombay. An internal meeting of the Committee was held in Delhi in the third week of December 1975 and on their way back to Trivandrum, the Chairman and Shri K. Ramunni Menon detoured to Patna and Calcutta for discussions with the Commissioners and other officers of the Commercial Taxes Departments of the respective State Governments. The Maharashtra Committee subsequently visited Trivandrum and this Committee had a further round of very useful discussions with them. The Committee had also the benefit of discussions with Professor D. T. Lakdawala, who was Chairman of the Uttar Pradesh Taxation Enquiry Committee (1973-74), on his visit to Trivandrum towards the end of December 1975. The Chairman and three members visited Hyderabad for discussions with the Commissioner of Commercial Taxes of Andhra Pradesh and his officers. Opportunity was taken then to stop over at Bangalore for a discussion with the Coffee Board which could not be arranged on the earlier visit of the Committee to Bangalore. The Committee is extremely grateful to these State Governments and to their officers for their extreme courtesy and co-operation.

1.11 The Committee wishes to place on record its deep appreciation of the unstinted co-operation and support it received from the officers and staff of the State Sales Tax Department. Shri R. Ramalingom, Assistant Director, State Planning Board, rendered valuable help in the various statistical computations which the Committee had to undertake in the course of its work. The Committee is also grateful to the Centre for Development Studies, Trivandrum for the various facilities it provided as and when the Committee held its meetings at the centre.

1.12 The working of the Sales tax system in Kerala State—both it structure and administration—has been subjected to detailed study from time to time. Three earlier Committees, one set up by the former Travancore-Cochin Government and the other two by the Kerala Government, had studied the problem carefully and made several recommendations aimed at improving the working of the sales tax system in the State. The first Committee was constituted in 1955-56 in the wake of the report submitted by the Taxation Enquiry Commission of the Government of India. It considered in detail the major recommendations of that Commission, and, *inter-alia,* recommended a package of measures to improve the working of the sales tax system in the State. The major reform suggested by that Committee was the conversion of the multipoint system into a single point system—a change which was almost unanimously demanded by the business and trading community. Its other recommendations related mainly to enhancement of the single point rates in respect of a number of commodities. The same Committee also recommended the building up of regulated markets for the State's major agricultural commodities.

1.13 In 1960, due to persistent pressure from trade and industry for simplification of the sales tax system in the State, a Committee was constituted by the Kerala Government, with Shri Nataraja Pillai as Chairman, to study and to report on all aspects of sales tax law and administration. The Government also felt the need to tighten up the administration and plug loopholes in law leading to evasion. That Committee submitted in March 1961 a draft of the Sales Tax Bill which formed the basis of the Kerala General Sales Tax Act of 1963, the legislation which governs sales taxation in Kerala at present.

1.14 In 1967, the Taxation Enquiry Committee was constituted under the Chairmanship of Professor M. J. K. Thavaraj, to undertake a comprehensive study of overall tax structure in the State and to suggest measures for raising additional resources required for the implementation of the Fourth Five Year Plan. The Committee made a detailed study of the sales taxation in the State and devoted special attention to the problems of evasion and avoidance of sales tax. It recommended in particular that commodity studies be undertaken with a view to finding out the extent of avoidance and evasion and also that trade trends and marketing channels should be studied from time to time.

1.15 Various measures were taken to improve the structure and administration of sales tax in the State in the light of the recommendations of the various Committees. However, as will be seen from a study of the trends in sales tax collections since 1968-69, when the Thavaraj Committee submitted its report, the gap between the tax potential and tax realisation over the subsequent years has remained wide. This aspect is discussed at some length in the next chapter. But to give a background to the appointment of the present Committee, it should suffice to say here that while during the sixties, the average annual rate of increase in sales tax revenue was of the order of 11 per cent, during the first quinquennium of the seventies, the rate of increase came down to about 9.6 per cent, despite the fact that the price rise during this period had been substantially higher as compared with the price rise in the earlier decade.

1.16 Though the gap between the tax potential and tax realisation in the State came up for comments on different occasions by different bodies including the NCAER and the Sixth Finance Commission, the need for an in-depth study of the reasons underlying this was evidently felt in all its seriousness only as late as in 1974-75.

1.17 In the course of the Committee's work it submitted its view to the Government whenever its opinion was sought formally, or informally, on any of the issues falling within its purview. On three occasions, the Committee received formal requests by the Minister of Finance for its views on the following issues:

1. Sales taxation of arecanut with special reference to the purchase of arecanut by the Central Arecanut Marketing and Processing Society, Mangalore (CAMPCO) within the Kerala State.

2. Tax reforms which would afford relief to the small traders without substantial reduction in the State's potential for the collection of sales tax.

3. Reforms in the structure and rates of sales taxation in respect of (a) coffee and (b) commodities that have been notified as essential by the State Government.

1.18 The Committee submitted separate interim reports on the above three matters, all of which are included as annexures to this report. (See Annexures XI to XIII).

CHAPTER II

TRENDS IN SALES TAX COLLECTIONS

In 1957-58, the first full financial year for the reorganised State of Kerala, total sales tax collections amounted to Rs. 4.9 crores, accounting for about 37 per cent of the aggregate tax revenue of the State. In subsequent years, revenue from sales taxes increased considerably. By 1970-71 collections amounted to Rs. 37.5 crores, accounting for nearly 55 per cent of the total tax revenues. Collections in 1973-74 were higher at Rs.53.4 crores, but the ratio of sales tax revenue to total tax revenue was the same as in 1970-71. The year 1974-75 witnessed a marked spurt in sales tax revenue with collections reaching a level of Rs. 76 crores, which, as a proportion of total tax revenue of the State, amounted to over 60 per cent. The annual compound growth rate in sales tax revenues from 1968-69 to 1973-74 works out to 9.6 per cent. (See Annexure II). Annual growth rate refers to the normal trend increase excluding the revenue effect of additional measures of taxation adopted from year to year.

2.2 Generally speaking, growth in sales tax revenue may be ascribed to a number of factors, the most important of which are (i) the increase in consumption levels resulting from growth of population and growth in real incomes, (ii) the increase in the price level, (iii) the increase in rates of taxation and (iv) the increase in the coverage of commodities subject to taxation. The first two factors underlie the elasticity of the tax structure (i.e. growth in revenues without additional taxation) while the last two factors contribute to the growth in revenues through additional taxation. The net increase in tax revenues due to all these four factors is usually taken as the buoyancy of the tax system.

2.3 But the four factors mentioned above take it for granted that the level of efficiency of tax administration remains the same. The efficiency could either deteriorate or improve. The important thing to note is that there may be, and usually is, considerable scope for raising additional revenues by improvement in the efficiency of tax administration, particularly when tax administration is viewed in a broad sense to include not just day to day task of assessment, collection and even "intelligence" but continuing research and action based thereon to improve the institutional, legal and administrative frame work for taxation. Indeed, as this Committee hopes to bring out in subsequent chapters, considerable improvement in revenues should be possible through action directed at improving the present institutional frame work. It is difficult, however, to isolate the factor of efficiency from the other factors mentioned above and evaluate precisely the impact of its improvement on the growth in tax revenues.

2.4 The conventional technique of appraising the tax performance of Governments has been some variant of ratio between tax revenue and income. For the purpose of a macro level analysis, as for example, in inter-state comparisons of tax performance, such techniques of tax appraisal have their own merits.

2.5 As Annexures III and IV would indicate, Kerala's performance of sales tax measured by such yardsticks does not appear to be unsatisfactory. But for the purpose of studying the tax performance of a State vis-a-vis its tax potential, such an appraisal has only limited validity. A more meaningful approach would be to first estimate a State's sales tax potential and then compare it with its actual tax performance. For this purpose, the estimate of tax potential of the State has to be based on the most relevant variables which directly matter for the growth of revenue and these are (i) the change in the quantum of turnover and (ii) the change in the price level.

2.6 Estimates are made at the State level of income originating from trade, both in current and at constant prices. To the extent that the change in income from trade at constant prices can be taken to reflect changes in the quantum of trade turnover in real terms, it yields the first of the two norms by which the potential can be appraised.

2.7 As far as the price factor is concerned, no composite index of wholesale prices is constructed separately for the State. At the retail level, however, an index is constructed at the State level but since the purpose underlying this index is to appraise changes in the cost of living of working classes, its coverage is extremely limited. The only index that could be considered comprehensive enough in its coverage of commodities is the general wholesale price index computed for the country as a whole. But this index suffers from some serious limitations as a measure of the price changes relevant to the calculation of sales tax revenue potential of a State.

2.8 Firstly, in the computation of the index of wholesale prices at the all-India level, not all commodities are included; and in the case of those commodities that are included, a system of weightage is followed. But those national weightages do not reflect the relative importance of commodities eligible to sales tax from the point of view of individual States. For instance, foodgrains and industrial raw materials are given large weightages in the computation of the all-India price index. On these commodities, the States, as a matter of policy levy either a nominal rate of tax or do not levy any tax at all. Secondly, commodities which occupy an important position in the economy of a particular State, may not be assigned the same importance in the all-India index. Plantation crops in Kerala may be cited as an illustration. Thirdly, there are certain major items such as sugar, textiles and tobacco which are given significant weightages in the computation of the all-India index, but do not suffer any sales taxation at the hands of the State Governments. The Central Government has been levying an additional excise duty on these items in lieu of State sales taxes since 1957. Fourthly, there are certain commodities like cement and steel, prices of which are controlled. Since such prices do not keep pace with the general increase in prices, an ad valorem sales tax on such items cannot be expected to exhibit much of buoyancy. Fifthly, there are items which give substantial sales tax revenues to States but which do not get much weightage in the computation of the all-India index as for example, motor vehicles and motor spare parts.

2.9 It is evident from the foregoing that it could be misleading to assess the growth of sales tax revenues in terms of price changes as reflected in the national index. A better way to measure the impact of prices on sales taxes would be to select major commodities accounting for the bulk of the sales tax revenues of the State and examine the correlation between their price increases and trends in the taxes realised. The Committee decided on an exercise on these lines by selecting 30 major commodities whose price trends were analysed over a period of 10 years. (See Annexure V). These commodities were identified as the major source of tax revenue accounting for about two-thirds of the sales tax collections, on the basis of the commodity-wise data which the Department has been putting out for quite some years now. The respective weights to different commodities were given on the basis of the contribution of each commodity to sales tax revenue. But it may be pointed out that these data were found to have serious limitations of their own because of the manner in which they were collected, processed and ultimately published.

2.10 Under the existing system, all that the dealers are required to furnish is a statement of turnover by classes of goods in which all goods subject to the same rate are clubbed together. It is the responsibility of the assessing officer to satisfy himself about its correctness by a commodity-wise allocation of the turnover on the basis of the records produced before him such as Stock Registers etc. The commodity-wise data are recorded in the check-notes prepared for the purposes of assessment and incorporated in the commodity-wise registers. But unfortunately, these registers are not maintained with the degree of accuracy which is required for purposes of the study as is undertaken by the Committee. The annual statements of commodity-wise data prepared by the assessing officers on the basis of these registers for inclusion in the Administration Report contain a large element of error. The scrutiny of these statements by the Committee showed such wide variations from year to year as cannot be explained in any other way.

2.11 In the light of both the Committee's terms of reference as well as the perceptibly slow rate of growth in sales tax revenue in the face of substantial price escalations in recent years, the five year period since 1968-69 has been chosen to appraise the sales tax performance *vis-a-vis* the estimated potential based on increases in commodity prices as well as increases in trade turnover as reflected in the income originating from the trade sector. Table 2.1 sets out the position.

TABLE 2.1

A COMPARISON OF ACTUAL SALES TAX PERFORMANCE OF THE STATE WITH THE ESTIMATED POTENTIAL

Year	*Total revenue from sales tax (Rs. crores)*	*Sales taxes at 1968-69 levels of taxation (excluding additional taxation) (Rs. crores)*	*Index of income from trade sector at constant prices*	*Estimated sales tax at 1968-69 prices (Rs. crores)*	*Price index in respect of commodities subjected to sales taxation*	*Estimated sales tax potential at current prices (Col. 5 × col. 6/100 (Rs. crores)*	*Sales tax potential including additional taxation (Rs. crores)*	*Shortfall (Col. 8-col. 2) (Rs. crores)*	*Percentage shortfall*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1968-69	29.0	29.0	100	29.0	100	29.0	..	..	..
1969-70	32.5	31.8	109	31.6	112	35.4	36.1	3.6	10.0
1970-71	37.6	35.9	118	34.2	117	40.0	41.7	4.1	9.8
1971-72	42.4	37.8	119	34.5	121	41.7	46.3	3.9	8.4
1972-73	46.0	39.2	130	37.7	130	49.0	55.8	9.8	17.6
1973-74	53.4	45.9	143	41.5	169	70.1	77.6	24.2	31.2
Total for 5 years, 1969-70 to 1973-74	211.9	190.6	..	179.5	..	236.2	257.5	45.6	17.7
1974-75	76.0	68.0	157	45.5	229	104.2	112.2	36.2	32.2
1975-76	97.6	..	167	48.4	236	114.2	122.2	25.2	20.6

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2.12 As can readily be seen, taking the five-year period, 1969-70 to 1973-74 which covers the fourth five year plan, the shortfall in sales tax collections as compared with the estimated potential works out to Rs. 46 crores. It will also be seen that the percentage shortfall between the estimated potential and actual performance of sales taxation was 17.6 per cent in 1972-73 as compared with only 8.4 per cent in 1971-72 and 9.8 per cent in the previous year. During 1973-74, the gap widened much further, the shortfall in that year amounting to 31.2 per cent. Including additional taxation of Rs. 7.5 crores, the actual collections in 1973-74 amounted to Rs. 53.4 crores. On the basis of the estimated potential, the collections in that year should have been of the order of Rs. 77.6 crores.

2.13 The year 1974-75 witnessed a further escalation in commodity prices of the order of 35 per cent. Assuming a 10% increase in the volume of trade, the sales tax potential for that year may be estimated at Rs. 112 crores as against which actual collections came to Rs. 76 crores. For 1975-76 which witnessed an abatement of inflationary pressures the potential has been estimated at Rs. 122 crores against which collections amounted to Rs. 97 crores. In relative terms there was a distinct improvement in 1975-76 because the percentage of shortfall in that year was considerably lower than that in the two years immediately preceding. The gap still remaining between potential and performance provides a measure of the task facing the sales tax administration in the State.

2.14 An indirect indicator that is often used to see if the tax administration is keeping abreast of time is the increase in the number of registered dealers coming within the range of the assessable limits. This may be analysed both in terms of the increase in the total number of registrations as well as in terms of the increase in the number of actual assessees from year to year. The turnover limit for registration in 1968-69 in this State was Rs. 2,500 for dealers in goods subject to single point taxation and Rs. 7,500 for dealers in other goods while the limit for assessment was Rs. 2,500 for dealers in single point goods and Rs. 20,000 for dealers in other goods. From December 1973, the registration limit for dealers in other goods was raised to Rs. 12,500. As for assessment limit, while it remained all along at Rs. 2,500 for dealers in single point goods, it was Rs. 10,000 for dealers in other goods in 1968-69, which was raised to Rs. 20,000 from April, 1971. With effect from April 1976, the registration and assessment limit will be the same at Rs. 25,000 for dealers in other goods. (See the recommendation made to this effect in the second interim report of this Committee, vide Annexure XII).

2.15 Thus while the registration and assessment limits are the same for those dealing in goods subject to single point taxation, the registration limit was, until recently lower than the assessment limit for those dealing in goods subject to multipoint taxation. The number of registered dealers in the State during 1973-74 was 59,413, of which 44,653 were assessed to sales tax. The difference between the two figures (i.e. 14,760) can be taken to represent the number of dealers liable to registration but not to assessment.

2.16 To deal with registration first, in 1964-65, the number of registered dealers in the State was 57260. The number increased to 58426 in 1968-69 and to 59413 in 1973-74. The number of registrations includes those not renewed but still on the rolls. Thus, during the period 1964-65 to 1973-74, the increase in the number of registrations was only 2153. Of this, while the first half of the period accounted for an increase of 1166, the second half accounted for an increase of only 987. It is also worth noting that according to the 1971 Census the number of trading establishments in the State was 3.17 lakhs. Thus, hardly one out of every five trading establishments was registered for sales tax purposes.

2.17 During the five year period 1969-74, there was, as noted earlier, a substantial increase in the prices. Still there was only a nominal increase in the number of registered dealers during the period. What this can be taken to mean is that those with turnover below the registration limits in 1968-69 continued to remain un-registered eventhough in 1973-74 the price level was higher by at least 70 per cent.

2.18 Thus, dealers with annual turnover value of Rs. 5,000 in 1968-69 prices should have been in the registration rolls of the Department in 1973-74. Instead, in 2 out of 5 years, between 1968-69 to 1973-74, there was a decline in the number of registrations.

2.19 As can be seen from Table 2.2 the number of dealers newly registered from 1968-69 to 1973-74 (see column 4) just about matched the number of persons whose registrations were cancelled during the same period (see column 5). It was brought to the notice of the Committee by the Department that there were several instances in which dealers reported stoppage of business and applied for fresh registrations in other names, whenever they neared assessable limits. The temptation is stated to be even stronger when the turnover value of a dealer subject to assessment at the compounded rate of tax nears the point when he becomes liable to pay tax at more than double the rate of the compounded levy.

TABLE 2.2

TRENDS IN SALES TAX REGISTRATIONS

Year	*Registered dealers at the beginning of the year*		*No. newly registered during the year*	*No. of dealers whose registration has been cancelled during the year*	*No. not renewed*	*Total No. of live registered dealers at the end of the year*	*No. pending registration at the end of the year*
	Total No.	*Number renewed*					
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1968-69	57616	52310	7325	6433	5306	58426	82
1969-70	58426	53218	5225	5699	5208	57948	4
1970-71	57948	52086	5770	6198	5862	57483	37
1971-72	59024	52366	7637	8732	6658	57929	..
1972-73	58046	52895	6221	5881	5151	58383	3
1973-74	58383	53241	7909	5879	5142	59413	..

2.20 During the same period, 1964-65 to 1973-74, the number of assessees increased by 9,646. Thus, in the course of ten years the difference between the number registered and that assessed was considerably narrowed. Curiously, much of this narrowing took place in the first half; in the second half of the decade, while the registrations increased by 987, the number of assessees increased by 1,135. Thus, as far as the impact of the price rise in the second half is concerned, it was equally insignificant on the number of both assessees as well as registrations.

2.21 It must be added that while the dominant factor during the period 1968-69 to 1973-74 was the price rise, the trade income for the State also showed an increase of over 40 per cent in real terms. Thus, both the factors were operating in the same direction, but their total impact on the number of registrations and assessees was incredibly small. The combined effect of these two factors should have been that dealers with turnover of Rs. 6,250 and Rs. 10,000 respectively in 1968-69 should have been registered and/or assessed to tax in 1973-74. Since in 1968-69 the registration limit was well above Rs. 6,250, the minimum number of assessees in 1973-74 should have been as large as the number of registrations in 1968-69 i.e., 58,426 as against the actual number in 1973-74 of 44,653. In the next year, 1974-75, when the price rise was much steeper, the number should have gone up correspondingly though in actual fact, the number was about 47,000.

2.22 It is worthwhile observing in this context that in some of the States which the Committee visited, there was noticeable increase in the number of registrations from year to year. Thus, in Maharashtra, the number of registered dealers was 65,447 in 1960-61; by 1971-72, the number had gone up to 136,749. In 1972-73 it increased to 144,205, and for 1973-74, the figure was 152,744. Similarly in Gujarat, while the registered dealers numbered 39,691 in 1961, their number had gone up to 92,380, by the end of March 1971.

2.23 Taking into account all these factors, the conclusion seems inescapable that there has been a significant gap between the sales tax potential in the State and actual tax realisation. While this is the picture at the aggregate level, from the point of view of policy formulation, it is necessary to indentify the major commodities which account for this gap and the reasons underlying the gaps in each case. This is attempted in Chapters III and IV covering respectively major primary and industrial commodities. Chapter V which follows goes into the system and structure of sales taxation from the point of view of formulating the Committee's suggestions and recommendations.

CHAPTER III

TAXATION OF PRIMARY COMMODITIES

According to its terms of reference, the Committee is required to formulate its recommendations for reforms on the basis of a study that combines exhaustive commodity-wise analysis of the revenue from sales tax with a thorough study of trade practices in respect of important agricultural and industrial commodities. While the Committee has, in pursuance of its terms of reference, devoted considerable time and attention to commodity studies, it must be stated at the very outset that these studies by the Committee are not as exhaustive and thorough as the Committee would have liked them to be because of the constraints of time and resources at its disposal. The Committee had to relay entirely on secondary sources for whatever information it required for these studies even though the information thus available either was not always from the most authentic sources or suffered from obvious limitations. The Committee would, however, urge that commodity-wise studies should be conducted on a continuing basis because with all the limitations from which the Committee's own studies suffer, they have conclusively demonstrated that for an effective administration of sales taxation, it is absolutely essential for the Department to be in possession of commodity-wise information starting from production or importation.

3.2 This chapter concerns itself with the State's major commercial crops and marine products. In the chapter that follows, major industrial commodities whether produced within the State or brought from other States are dealt with.

3.3 Commercial crops play a predominent role in the agricultural economy of Kerala. At present, almost 40 per cent of the revenue from sales taxes in the State is accounted for by a few major commercial crops, namely coconut including copra and coconut oil, arecanut, rubber, cardamom, pepper, cashew, tea and coffee.

3.4. To view the problems involved in the taxation of these major agricultural commodities in their proper perspective, it is necessary to have a clear idea of the magnitudes involved in the production, consumption and marketable surplus of the products concerned and also a knowledge about their channels of trade and modes of transportation. The Committee devoted considerable amount of their time and attention to gather available data from all possible sources-published and unpublished—including discussions with knowledgeable individuals and organisations. Quite naturally, information collected from different sources did not always agree; in some cases the divergences were quite substantial and the Committee did not desist from taking a view of its own wherever it became necessary in order to arrive at a measure of the tax potential from the concerned commodity. But, as far as possible the Committee has attempted to give the rationale behind the view it ultimately took in each case.

3.5 In spite of the various limitations, the Committee's exercises in commodity-wise studies have proved to be quite rewarding in that these exercises have been extremely helpful in formulating possible lines of solution not only from the limited objective of ensuring a more effective system of sales taxation but also from the broader angle of streamlining the marketing system, which both ensures a fair price to the small growers and also lends a measure of stability to the prices of the primary commodities. But as will be seen from the following analysis, the problems differ from commodity to commodity, at least in their intensity, and therefore, the solutions thereof may have to be different, atleast in the short-term perspective.

Coconut and Coconut Products:

3.6 Coconut is the most important commercial crop grown in Kerala covering an estimated are of 7 lakh hectares which comprises more than 25 per cent of the total cropped area of the State. The State accounts for more than 70 per cent of the total estimated coconut production in the country. The main feature of coconut cultivation is the predominance of small holdings; over 80 per cent of the total coconut acreage is accounted for by small holdings averaging less than one hectare in size.

3.7 The official estimate of the production of coconut has been arrived at as follows. First of all, the area is calculated on the basis of sample survey. To arrive at the production figure, the estimated total area is multiplied by the average yield, which again is based on crop cutting survey, and the seasonal condition factor based on field forecast reports. Based on this estimation method, production of coconut for the year 1973-74 was placed at 3,703 million nuts. This represents a decline over the estimate of the previous years from 1968-69 to 1972-73 during which the average production was estimated at 3,950 million nuts, with a maximum production of 4,054 million nuts achieved in 1971-72.

3.8. As these estimates were found to be very much at variance with those furnished to the Committee by the Directorate of Coconut Development and the trade, the Committee had to attempt an independent exercise comprising three stages. First an estimate was attempted of the quantities used up (i. e. either consumed within the State or sent out of the State) in raw form. Then an estimate was attempted of the copra used up (i.e. either as input for oil extraction within the State or exported) in the form of copra. Finally an estimate was made of the quantities of oil consumed within the State and sent out to other States. In making these estimates, considerable reliance was placed on the findings of a recent household consumption survey by the Directorate of Coconut.

3.9 According to the Directorate, while the annual consumption of coconuts among the middle and high income groups was 430 nuts per household, that among the lower class families indicated a consumption of 150 nuts per year on an average. Assuming that roughly 7.5 lakh households belong to the first category and 27.5 lakh households to the second category, the annual households consumption would work out to 735 million nuts per year. The Directorate has also estimated that to maintain the population of 170 million trees in the State, the annual seedling requirements would be 5 million nuts. In addition, coconuts are used for religious purposes and are sometimes plucked as tender nuts. If one allows 60 million nuts on this score, one gets a round figure of 800 million nuts (735+5+60) to represent annual consumption of coconuts in raw form within the State.

3.10. Information regarding the movement of coconut to other States in raw form is very meagre. However, a field survey conducted by the Kirloskar Consultants revealed that about 150 million nuts have been moving out of Kerala every year. On checking the rough data available in regard to movements of coconuts by rail, road and sea, the Committee found this figure to be reasonable. This would mean that of the total coconut production, as much as 950 million nuts are used up as raw nuts.

3.11. Passing on to the estimation of the consumption and despatch of copra to other States the Kirloskar study estimated that on an average, about 1.4 lakh tonnes of copra moved out of the State every year, and that a good part of this moved by road to the State of Maharashtra. Road tonnage was estimated to account for 50 per cent of the total copra exports. The Committee was able to lay its hands on figures relating to copra movement by rail and sea for 1967-68, which amounted to about 70 thousand tonnes. If it is assumed that rail and sea accounted for about 50 per cent of the total copra that moved out of Kerala, the figure of the total quantity of copra despatched outside comes to 1.4 lakhs tonnes for 1967-68. The Kirloskar estimate would therefore seem to be reasonable.

3.12. Direct estimation of the quantity of copra crushed inside the State would have involved acceptance of the quantities crushed by oil mills inside the State, as reported by them. But complete reliance could not be placed on them for obvious reasons. The indirect method of estimation was to first estimate the household consumption of coconut oil within the State and the quantity of oil despatched to other States. That would give an estimate of the oil produced, and in turn the copra crushed, within the State. On the basis of the data available to the Committee on the quantities that moved by various modes of transport, it appeared that some 30,000 tonnes of coconut oil were sent annually to other States. This, incidentally, came very close to the figures furnished to the Committee by the trade associations in Cochin. The Kirloskar Consultants had also arrived at the same estimate in their study. It was decided to accept this figure as reasonable though it is possible that the data source is the same for these computations.

3.13 To the above estimate of the quantity of oil sent to other States, has to be added the estimated quantity of oil consumed within the State. The consumption study made by the Coconut Directorate had come out with the finding that in the case of middle and high income groups, the average comsumption of coconut oil was about 29 kilogrammes per year. Such households number 7.5 lakhs. In the case of the lower income households numbering 27·5 lakhs the consumption was estimated at 15 kilograms per household. If these consumption norms are converted into absolute terms coconut oil consumption within the State would amount to 63,000 tonnes per annum. Coconut oil is also used for industrial purposes. The industrial consumption within Kerala is estimated at only 2,000 tonnes per annum. Hotels also consume some quantity of coconut oil. This is estimated at 1,000 tonnes per annum. Taking together estimates of consumption within the State and of outside despatch, annual production of oil would amount to 96,000 tonnes. According to the production norm usually applied, one tonne of copra would give 0.62 tonne of coconut oil, the remainder representing the oil cake. On this basis, production of 96 thousand tonnes of coconut oil would require about 1.55 lakh tonnes of copra. This can be taken as an estimate of copra used every year within the State for the production of coconut oil.

3.14. Earlier, the quantity of copra moving out annually to other States was placed at 1.4 lakh tonnes. Thus the total copra production in the State would amount to 2.95 lakhs tonnes or say, 3 lakh tonnes a year. Assuming that 6,850 coconuts yield one tonne of copra, 3 lakh tonnes of copra would account for 2055 million nuts. If this is added to the estimated use of coconut in the raw form i.e., 950 million nuts, the total quantity of coconuts would add up only to 3005 million nuts as against which the official estimate of production is 4000 million nuts, though the estimate for 1972-73 was only 3703 million nuts. Thus, almost 1000 million nuts (i.e. about a quarter of the estimated production) remains unaccounted for. The Committee would like to add here that the figures mentioned by some trade organisations would place the State's annual production of coconut at close to 10,000 million nuts. By comparison, the official estimates would appear to be extremely conservative, and still the estimates made on the basis of use fall considerably short of it. In the analysis that follows, while the Committee has chosen to make its calculations of tax potential and leakages on the basis of the lowest of the three estimates of production, namely 3000 million nuts, it is convinced that the actual production figure is much higher.

3.15. The small grower is legion in the field of coconut production. The age-old practice of the itinerary merchants advancing loans to the farmers and thereby virtually pre-empting their output is still very widespread. All studies known to the Committee, including the Legislature Committee's Report on Regulated Markets and the study conducted by the Coconut Directorate have shown that the coconut trade is controlled by the middlemen who generally subject the farmer to a number of unwarranted deductions from the ruling market price. As far as the trade in copra is concerned, though the number of intermediaries has been estimated around 150, the bulk of trade (over 80 per cent) is concentrated in a few hands; their number is believed to be even less that a dozen. These traders sell in turn to an equally small number of expeller units concentrated in Maharashtra. In regard to coconut oil, the normal trade involves three stages of turnover: (i) from the miller to the wholesaler, (ii) from the wholesaler to the retailer and (iii) from the retailer to the consumers. The oil used by industries is generally purchased from the millers directly.

3.16 Coconut and copra fall under the category of declared goods i.e. goods declared to be of special importance in inter-State trade or commerce under section 14 of the Central Sales Tax Act, 1956. The rate of sales-tax leviable on these commodities has, therefore, been subject to a ceiling rate of 3 per cent which has now been enhanced to 4 per cent with effect from 1st July 1975. But for coconut and copra tax at the rate of 3 per cent at the point of last purchase in the State has been retained in Kerala. Where tax is levied on copra, the tax, if any, levied and collected on cocount from which such copra is produced is to be refunded. However, when oil millers in the State purchase coconut or copra for production of oil, tax is payable thereon at only 2 per cent and on the subsequent inter-State sales of oil and oil cake at 1 per cent. The concessional rate on oil and oil cake is applicable even when millers sell them to dealers who, in turn, sell or transfer them outside the State. Within the State, however, till June 1974, while coconut oil and oil cake sold by oil millers attracted only 1 per cent tax from July, 1974 coconut oil and cake were brought under single point tax and the rate was fixed at 5 per cent payable at the first point of sale. The tax payable on the inter-State sales of oil remains at the reduced rate of 1 per cent.

3.17. To start with coconut oil, it was estimated earlier that coconut oil production within the State was about 96 thousand tonnes. Of this estimated annual production, it has also been estimated that about 30 thousand tonnes move out to other States. At 1972-73 prices, the total value of oil produced in the State may be reckoned at Rs. 60 crores, out of which an amount of Rs. 18 crores may be apportioned as the value of coconut oil moving out of the State. Of the estimated consumption of 66 thousand tonnes of oil within the State as much as 63 thousand tonnes would represent the quantity of household consumption. Of the remaining 3000 tonnes, about 2000 tonnes may represent industrial consumption and 1000 tonnes may be taken as consumption by hotels etc. While the purchases of oil for household consumption would attract the multi-point tax at different stages (3.5 per cent in 1972-73) the purchases by industries made directly from the oil mills, would attract only the 1 per cent concessional tax on the millers. Hoteliers might be paying tax at two stages. If it is assumed that oil trade within the State normally passes through two stages, it would be reasonable to assume that the cumulative sales-tax burden would work out to 8 (1+3.5+3.5) per cent on quantities of oil domestically consumed. When applied to a total value of Rs. 40 crores, the Sales-tax revenue should have amounted to Rs. 3.32 crores. If oil consumed by industries and hotels are included, this would work out to Rs. 3.36 crores. Actual realisation in 1972-73 amounted to Rs. 2.98 crores. The shortfall would thus work out to only about 11 per cent. The comparable figures for the period 1968-69 to 1971-72 are given in Table No. 3.1.

TABLE 3.1

TAXATION OF COPRA AND COCONUT OIL—POTENTIAL AND ACTUAL REALISATION

(Rs. in crores)

Years	*Coconut & Copra*			*Coconut Oil*		
	Taxable turnover	*Tax levied*	*Estimated tax potential*	*Taxable turnover*	*Tax levied*	*Estimated tax potential*
1968-69	30.64	0.61	2.12	16.06	0.43	1.37
1969-70	30.52	0.86	2.53	22.32	0.44	2.45
1970-71	32.64	0.96	3.56	61.38	1.38	3.42
1971-72	59.09	1.57	2.94	91.30	2.06	4.31
1972-73	72.93	1.86	3.10	85.28	2.98	3.36

3.18. It can be seen that tax leakage was more in earlier than later years. On oil sent out to other States, however, the position, for 1972-73 is re-assuring in that there appears to be little leakage of tax. It must be emphasised, however, that the main assumptions underlying the above calculations is that only around 1 lakh tonnes of oil is produced within the State. Here it is prudent to recall that of the officially estimated output of coconut, some 20-25 per cent remained unaccounted for.

3.19. It was estimated earlier that atleast 3 lakh tonnes of copra were produced in the State every year. On the basis of the production of coconut oil in the State, it was also estimated that about 1.55 lakh tonnes of copra were crushed into oil within the State. The remaining quantity of 1.45 lakh tonnes of copra would then represent copra sent out to other States. Taking into account the average price of copra for the year 1972-73 (Rs. 41.84 per tonne), the total value of copra produced in the State would work out to Rs. 125 crores. Of this, the value of copra sent out of the State may be estimated at Rs. 60 crores and the balance of Rs. 65 crores may be taken to represent the value of copra crushed within the State. Applying a tax rate of 2 per cent on internal purchase of copra, and assuming that on the quantities sent out a 3 per cent tax is payable at the last purchase point within the State but no CST is attracted, the total yield from taxation of copra should have amounted to Rs. 3.1 crores in 1972-73 (see Table 3.1)—Rs. 1.3 crores on copra purchased for internal crushing and Rs. 1.8 crores on copra sent out of the State. Against this, the sales tax collected on copra during 1972-73 amounted to only Rs. 1.9 crores, thus showing a shortfall of 40 per cent over the potential. As can be seen from Table 3.1, the shortfall for the entire five year period would work out much higher, but in order not to overstate the extent of leakage, the Committee has chosen to concentrate on the most recent year for which information was readily available.

3.20. It may be borne in mind that the figures of taxable turnover given in Table 3.1 have, as already pointed out, their own limitations. However, in the case of bulk items like copra whose dealers are not likely to deal with any other major commodity, the figures of turnover can be taken to represent a closer approximation of the taxable turnover booked by the Department. Thus, the above estimate of shortfall with respect to copra appears to be quite realistic. It now remains to locate the points at which leakage is taking place, namely, whether it is at the point of internal processing or at the point of despatch outside.

3.21. As mentioned earlier, if the coconut oil production in the State is reckoned at 96,000 tonnes, the corresponding quantity of copra required to produce this much of oil should be 1.55 lakh tonnes. In value terms, this would amount to Rs. 65 crores which at the rate of 2 per cent sales-tax should have yielded a revenue of Rs. 1.3 crores out of the total amount collected in that year of Rs. 1.9 crores. If only the balance of Rs. 0.6 crore is taken to represent copra sent out of the State, the corresponding turnover in value would be Rs. 20 crores. However the total thus arrived at, viz. Rs. 85 (65+20) crores, exceeds the taxable turnover determined of Rs. 73 crores.

3.22. If, on the other hand, the figure of taxable turnover determined is taken as a reasonably firm figure and is broken down between copra sent out of the State and copra crushed within the State, taking into account the differential tax rates they attract viz., 3 and 2 per cent respectively, it works out that copra going out of the State should have been of the value of Rs. 40 crores and that crushed within the State Rs. 33 crores. Thus of the estimated value of copra moving out of the State (Rs. 60 crores), 66.7 per cent was accounted for, and of the estimated value of copra crushed internally (Rs. 65 crores) only 50 per cent was accounted for in tax. The conclusion that follows is that there is considerable leakage on account of copra crushed internally as well as that moving out of the State.

3.23. As for copra crushed within the State, the Committee is intrigued that eventhough leakage on account of oil is not significant, this should not have reflected itself in the taxation of copra. Ordinarily, one would expect that given the standard recovery rate, if 96 thousand tonnes of oil was accounted for in tax, it should have followed that 1.55 lakh tonnes of copra should have been taxed. The Department's figures of turnover when related to tax collected do not bear this out, however.

3.24. Regarding copra moving out of the State on which also tax evasion appears to be taking place on a large scale administrative measures like more effective checkpost control and better co-ordination with railway and port authorities to monitor movement of copra, may not alone be adequate. Whatever the methods resorted to evade/avoid sales-tax it is through the handfull of intermediaries as mentioned earlier that this immense leakage seems to be taking place.

3.25. Often the smallness of the number a tax department has to deal with is considered, and quite justifiably so, an advantage. It is supposed to make tax enforcement very much easier. Evidently this is not so with regard to copra moving out of the State. It may also be noted in this context that since only a small number of dealers is involved in the inter-State trading in copra, the market price of copra is subject to strong monopsonist pressures. These dealers sell in turn to an equally small number of expeller units concentrated in Maharashtra. In fact, the opinion expressed before this Committee was unanimous that copra prices in Kerala were determined from outside. What is more, these prices fluctuate considerably from year to year. At the same time, seasonal price variations could be quite substantial; the lean season price is generally about two-thirds of the peak period price. The benefits of such seasonal fluctuations can be reaped only by those who have the capacity to hold stocks, whether they are farmers, traders or millers. So it is the small farmer who is at a great handicap in this regard. It is in this context that the Committee would suggest action on a broader front which would not only prevent tax leakage but also offer the much-needed protection to the small grower from the ravages of middlemen starting with the village merchant.

3.26. In the above context, the following two major proposals under the active consideration of the State Government are of immense relevance, namely, proposals for the establishment of: (1) Regulated Markets throughout the State as recommended by the Legislature Committee on Regulated Markets and (2) Coconut Development Corporation. In fact, the latter has already come into existence and the Committee had the benefit of discussions with its Managing Director.

3.27. The Legislature Committee on Regulated Markets has recommended to the Government an eminently practical scheme on the basis of the working of regulated markets in several States, including a part of Kerala. Under its regulated market scheme, all marketed produce of a notified commodity must pass through a regulated market where the produce is scientifically graded and auctioned so that the farmer gets his fair price with the minimum of deductions. Though the farmer will thereby be able to get his due share of the ruling price, some of his major problems would still remain, namely, (i) his dependence on loan assistance from the village merchant, (ii) his susceptibility to price fluctuations and (iii) the vulnerability of the market price to the monopsonist pressures.

3.28. To take care of the financial requirements of small farmers it would be necessary to bring them within the fold of co-operative marketing societies which will have to be provided with adequate funds to make necessary pre-harvest advances to the small growers. It is extremely important to replace the merchant traders completely if the small growers are to be duly protected. What is no less important is that this extended network of co-operative marketing societies appears to the Committee as a very essential adjunct to the regulated market scheme. The two complement each other ideally. The Legislature Committee on Regulated Markets shows full awareness of this and its report envisages the complementary development of the Co-operative marketing societies along side the extension of the regulated markets in the State.

3.29. It is with respect to the problems of price fluctuations and monopsonist pressures on price, that, in the view of this Committee, the Coconut Development Corporation, established with the specific purpose of engaging in marketing and processing of coconut, can ideally step in and play a significant role. The Committee would like to emphasise in this context that these two proposals should not be taken as mutually exclusive, indeed they should be viewed as complementary to each other. While the establishment of regulated market will lead to the establishment of viable market yards within easy reach of the farms so that all marketed surplus of coconuts in the neighbourhood can pass through such a yard, the operations of the Coconut Development Corporation within the framework of regulated market should ensure that the price which prevails, in this market is least susceptible to either monopsonistic pressures or seasonal and other factors, which ordinarily cause wide price fluctuations.

3.30. In this context, the Committee would like to make the following suggestions for concerted

(i) Coconut including copra should be notified for purposes of regulated marketing. To notify both coconut and copra should imply that one or the other *must* be dealt with in the regulated market but not, necessarily both.

(ii) Appropriate steps should be taken to cover coconut growers by co-operative marketing societies, with membership restricted to those with holdings of 2 hectares and less. There should be atleast one such society for every regulated market. Pending the establishment of regulated market for coconut and copra, the Coconut Development Corporation should proceed to establish trade links within as well as without the State for the sale of copra and immediately, thereafter, engage in the buying and selling of coconut and copra. As soon as the regulated market scheme comes into being, the Corporation will naturally operate through the regulated market.

(iii) The Corporation should employ the marketing co-operatives as its agents in the regulated market.

(iv) Where the Corporation purchases coconut, the Corporation may get it converted in to copra through the market co-operatives on payment of a fee.

(v) The Corporation may, in addition, buy copra in the regulated market.

(vi) The Corporation should try to dispose of coconut/copra at as remunerative a price as possible. For this purpose, the working of the Corporation could be modelled on the lines of the Central Arecanut Marketing and Processing Co-operative Society(CAMPCO for short)

(vii) The Corporation may, however, have all or part of the coconut/copra it procures converted into oil either through the private oil mills in the State or through its own mills.

(viii) The Corporation should also establish necessary trade links within, and without, the State for the sale of oil at as remunerative a price as possible.

(ix) The Corporation should set up storage facilities of its own and use other storage facilities so that it is under no pressure to unload its stocks when the prices are least remunerative.

3.31. The Committee examined in this context the recommendation of the Coffee Board model whereby a grower is legally obliged to surrender all his produce except for the portion he is allowed by the Board to retain. Thus, virtually the entire produce is marketed by the Board and the producer gets his price after the Board's expenses are allowed for. This model has its strong attractions from the point of view of both the growers, especially small growers, and taxing department. As in the case of coffee, it ensures fair price to the grower and due tax to the Government. The reason this Committee hesitates to offer the Coffee Board model as the solution however, is because it is bound to involve considerable preparatory work and therefore time to put the model into effect particularly for an item like coconut whose production is very widely dispersed. On the other hand, the Coconut Development Corporation, which is already on the scene, could start its market operations almost straightaway without even waiting for the regulated market scheme to become operative. For instance, though CAMPCO is able to operate more effectively in Karnataka where the regulated market in arecanuts is well established, the virtual non-existence of regulated market in Kerala has not been a major factor coming in the way of its operations inside Kerala. While this should not be taken to detract, in any way, from the importance of regulated markets in the Committee's package, it does bring out the importance the Committee attaches to the time factor, a factor that cannot easily be ignored from the angle of either the small farmer or revenue.

Arecanut

3.32. An interim report on arecanut was submitted by the Committee to the Government and it is, as already stated reproduced as an annexure. But since the interim report dealt with only one specific aspect then referred to the Committee by the Government, it has been decided to include a section on arecanut in this report. However, overlap has been avoided as far as possible.

3.33. Arecanut is another major commercial crop of Kerala. Although its production is highly localised in the three States of Karnataka, Kerala and Assam, which together account for over 90 per cent of the aggregate production in the country, its consumption is widely dispersed over the country. While in Karnataka it is grown largely on a plantation basis, in Kerala, except in some parts of Cannanore District, arecanut is cultivated mostly in small homestead gardens as part of mixed crop. The main feature of its cultivation as in the case of coconut, is the large number of small holdings scattered throughout the State. It is also significant that while the area under arecanut in Kerala (86,800 hectares) is almost double that in the neighbouring Karnataka (43,200 hectares), the output in Kerala is about the same as in Karnataka. The problems of marketing the produce are, therefore, serious since the producers are not generally well organised. The village merchants, who are large in number, are able to take full advantage of the situation by dominating the fields of credit and marketing.

3.34. The source of the production figures for arecanut is the same as for coconut, namely the State Bureau of Economics and Statistics. Since there is no way of cross-verifying these figures of production, the Committee preferred to go by the official production figures. Moreover, there are no independent estimates, which directly or indirectly question these figures. It should be stated, however, that since these production figures are based on sample surveys, they can only be regarded in the nature of approximation.

3.35. Arecanut is plucked both at the tender and ripe stages. The tender variety is converted into Kalipak and the ripe into Kottapak. In terms of number of nuts, out of approximately 12,800 million nuts grown every year about two-third of the total arecanut produced in the State was of ripe nuts and the remainder tender nuts. In terms of value, however, the tender nuts account for less than 15 per cent of the total value of production. This is because, the price of tender nut, which loses two-thirds of its weight in the process of curing and drying, is usually fixed at approximately one-third of the price of ripe nut.

3.36. It is estimated on the basis of the consumption pattern within the State that about 85 per cent of the ripe nuts would seem to comprise the State's surplus of arecanut. On an average, therefore, this surplus would account for about 90 per cent of the total value of the State's production. During the period under review, arecanut was subject to a single point tax at the last purchase point within the State. However, if the producers sold direct outside the State no tax was leviable on such transactions under the Central Sales Tax Act. For a crop cultivated by a large number of small holders, such direct transfers are hardly feasible on a large scale. Only big planters would be in a position to resort to such direct sales. Ordinarily, therefore, the value of marketable surplus should bear close correspondence with the value of the taxable turnover determined by the Department. Such correspondence does not, however, exist as the data in Table 3.2. would show.

TABLE 3.2

MARKETABLE SURPLUS TAXABLE TURNOVER AND TAX LEVIED IN RESPECT OF ARECANUT

Year	*Estimated marketable surplus (Rs. crores)*	*Taxable turnover* (Rs. crores)*	*Col. (3) as % of (2)*	*Tax levied (Rs. crores)*
(1)	(2)	(3)	(4)	(5)
1968-69	32.01	13.32	41.6	0.70
1969-70	36.31	23.28	64.1	1.22
1970-71	32.94	31.52	95.7	1.65
1971-72	29.96	34.00	126.1	1.77
1972-73	22.73	13.25	58.3	0.70
1973-74	28.94	16.74	44.0	0.88

*The figures in the column (3) are of taxable turnover determined for purposes of the State's General Sales Tax, which, as stated in the text, is leviable at the last purchase point.

3.37 As already stated elsewhere, commodity-wise statistics of tax collections have their limitations. However, in spite of the erratic relationship between taxable turnover and estimated value of States surplus of arecanut as disclosed in Table 3.2, on an average about one-third of the surplus arecanut does not appear to have suffered tax.

3.38. On the basis of available data regarding movement of arecanut outside of Kerala by different modes of transport, the value of recorded quantities adds upto only about Rs. 12 crores a year, Rs. 1 crore by sea, Rs. 4.5 crores by rail and the remaining Rs. 6.5 crores by road. This falls short of the average value of estimated exportable surplus of arecanut by 60 per cent. But not all of even this recorded movement to other States attracts tax; only one-third (Rs. 4.2 crores annually) attracts tax.

3.39. If the entire State surplus in arecanut were first purchased within the State before it moved out to other States, it would have suffered tax at the rate of 5 per cent (it was raised to 6 per cent as from July, 1974) since that was the last purchase in the State. If again, this were *sold* outside, the Central Sales Tax would have been attracted at the rate of 3 per cent (now it is 4 per cent). Actually about one-third of the State's surplus bears no tax at the last purchase point within the State. Out of the two-thirds which is taxed at the last purchase point within the State, only one-third moves to other States in a manner that attracts the Central Sales Tax. The balance evidently moves out in the form of transfers or on grower's account. Thus the broad position seems to be that (1) there is sizeable avoidance of tax at the last purchase point within the State; (2) there is considerable suppression of the quantities moving out of the State and (3) a large proportion succeeds in avoiding payment of Central Sales Tax. From informal discussions with knowledgeable persons, it appears that the main modes of avoidance and evasion are under-invoicing of the quantities exported, especially those carried by road, consignment sales and sales disguised as direct sales by growers of arecanut.

3.40. In the Committee's Interim Report on Sales Taxation of Arecanut, it was brought out that the proportion of arecanut escaping sales tax was not uniformly high in all the districts. Leakage was relatively larger in the northern districts than in the central and southern districts of the State. On the whole, it appeared that tax avoidance was much more widespread in the districts close to the markets in Karnataka.

3.41. It is very pertinent to point out in the above context that, as in the case of coconut purchases of arecanut from the farm are invariably made by the petty merchant. The farmer is subjected to numerous extractions in both kind and cash. It is also quite common that the cultivator and the merchant are linked on the basis of credit advanced by the merchant. In the case of small producers, the bondage is more tight and the exploitation more intensive. A further parallel that can be drawn between coconut and arecanut is that not only are there considerable seasonal fluctuations in prices but also there are sizeable price variations from year to year. It was in fact, with a view ostensibly to protecting the farmer from the impact of the latter that the States of Karnataka and Kerala decided to intervene jointly in the arecanut market through CAMPCO.

3.42. According to this Committee, the establishment of CAMPCO was an eminently appropriate move. The Committee is convinced that the entry of CAMPCO in the market has already had a positive impact on arecanut prices. This should have helped the farmers in both Kerala and Karnataka. However, in the first two years of its existence, CAMPCO confined its operations largely to markets in Karnataka and, therefore, could not directly benefit the farmers in Kerala. Thus the stranglehold of the intermediaries on the trade in Kerala continued.

3.43. Of much more immediate interest to this Committee is the problem of large scale tax leakage. The Committee hopes that CAMPCO will be in a position to extend its operations soon within Kerala and that, as in Karnataka, the State Government in Kerala will, in the near future, bring arecanut effectively within the framework of regulated markets,and also establish a supporting network of co-operative marketing societies on more or less the Karnataka pattern, so that trade in arecanut passes through channels which can easily be located for purposes of sales taxation. It was with this objective that this Committee recommended to the State Government complete exemption of CAMPCO's purchases from the payment of tax at the point of purchase within Kerala provided such exempted purchases paid Central Sales Tax. This step, it was hoped, will help CAMPCO to compete effectively with the established dealers by offering a better price. The Committee notes with satisfaction that the State Government has accepted and implemented the Committee's recommendations. It is hoped that the State Government will also take appropriate supportive measures, as recommended by this Committee, in the near future. Then not only will the farmer have benefited but also the State exchequer.

Rubber

3.44. Rubber is the principal plantation crop of Kerala. It covers over 60 per cent of the aggregate plantation area in the State. Also 92 per cent of the total area under rubber in the country is accounted for by this State. The cultivated area as well as production of rubber has been showing a steady increase in recent years. Thus, while the cultivated area increased by about 40 per cent from 1.18 lakh hectares in 1967-68 to 1.65 lakh hectares in 1973-74, production doubled itself from 64 thousand tonnes to 125 thousand tonnes in the same period. Of the production in 1973-74, Kerala's share is estimated at 118 thousand tonnes. Of the land under rubber in Kerala, only 27 per cent is accounted for by estates with 50 acres and above. The balance of 73 per cent is in holdings of 50 acres and below. Within the latter category, about 50 per cent of the land is accounted for by holdings of less than 2 hectares. When it comes to production, however, estates account for almost half of the annual output.

3.45. Production figures given out by the Rubber Board have been adopted by the Committee for its analysis. However, doubts were expressed to the Committee about the coverage of the Rubber Board's statistics. According to some of the witnesses, the possibility of understatement of output by the producers in their returns to the Rubber Board with a view to avoiding various levies cannot be ruled out. The Committee recommends that production estimates should be made independently by the State Bureau of Economics and Statistics.

3.46. Though Kerala produces over 90 per cent of the rubber grown in the country, consumption of rubber within the State is very small. In 1973-74, the consumption of natural rubber within the State amounted only to about 8 per cent of the production in that year. Thus, a very large part of the rubber grown in Kerala moves to other States. About 72 per cent of the rubber consumed within the country is accounted for by the States of West Bengal, Maharashtra and Tamil Nadu. Industry-wise, about two-thirds of the rubber is consumed by the manufacturers of tyres and tubes. It is even more interesting to note that over two-thirds of the rubber is consumed by fifteen large manufacturing units whose individual consumption is over 1,000 metric tonnes per annum.

3.47. These manufacturers are in an advantageous position to buy direct from estates or big holders or to appoint agents or dealers and thus acquire a strong control over the price of rubber. The number of such agencies which was only 60 in 1965 increased to 450 by 1974. Excluding them, there are about 1,100 dealers in rubber in Kerala. The most important among them are the dealers operating in the terminal markets of Kottayam, Cochin and Calicut, some of whom have only branches in Kerala with head offices outside. There are also a large number of unlicenced dealers who operate in the rural areas purchasing rubber from the small growers at their doorsteps and sell it is turn at panchayat and town centres.

3.48. Rubber is subject to a single-point tax at the last purchase point within the State. The rate of tax was 2 percent to start with; it was raised to 3 per cent in 1969 and to 5 percent from July, 1974. While the quantity of rubber processed within the State would attract tax at the point of purchase by the local manufacturer of rubber products, the quantity moving to other States would attract the above tax only if it undergoes a purchase within the State. As can be seen from Table 3.3, the value of output that attracts tax at the purchase point within the State has ranged between 50 per cent and 80 per cent since 1968-69. The corresponding average works to about 65 per cent. As mentioned earlier, the internal consumption of rubber by local industries is no more than 10 per cent. Thus, of the rubber moving out of the State, about

TAPLE 3.3

VALUE OF PRODUCTION, TAXABLE LURNOVER AND TAX LEVIED IN RESPECT OF RUBBER

Year	*Estimated production (in tonnes)*	*Average price (Rs. per tonne)*	*Estimated value of production (Rs. crores)*	*Value of taxable turn over (Rs.crores)*	*Tax levied (Rs.crores)*
1968-69	66,473	5,079	33.76	20.29	0.41
1969-70	76,897	4,739	36.44	23.53	0.49
1970-71	78,731	4,583	36.08	25.71	0.78
1971-72	88,929	4,255	37.84	18.33	0.58
1972-73	91,948	4,543	41.77	31.51	0.99
1973-74	1,18,020	4,577	54.21	31.09	0.98

two-fifths move without payment of any tax in Kerala. On the other hand, of the three fifth which suffer tax at the purchase point within Kerala, one out of every six tonnes of such rubber also pays Central Sales Tax. The broad picture can be summed up as under:

	Percentage to Production
1. *Estimated internal consumption*	*8*
2. *Estimated movement to other States*	*92*
(a) Movement in the form of sales after purchases inside the State, i.e., the proportion attracting Central Sales Tax	9
(b) Movement suffering purchase tax but not Central Sales Tax	48
(c) Movement which suffers neither purchase tax nor Central Sales Tax	35

3.49. Thus over one-third of the total rubber produced in the State can be said to be moving out of the State in such a manner as does not entail payment of sales tax in Kerala. This proportion is on the increase. It is widely believed that tax is altogether avoided by transfers on grower's account. Almost half (i.e., 48 percent) of the production pays sales tax at the last purchase point within the State, but then moves out in such a manner that it does not attract Central Sales Tax. Consignment transfer appears to be the method commonly used for this type of movement. The purpose evidently is to purchase rubber in Kerala and then transfer it to the place of manufacture across the State on the purchaser's own account so that no Central Sales Tax is attracted. It is believed that the agencies of the rubber manufacturers have been instrumental in the recent expansion in the scale of transfers of rubber across the State on grower's own account.

3.50. Under the Rubber Act, all movement of rubber across the State border has to be accompanied by a duly completed prescribed form, called 'N' Form, regardless of whether the exporting parties are dealers or manufacturers or producers of rubber themselves, all of whom are required to take out a licence from the Rubber Board. But no account is maintained by the Rubber Board of the N Forms issued. Nor is their utilisation by different categories of applicants verified. The laxity in the issue of and watch over the N Forms has led to their large scale misuse by intermediaries. It has been brought to the notice of the Committee that there is trafficing in these forms; these are used by intermediaries to cover up their purchases as direct sales by producers, in which they figure only as agents for purposes of procuring orders and arranging transport. The result is that not only genuine sales by estate owners to the manufacturers but sales by smaller growers who did not have the resources to deal direct with the manufacturers are dressed up as direct sales. The Committee would recommend invalidation of all the N Forms so far issued and their re-issue in different colours for manufacturers, dealers and producers with proper accounting.

3.51 It is clear from the foregoing discussion that the main problem of taxation of rubber stems from the exclusion of consignment transactions and transfers on growers' account from the purview of the Central Sales Tax Act. This problem is common to all the States though with respect to their respective commodities. That is why all the States have been urging for the necessary amendments to the C. S. T. Act so as to enable them to tax such inter-State transactions. Once the demand is granted for the imposition of sales tax on inter-State movement of goods, it is only appropriate that all movement whether subsequent to, or in anticipation of, a sale should be made taxable. It is understood that the Law Commission to whom the matter was referred by the Central Government has suggested that the definition of sale should be suitably amended in the C. S. T. Act, after carrying out the requisite Constitutional amendment so as to include in 'sale', a consignment of goods commissioning their movement from one place to another, where such consignment is by a dealer to any other place of his business or to his agent or principal. This, it is hoped, will cover all inter-State consignments made in the course of business and will eliminate the need for any enquiry as to whether the particular consignment constituted a *bonafide* sale or a fictitious sale. Also, it will cover successive inter-State consignments of the same goods in the course of business.

3.52 The reported recommendation of the Law Commission should go a long way towards meeting the problem of consignment transfer faced by the States. But the question still remains whether transfers across the State made by *growers of agricultural products* will be regarded as consignment in the context of the reported recommendation. There is no doubt, that to whomsoever the consignment is made by a grower, he (like the manufacturers) is doing so with a view to making a sale and it should be considered as having been made in the course of business. As has been stated above, it appears that a very large part of rubber grown in Kerala is going out in the name of producers and if the producers are not brought within the fold of the recommended amendment, the avoidance of sales tax may continue on the present scale.

3.53 In the absence of a suitable modification in the C. S. T. Act, the State Government will have to consider seriously the canalisation of the entire rubber produced through a State agency modelled somewhat after the Coffee Board. This will naturally call for appropriate legislative action. Canalisation should also help in the stabilisation of prices on the one hand and in resisting downward, monopsonist pressure, which as already stated, a few large consumers of rubber can exercise in keeping the prices low. In the immediate context of declining prices of rubber believed to have been caused largely by the action of the manufacturers of rubber products to hold off the market, this suggestion becomes even more pertinent.

3.54 Of course, the other alternative is to notify rubber under the regulated market scheme, as proposed by the Legislature Committee. If at the same time, an organisation like the CAMPCO is set up for rubber so that it can effectively intervene, there is every reason to believe that not only will prices be stabilised but they will also become more remunerative to the farmer. However it is not certain that tax avoidance will thereby be sufficiently reduced. The producer retains under the regulated market scheme the right *not* to sell in the regulated market. Therefore the producers who now escape sales taxation altogether by transferring their rubber to other States on own account might still choose to follow the old practice. They might indeed do it on a larger scale than at present. So the risk of tax leakage on the present scale may well remain even with the adoption of the regulated market scheme for rubber. Hence, this Committee would recommend canalisation of rubber trade within the State, unless the definition of 'sale' in the C. S. T. Act is amended to bring within its purview not only the consignment transfers by the dealers but also transfers by the grower.

Tea:

3.55 India's share of world production of tea is about 40 per cent. Kerala's annual output of 45,000 tonnes accounts for about 10 per cent of the tea produced within the country. But Kerala's importance in regard to tea is greater in that Cochin is a major auction centre. It Accounts for 25 per cent of the total tea auctioned in the Country. This is because a substantial part of tea grown in the neighbouring States of Karnataka and Tamil Nadu comes to Cochin for auction. Table 3.4 indicates the picture of disposal of tea produced in Kerala and Table 3.5 indicates how tea passing through Cochin auction is disposed of.

TABLE 3.4

DISPOSAL OF TEA PRODUCED IN KERALA (AVERAGE FOR 1968-69 TO 1972-73)

		Tonnes	*Per cent*
1.	Average annual output	45,000	100
2.	Sold through Cochin auction	36,000	80
3.	Direct ex-factory sale	9,000	20

3.56 As can be seen from Table 3.4 as much as 80 per cent of the tea grown in Kerala is sold through the auctions at Cochin, and only 20 per cent is accounted for by direct ex-factory sale as against the corresponding proportion of 45 per cent for all India.

TABLE 3.5

DISPOSAL OF TEA SOLD AT COCHIN AUCTION (AVERAGE FOR 1968-69 TO 1972-73)

		Tonnes	Per cent
1.	Average annual quantity auctioned	68,000	100
2.	Quantity exported abroad	43,000	63
3.	Quantity moving to other States	20,300	30
	(of which quantity shown as inter-State sales)	(20)	(0.1)
4.	Quantity sold within Kerala	4,700	7

3.57 Tea becomes taxable in Kerala at the point of first sale and the rate has been 5 per cent since April, 1963. Thus, all tea sold at Cochin auction is liable to tax. Also, direct ex-factory sales are liable to pay the above tax. In addition, tea coming in from other States in packed form , estimated at 3500 tonnes a year, becomes taxable at the point of first sale within Kerala. The combination of these three categories of sales will determine the taxable turnover in any one year. Table 3.6 gives data on taxable turnover determined and the tax levied thereon by the Department for the years 1968-69 to 1972-73.

TABLE 3.6

TAXABLE TURNOVER AND TAX LEVIED IN RESPECT OF TEA

(Rs. in crores)

Years	Taxable turnover	Tax levied
1968-69	28.49	1.50
1969-70	48.41	2.54
1970-71	69.77	3.66
1971-72	59.59	3.12
1972-73	58.94	3.09

3.58 On an average, the annual taxable turnover would work out to Rs. 53 crores. Of this, Rs. 40 crores would represent the average annual value of tea auctioned at Cochin. Taking into account the fact of ex-factory sales of tea within the State and the sale of packed tea, the Committee believes that there has not been any large-scale leakage of revenue on account of the general sales tax on tea.

3.59 However, in regard to the Central sales tax, the picture seems to be a little different. It is estimated that some 30 per cent of the tea auctioned at Cochin moves out to other States, but the recorded inter-State sales do not add up to more than 0.1 per cent. Evidently almost all moves out on a consignment, including agency basis, so that no C.S.T is attracted. During the five year period, 1968-69 to 1972-73, only about a lakh of rupees was collected, on an average, as C.S.T., as against an annual potential of about Rs. 35 lakhs. This can be taken as a measure, of tax avoidance with respect to tea. It may, however, be stated that this problem is not of the same proportion as in the case of some other commodities. But even this problem will be adequately taken care of by the suggested amendment to bring consignment sale within the fold of taxation.

Cardamom:

3.60 India is the largest producer of cardamom, accounting for nearly 70 per cent of the world production. Gautemala, Tanzania and Srilanka are the other important caradmom producing countries. It is estimated that the area now under cardamom is 2.03 lakh acres in the entire country, of this Kerala's acreage is put at 1.16 lakh acres i.e. roughly 54 per cent. The committee suspects however that the area figure may have to undergo some revision in the immediate future. The total area for which registration has been applied for in the State under the Cardamom Act already adds up to 1.29 lakh acres which is higher than the official estimate of area. At the same time, it is alleged that sizeable areas have gone out of production as a result of indiscriminate spoilation of shola forests.

3.61 It will be pertinent to refer also to the size distribution of land under cardamom. On the basis of a survey of the registered holdings as on 31-3-1975, it appears that about 90 per cent of the holdings with less than 20 acres account for only 45 per cent of the total area under cardamom. It is believed by informed opinion that the share of these holdings in the total cardamom output of the State is even less.

3.62 Though Kerala accounts for only a little over half of the country's acreage under cardamom, it accounts for about 70 per cent of the extimated annual output. Unfortunately, however, when the Committee compared the data on production from different official sources, it found serious discrepancies, as Table 3.7 would indicate.

TABLE 3.7

ESTIMATES OF PRODUCTION OF CARDAMOM

Production in metric tonnes

Year	*State Bureau's Estimate*	*Cardamom Board's Estimate*	*Quantity reflected in Sales Tax Departments taxable turnover*
1968-69	1055	1300	1300
1969-70	1074	1600	2165
1970-71	1246	2130	2636
1971-72	1519	2720	3016
1972-73	1250	1660	2667
1973-74	1502	1870	N.A.

3.63 Firstly, as can be seen from the table, while the production estimates put out by the State Bureau of Economics & Statistics fall more than 30 per cent short of the Cardamom Board's estimates, the estimates reflected in the taxable turnover determined by the Sales Tax Department were even higher. Secondly, even the average productivity norms namely, the Bureau's 18 kilograms per acre and the Cardamom Board's 32 kilograms per acre, would appear to be rather low when compared to the average productivity figure reflected in the taxable turnover (assuming that the area figure is the same, namely 1.16 lakh acres minus 30 per cent to represent non-bearing area). However, as stated above, the area figures themselves might have to undergo revision in the light of the registration of holdings under the Cardamom Act.

3.64 Under the Cardamom Act, all persons engaged in the business of cardamom have to obtain a licence/certificate of registration from the Cardamom Board. They are prohibited from procuring cardamom from unregistered growers. The number of licenced auctioneers in 1975-76 was 25 of whom 12 were based in Kerala State. About 70 per cent of Cardamom produced is first sold through auctions by these licencees. Weekly auctions are conducted at Vandanmedu, Santhanpara, Kallar, Udumbanchola and Cochin in Kerala. Although no authentic data are available, 30 per cent of the production is believed to be sold directly by the growers. A large part of production in Kerala goes to Bodinayakannur and Virudhunagar in Tamil Nadu and Mercara, Saklespur and Mangalore in Karnataka. These are major assembling centres for despatch to either Bombay and other ports for export or to upcountry centres for internal consumption. Bombay port accounts for roughly two-thirds of the total quantity exported. Also, out of 86 licenced exporters as many as 71 are based in Maharashtra. Though India exports cardamom to more than 60 countries, her main customers are the middle eastern countries and Eastern Europe including Soviet Russia.

3.65 Taking the average for the period beginning with 1968-69, about 60% of the cardamom produced within the country goes abroad, the balance is evidently consumed within the country which incidentally, if compared to the total world availability of cardamom, would imply a very high per capita consumption of cardamom within India. The per capita consumption would work out to be still higher if the production figures are to be revised upwards from 2,900 tonnes to 3,500 tonnes a year on an average. Given the figures of export, the entire revision has to reflect itself in consumption within the country unless it is smuggled out of the country on a large scale.

3.66 Sales Tax on cardamom is attracted in Kerala at the point of last purchase within the State. The rate of tax was only 2 per cent until it was revised to 5 per cent from July, 1974. On the basis of the revised production figures and on the assumption that all export of Alleppey Green is accounted for by Kerala, it would work out that, on an average, 55 per cent of cardamom produced in Kerala goes as export to other countries. The portion moving to other States would be liable to both the State sales tax at the last purchase point within Kerala and also the Central Sales Tax, unless it is moved out on consignment bias. Thus, if one valued the entire cardamom output during the period 1968-69 to 1972-73 at the average export price then prevailing, the State Government should have collected in all about Rs. 1.85 crores or Rs. 37 lakhs every year of which Rs. 11 lakhs should have come as Central Sales Tax. The actual tax receipts have also been of the same order. Of course it should be added that the yearly tax potential has been calculated on the basis that the quantity reflected in the Sales Tax Department was correct. If, however, the view were to be taken that even this quantity understated the actual output of cardamom in the State, then it would follow also that tax potential was correspondingly greater than the actual realisations. It is in this latter context that the resolution of the cardamom Board urging the introduction of pooled marketing assumes significance. This will ensure minimum leakage of the Sales tax due to the State Governments concerned, and also a fair as well as stable price to the farmers, especially the small farmers.

3.67 It should be evident from the foregoing analysis that there is a great deal of uncertainty with respect to not only area under cardamom but also its annual production within the State. The constraints which the uncertainties with regard to both area and production estimates placed on the Committee make it difficult for it to arrive at any firm conclusions regarding tax potential and possible evasion and avoidance, not to mention any regulatory measures. The Committee would strongly urge that a complete census of the cardamom holdings be undertaken by the State Government and this should be followed by an annual sample survey to determine fluctuations in area and output from year to year.

Pepper:

3.68 World production of pepper in recent years amounted to a little over one lakh tonnes, of which India's share is estimated at 25 per cent. Practically, the whole of this is concentrated in Kerala. The area under pepper was 1.18 lakh hectares in 1973-74, with the production officially estimated at 27,750 tonnes in that year. The production in 1972-73 was placed at 25,150 tonnes. In the course of its own work, including discussions with various groups, the Committee got the impression that the official estimates of peppr production might be on the low side. It will be seen from Table 3.8 that the exports of pepper during the period 1968-69 to 1973-74 averaged around 90 per cent if the estimated production. 1973-74 was clearly an abnormal year in this respect, but so was 1970-71 when the proportion was rather low.

TABLE 3.8

PRODUCTION AND EXPORT OF PEPPER

Year	*Estimated production in tonnes*	*Export to foreign countries in tonnes*	*Percentage of col. 3 to col. 2*
(1)	(2)	(3)	(4)
1968-69	20,437	18,952	92.7
1969-70	24,402	22,297	91.4
1970-71	25,029	17,970	71.8
1971-72	25,097	19,247	76.7
1972-73	25,150	19,958	79.4
1973-74	26,750	31,648	114.0

3.69 According to some persons in the trade however, only about 50 per cent of the pepper production is exported to foreign countries, and the remaining 50 per cent is consumed within the country itself. If this were true, then taking the quantities reported as exports as firm figures, the production of pepper should have been around 40 thousand tonnes a year, on an average.

3.70 The Committee was able to get hold of data relating to movement of pepper by major modes of transport. The latest years for which such data were available were 1966-67 and 1967-68. The broad picture of movement of pepper for the years, 1966-67 and 1967-68, is indicated in Table 3.9.

TABLE 3.9

PRODUCTION OF AND TRADE IN PEPPER

	Quantity in tonnes 1966-67	1967-68
1. Exports to foreign countries through Cochin Port	17,705	18,223
2. Exports to other parts of the country:		
(i) by rail transport	10,977	9,120
(ii) by coastal transport	2,300	3,580
(iii) by road transport (rough estimate)	2,000	900
Total (1+2)	**32,892**	**31,823**
3. Production as officially estimated	**21,400**	**21,060**
4. Gap between trade figures and production figures	**11,582**	**10,763**

3.71 The tarde and production data for the years 1966-68 would seem to support the impression that official estimates grossly understate production of pepper. It would appear that only about two-third of the actual production of pepper gets reported in official estimates.

3.72 As in the case of several other commercial crops grown in Kerala, particularly those in which the small grower predominates, pepper trade has been going on the basis of the traditional pattern with the village merchants acting as the main intermediary between the grower and the wholesaler. The bulk of the pepper is accounted for by very small growers, whose vulnerability to the exploitation by the middlemen is great indeed.

3.73 Assuming that the annual output of pepper was of the order of forty thousand tonnes in recent years, it would appear from its comparison with the taxable turnover determined with respect to pepper that tax leakage might be as high as 75 per cent. During the course of the Committee's travel within the State and discussions with various groups, the impression gained was also that evasion of sales tax on pepper was taking place on a large scale. From the various accounts that were given to the Committee, it would appear that considerable leakage was taking place through under-invoicing and suppression of movements by road and through fictitious

TABLE 3.10

PRODUCTON AND TAXABLE TURNOVER OF PEPPER

Year	*Production of pepper as officially estimated* (00 *MT*)	*Production figures as corrected for under estimation* (00 *MT*)	*Quantity estimated on the basis of Taxable turnover* (00 *MT*)	*% of col. 3 to col. 2*	*% of col. 4 to col. 3*
(1)	(2)	(3)	(4)	(5)	(6)
1968-69	204	306	232	114	76
1969-70	244	366	364	149	99
1970-71	250	375	245	98	65
1971-72	251	376	307	122	82
1972-73	252	378	235	93	62
1973-74	278	417	144*	52	35

* Provisional figure.

booking by rail. Also, cases were brought to the Committee's notice in which Mahe, an enclave in Kerala of Pondicherry, was used as the base for the inter-State movement in bogus names of large quantities of pepper. Mahe itself grows very small quantity of pepper. No pepper was really bought or sold in Mahe; nor did any pepper move from Mahe to Tellicherry or vice-versa. All the transactions were done within Kerala itself and the movement to outside of the State also originated from within the State only. Only the documents were prepared in the names of the Mahe parties. Trade malpractices of this kind would have to be effectively checked if the tax leakage now taking place is to be stopped. As is pointed out subsequently, the working of check-posts, in general, calls for considerable improvement. But those covering the movement of pepper will have to be given the highest priority. Also arrangement should be worked out with the local railway authorities to track evasion through bogus booking of pepper by rail. But by themselves these measures may not be adequate to meet the problem of tax leakage which appears to be quite widespread with respect to pepper.

3.74 This Committee has, after due consideration, come to the conclusion that the State Government should consider bringing pepper within the fold of regulated market. This should help both the farmer and the State exchequer. The farmer should get a better price and the exchequer should get its due tax. In the process, production data should be easier to cross-verify with the data which regulated markets will generate. The regulated markets in pepper could be built around important trading centres like Cochin and Alleppey in the Southern region and Calicut, Tellicherry and Baliapatam in the Northern region.

Cashew:

3.75 In both the area under cashew and its output, Kerala ranks foremost among the States in the Country. It is estimated that about 1 lakh hectares are under cashew trees in the State and that they yield about 1 lakh tonnes of raw cashewnuts every year. According to the State Bureau of Economics and Statistics, the output in 1973-74 was 1.16 lakh tonnes which would imply a per acre output of 470 kgs. Trade is, however, skeptical about these estimates. It should be noted also that the estimate of yield per acre has not undergone any change since 1961-62 when the last crop-cutting experiment was conducted. It is believed that the above estimates make no allowance for the gradual disappearance of large sized cashew orchards. It is estimated that 50 per cent of the cashew trees in the State are now in orchards of less than 25 trees and that only 6 per cent of the trees are in orchards of 200 trees and more. In view of the fact that in a pure cashew orchard one hectare has, on an average, about 200 trees, it should be clear that cashew is predominently a very small farmers' crop.

3.76 Although India produces raw cashew in sizeable quantities, its imports of raw cashew are almost twice the domestic output. Nearly 80 per cent of the cashew processing factories in the country are located in Kerala. Of the cashew exports also, Kerala accounts for more than 80 per cent. It is significant that both the production of raw cashew and its processing into kernel are located within the State, a situation which is unlike that obtaining for rubber. The importance of cashew processing to Kerala's economy can be judged from the fact that cashew processing alone provides employment to over 1 lakh workers.

3.77 In view of the fact that cashew is predominantly a small farmer's crop in Kerala, trade is dominated by various types of intermediaries. The itinerant merchants usually buy raw cashew from the farmers and take them to the traditional marketing centres such as Manjeri, Tellicherry and Kanhangad. It is at these Centres that the processors make their purchases through their agents. Under the system now operating, the processors have a stranglehold on the entire market which enables them to depress prices at the cost of the small farmer.

3.78 As for the raw cashew imported from abroad until the establishment of the Cashew Corporation of India and canalisation of imports through it, the processors were mostly importing raw cashew directly.

3.79 For studying the coverage of sales tax, it is necessary to draw a distinction between raw nuts and kernels on the one hand and imported and domestically grown raw nuts on the other. Sales tax at the rate of 5 percent is levied on *Cashew nut with or without shell* (the latter in kernel), at the point of last purchase within the State. What this should mean in regard to raw cashew is that (1) of the quantity grown in Kerala that portion which is processed in the State should attract tax in the hands of the processors, (2) the portion grown in Kerala but moving out to other States for processing should also attract tax at the point of purchase in the State by the exporters and (3) raw cashew imported from other states or from abroad should pay tax if the factories are not importing them directly but buying them within the State from an importer.

3.80 It can safely be assumed that hardly any cashew moves out of the State in raw form; of late though, there are reports to the effect that some raw cashew is moving out to an adjoining district in Tamil Nadu for processing in new factories that have been set up there in recent years by processors hailing mainly from Kerala State. At the same time large quantities of raw cashew of foreign origin are brought into Kerala for purposes of processing and re-export but these quantities are said to be declining for various reasons, which, it is not necessary, to elaborate upon in this report.

3.81 Firm figures are available of the import into the country of raw cashew. On the basis of the allocations of these imported raw cashew, it appears that Kerala gets 80 per cent. Assuming also that Kerala's share in the exports of cashew kernels would be 80 per cent, it is possible to estimate the quantity of *raw cashew processed for export* within Kerala. The excess of raw cashew processed for export in Kerala over the share of Kerala in the imported raw cashew should represent the quantity of locally grown raw cashew that was processed for export. But if this excess does not exhaust the total quantity of raw cashew grown within the State, the balance should be deemed to have been processed for consumption within the country.

3.82 Table 3.11 sets out the calculations on the above lines for the period, 1968-69 to 1973-74. It shows that only 47 per cent of raw cashew grown in the State is processed for export. The balance of 53 per cent (approximately 60 thousand tonnes a year) is processed for purposes of consumption within the country. This is based on the assumption that the average annual production of raw cashew in the State was 1.13 lakh tonnes during the period under review. For reasons explained earlier, this assumption is some what open to question.

3.83 Column (11) of the Table gives the yearly figures of the quantity of raw cashew reflected in the turnover determined by the Department for purposes of sales taxation. It can be seen that this accounts for only 54 per cent of the State's officially estimated output of raw cashew. Thus, some 46 percent of the State's own output of raw cashew seems to elude sales taxation and steps may have to be taken to bring it effectively within the tax net.

3.84 On quite a different footing stands the matter relating to the taxation of imported raw cashew. It was stated above that raw cashew imported from outside the State should pay the State's sale tax if the factories are not directly importing raw cashew but buying it within the State from an importer. With canalisation, the question has arisen whether or not it partakes the nature of a purchase by the factories within the State and, therefore, constitutes a taxable transaction. Technically, a case does perhaps exist for the taxation of imported raw cashew. However this would have to be decided upon on a number of other considerations. A very important consideration will, no doubt, be that the cashew processing industry is a major source of employment in the State. At the same time, it cannot be overlooked that some diversion of this industry has actually been taking place from Kerala to the neighbouring States in recent years. The crucial consideration is whether this tendency has been or will be accentuated by the imposition of sales tax on imported raw cashew. The Committee is however unable to accept that a 5 per cent tax on imported raw cashew would by itself divert the processing industry to other States. Considering, however, that the cost of processing in Kerala has escalated in recent years and is, therefore relatively much higher than in the neighbouring States, the imposition of sales tax on imported raw cashew by Kerala alone will increase the cost differential further. The Committee therefore recommends that for the present the imported raw cashew may be exempted from the payment of sales tax and that the position may be reviewed after three years.

3.85 As regards raw cashew grown within the State, as was noted above, a good proportion does not come within the tax net. But the question of effective tax coverage of locally grown raw cashew cannot be discussed in a narrow setting. The State Government has recently taken measures to procure raw cashew on a monopoly basis ostensibly with a view to ensuring adequate supplies of raw materials to cashew factories. This is a move in the right direction. But the Committee would like to point out that the scheme does not seem to adequately safeguard the interests of the growers. In the Committee's opinion for a crop like cashew which is grown on possibly the most dispersed basis in the State, the establishment of a regulated market would have secured the objectives of the scheme, and at the same time, would have safeguarded the interests of the growers. In view of the urgency the State Government attaches to the procurement of raw cashew, a beginning could be made with the notification of raw cashew under the regulated market scheme. This will enable the Government to regulate immediately all trade in raw cashew, because then only licenced dealers will be able to engage in such trade. Monopoly procurement should then be much less difficult to enforce than if the Government or its agency has to operate in a framework of a number of dealers interacting on innumerable small growners dispersed all over the State.

3.86 It was stated earlier that about half the quantity of raw cashew grown within the State is processed for consumption within the country. Assuming that on an average, about 60,000 tonnes of raw cashew are processed into kernel, the corresponding quantity of the latter would be 15,000 tonnes a year. Still, going by the amount collected by way of Central Sales Tax (the average of recent five years works to Rs. 10 lakhs a year), the quantity of cashew kernel moving to other States by way of inter-State sales should be around 2 thousand tonnes, as against the estimated domestic consumption of 15,000 tonnes. Therefore, the conclusion is unavoidable that here too considerable tax leakage takes place through consignment transfers across the State borders. So the Committee has no illusion that, as things stand, the separate tax on cashew kernel may result in little addition to revenue unless consignment transfers across State borders can be brought effectively within the tax net. This re-inforces the case for an early modification of the definition of sales under the C.S.T. Act.

TABLE 3.11

AVAILABILITY OF RAW CASHEW AND ITS PROCESSING IN KERALA (Quantity in tonnes)

Year	*Raw Cashew grown in Kerala*	*Raw Cashew imported into India from abroad*	*Kerala's share of imported raw cashew*	*Total availability of raw cashew in Kerala*	*Cashew kernel exported from India*
(1)	(2)	(3)	(4)	(5)	(6)
1968-69	1,08,000	1,96,000	1,56,800	2,64,800	63,700
1969-70	1,11,000	1,63,000	1,30,400	2,41,400	60,600
1970-71	1,15,000	1,70,790	1,36,632	2,51,632	58,810
1971-72	1,13,000	1,66,570	1,33,256	2,46,256	64,430
1972-73	1,14,000	1,92,020	1,53,616	2,67,616	59,990
1973-74	1,16,000	1,57,880	1,26,304	2,42,303	54,070

Year	*Kerala's share of cashew kernel export*	*Corresponding raw cashew processed in Kerala for export*	*Quantity of raw cashew available for processing in Kerala for consumption within India*	*Quantity of raw cashew processed in Kerala for export*	*Quantity of cashew reflected in the taxable turnover determined by the Department*
(1)	(7)	(8)	(9)	(10)	(11)
1968-69	50,960	2,03,840	60,960	47,040	59,755
1969-70	48,480	1,93,920	47,480	63,520	51,578
1970-71	46,248	1,84,992	66,640	48,360	64,858
1971-72	54,544	2,06,176	40,080	72,920	1,00,591
1972-73	47,992	1,91,968	75,648	38,352	37,894
1973-74	43,256	1,73,024	69,280	46,720	51,990

Marine Products:

3.87 Kerala accounts for 35 to 40 per cent of the marine fish production in the country. Among the marine products exported, prawns occupy an important place. In terms of quantity, the State accounts for about one-half of the total exportable variety of prawns landed in the country. A large proportion of the prawns landed elsewhere in the country comes to Kerala for processing and export. The varieties imported from other States are usually larger in size and, therefore, fetch much higher prices. The number of processing firms in the State has registered a substantial increase from 51 in 1968-69 to 103 in 1973-74.

3.88 The Committee's enquiries and discussions with various groups revealed that trade in marine products is dominated by the middlemen. The processors and exporters obtain the bulk of their raw material—over 90 per cent—through these middlemen, and the rest directly on their account. The middlemen are believed to appropriate a good part of the price paid by the processors/exporters. Attempt of the State Government to bring the fishermen within the co-operative fold in order to save them from exploitation does not seem to have produced the desired results. In the circumstances, it is not surprising that the fishermen do not get a fair price for their catch.

3.89 Of the marine products, only prawns, lobsters and frog legs are subject to sales tax at the last point of purchase within the State. Upto September, 1967, the rate of tax was 2 per cent. Thereafter, the rate was raised to 5 per cent. However, due to persistent demand from the processing industry, the rate was reduced to 3 per cent in 1972 as a concession for one year with a view to helping the processors to build up the export trade. The concessional rate was continued for a further period of one year upto April, 1974. Since then, the tax is levied at the rate of 5 per cent.

3.90 Since the tax is leviable only at the last point of purchase within the State, it effectively applies only to unprocessed prawns bought by processors within the State. Prawn catches by the processors on their own account are not taxable, nor are prawns imported by them from other States. When the processors are not themselves the exporters and sale takes place before export, the purchaser of the processed prawns becomes taxable at the last purchase point. But it is believed that where the processor himself is not an exporter, he clothes his transactions with the exporter as if he is processing for a fee and it is the exporter who is buying unprocessed prawns directly. Ultimately, therefore, it is on the raw or unprocessed prawns that tax is paid.

3.91 It may be mentioned that since the prices of processed prawns are much higher than those of the unprocessed ones (in the case of the varieties produced in Kerala, the price differential between raw and processed prawns in terms of their weight equivalents may be roughly assume at 60 per cent), a tax of 5 per cent on raw prawns should work out to only around 3 per cent of the value of the finished product.

TABLE 3.12

PRAWN LANDINGS IN KERALA

Year	*Quantity in tonnes*	*Value in Rs. crores*
1968-69	25,400	3.61
1969-70	34,300	5.49
1970-71	36,900	6.64
1971-72	31,300	5.95
1972-73	35,000	7.14

3.92 Table 3.12 indicates the quantity and value of prawn landings in Kerala during the five years 1968-69 to 1972-73. An analysis of the prawn landings in the State shows that on an average, their value amounted to nearly Rs. 6 crores per annum. During the same period, the average annual value of the taxable turnover determined by the Department also amounted to more or less the same amount. Indeed it would have been surprising if one did come across much tax leakage in view of the fact that the Marine Products Development Authority exercises strict control, including quality control, on exports and that, therefore, cross-verification by the Department with the Authority of any processor's turnover is easy. If at the same time, the co-operative marketing structure is built up to canalise the unprocessed prawns, not only will the fishermen be assured of a fair and stable price, but also the tax collector will have no cause to fear any tax leakage whatsoever.

3.93 From the foregoing discussion of the problems involved in the sales taxation of major primary commodities produced within the State, it would be clear that serveral weaknesses exist in the area of their marketing. In the case of major commodities such as copra and coconut oil, arecanut, pepper, rubber and cashew there are no organised channels of trade so-much so the intermediaries have been able to gain stronghold resulting in not only considerable leakage of sales tax revenue, but also exploitation of the innumerable small growers in the State. Where there has been some kind of organised trading such as in the case of tea, coffee and cardamom, such problems have been less intractable. Nevertheless, even in their case, certain corrective measures are called for. What is, therefore, of urgent importance is to appropriately reorganise the marketing system for the major primary products in the State through the establishment of either a regulated market mechanism or a system of monopoly procurement by the State. In either case the marketing system will have to be backed by a strong co-operative structure, a structure that can adequately replace the intermediaries now at large. The problem of tax leakage will be reduced considerably once the marketing system is effectively re-organised. Of course, the need will still remain for undertaking independent estimation of area and output of major crops on a regular basis.

Chapter IV

TAXATION OF INDUSTRIAL COMMODITIES

An analysis of the taxable turnover of agricultural and non-agricultural commodities and the sales tax levied thereon shows that while agricultural commodities accounted for about two-thirds of the turnover, their contribution was about half of the total sales tax revenue. It will be evident that in terms of tax incidence, the non-agricultural commodities suffered a higher burden. It would still be necessary to examine, as in the case of major agricultural commodities, to what extent sales taxation has been effective in regard to the important industrial commodities also. For obvious reasons, it is neither possible nor necessary to cover all the non-agricultural commodities firstly because such an exercise would have only limited significance, and secondly because reliable statistical data are not readily available to proceed with such an analysis.

4.2 Taxable turnover of a commodity comprises internal production as well as imports. No reliable data are available of the quantities produced within the State or imports. Nor are firm figures available of the consumption within the State of most commodities or their movements outside of the State. It would be difficult therefore, to quantify the tax leakage in respect of these commodities with any degree of precision.

4.3 An analysis of the tax data for recent years shows that among the non-agricultural commodities subject to sales taxation, 28 items contribute more than 80 percent of the total sales tax levied on non-agricultural commodities. These are listed below:

Items subject to single point taxation:

1. Batteries and bulbs
2. Bricks and tiles
3. Cement
4. Coir yarn
5. Petroleum products
6. Electrical goods
7. Furniture (wood and steel)
8. Liquors
9. Motor vehicles and spare parts
10. Paints
11. Plywood and hardboard
12. Radios and parts
13. Rubber products
14. Stainless steel
15. Soap
16. Tyres
17. Umbrellas
18. Water supply and sanitary fittings

Items subject to multipoint taxation:

19. Aluminium products
*20. Confectionary and bakery products
21. Chemicals and dyes
*22. Allopathic medicines
*23. Tinned food
24. Gunnies and tins
25. Hardware goods
26. Jaggery
27. Machinery
28. Stationery articles

(Starred items were brought under single point taxation from July 1, 1974).

4.4 Items like batteries and bulbs, electrical goods, chemicals and dyes, fertilisers, petroleum products, tyres, aluminium products etc., are produced within the State in such large quantities that a good proportion thereof is sent out to other States. On the other hand, a number of commodities such as cement, stainless steel, radios, medicines and machinery are largely brought into the State from outside. Not much can be said about this latter category in view of the paucity of information.

Commodities Produced within the State

4.5 Even with regard to items produced within the State, comprehensive information is not available of the quantities produced. In respect of the major commodities, however, some idea could be formed of the volume of production from the figures of output of the leading firms. Table 4.1 sets out the turnover of major industrial units in the State with sales exceeding Rs. 1 crores per annum.

4.6 A commodity-wise break down of the data set out in the table and its comparison with taxable turnover of commodities as determined by the Department should help identify areas and magnitude of leakage, if any.

Chemicals and dyes

4.7 The main manufacturers of chemicals in the State are Travancore Cochin Chemicals, Travancore Titanium Products and Carborandum Universal. Their average annual sales during 1968-69 to 1972-73 amounted to about Rs. 14 crores. Chemicals are subject to multi-point taxation. The average taxable turnover of chemicals and dyes during the same period was determined at about Rs. 7.5 crores. Assuming, to be on the conservative side, that under

TABLE 4.1

SALES OF PRODUCTS OF MAJOR MANUFACTURING UNITS LOCATED IN KERALA

Rs. in lakhs

Sl. No.	*Name of concerns*	*Sales during*					
		1969-70	1970-71	1971-72	1972-73	1973-74	1974-75
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
I.	*State Government Undertakings:*						
1.	Travancore Cochin Chemicals	NA	320	409	378	450	467
2.	Travancore Titanium Products	238	224	270	306	238	547
3.	Transformers and Electricals Kerala Ltd.	116	231	230	316	387	686
II.	*Central Government Undertakings:*						
4.	F.A.C.T.	2606	3170	3423	2321	2606	5541
5.	Cochin Refineries	3741	4059	4073	3788	13362	19047
6.	Indian Rare Earths	221	220	309	327	469	650
7.	Hindustan Latex	34	80	110	113	86	71
III.	*Private Undertakings:*						
8.	Premier Tyres	723	1541	1862	1866	2416	3767
9.	Punalur Paper Mills	191	238	238	258	325	593
10.	Aluminium Industries	669	962	1098	1273	954	1066
11.	Travancore Cements	93	107	111	122	123	153
12.	Cominco Binani Zinc Ltd.	511	512	277	754	922	1922
13.	Travancore Electro Chemical Industries	103	112	159	135	189	320
14.	Toshiba Anand Lamps	157	183	185	209	116	284
15.	Toshiba Anand Batteries	nil	nil	289	442	429	450
16.	Carborandum Universal	627	674	709	734	800	1042
17.	Travancore Sugar and Chemicals	88	122	144	162	209	NA
18.	Travancore Rayons	762	927	1037	1002	1157	1193

multipoint taxation industrial commodities attract tax at two points, the value of goods corresponding to the average taxable turnover of Rs. 7.5 crores would be less than Rs. 4 crores. This, however, would include both internal production and quantities brought from other States. Even if it is assumed that the State did not import any chemicals in that year, output worth Rs. 10 crores out of Rs. 14 crores remained outside the tax net. If inflow from other States is allowed for, the extent of leakage will be even higher. Obviously a good part of internal production of these firms was sent out to other States, mainly by way of consignment transfers. This is borne out by the fact that, on an average, only about Rs. 3.3 crores worth of chemicals and dyes was assessed to Central sales tax. It may be noted here that Travancore Titanium Products, a State Government undertaking enjoying monopoly in the production of titanium dioxide, has also been resorting to consignment transfers of their products.

Electrical Batteries

4.8 Toshiba Anand are the leading producers of batteries. Their sales have been of the order of about Rs. 4.5 crores annually in recent years. However, the value of this item subject to general sales tax amounted to an annual average of Rs. 2.4 crores. Of this, only about Rs. 0.9 crore represented the value of internal sales of Toshiba Anand. Thus, a good part of their production is sent out of the State. Since, only a nominal amount of Rs. 2 lakhs is being collected by way of Central sales tax on this product, a large part of the firm's inter State transactions has presumably been taking place in the form of branch transfers on which no sales tax is leviable at present. It is pertinent to note here that the firm has been availing itself of the provision in the sales tax law whereby component parts used in the manufacture of scheduled goods are taxed at the concessional rate of 1 percent.

Petroleum Products

4.9 Upto 1972-73, sales of Cochin Refineries ranged between Rs. 37 and Rs. 40 crores. However, after the price hike of petroleum products towards the end of 1973, the value of their sales shot up substantially to Rs. 124 crores in 1973-74 and to Rs. 190 crores in 1974-75. Latest data regarding value of taxable turnover are not available. It is however, unlikely that in the case of an item like petroleum products traded through well organised channels, any tax leakage will be taking place. The problem of taxation in the case of petroleum products has been of a different type from that of other commodities. The introduction of purchase tax in circumstances in which goods were disposed of in any manner other than taxable sale created a complication in that it cast a new liability on oil companies with respect to their stock transfers. In response to representation against this tax, the rate was reduced from 15 percent to 3% effective from 1970.

4.10 Though the oil companies have since been paying tax on stock transfers at the reduced rate of 3 per cent, they have increased the price of petroleum products distributed in Kerala by the levy of a surcharge. Evidently the surcharge is being levied with a view to recovering the amount paid by way of purchase tax on the stock transfers to other States. This, the Committee believes is an unprecedented method of a dealer recovering from within the State a tax paid by him on his stock transfers to other States. The Committee understands that a problem of similar nature exists in Tamil Nadu also. In fairness, the companies should be persuaded not to levy surcharge of such type.

Fertilisers

4.11 The average value of fertiliser sales by the FACT between 1969-70 and 1973-74 amounted to about Rs. 28 crores. The average taxable turnover of fertilisers during the same period was only around Rs. 8 crores. Since the FACT have their own godowns in other States, their despatches to other States do not partake of the nature of sales liable to Central Sales Tax. Only a nominal amount of Rs. 5 lakhs was being collected annually by way of Central sales tax implying a sale value of about Rs. 1.7 crores per annum.

Tyres and Tubes

4.12 The Premier Tyres at Cochin, a major tyre manufacturing Company, sold tyres and tubes worth Rs. 18.66 crores during 1972-73. Their sales went upto Rs. 24 crores in 1973-74 and further to Rs. 37.7 crores in 1974-75. However, the value of taxable turnover recorded by the Department was not more than Rs. 3.5 crores which presumably would represent the internal sales. This figure would also include the value of tyres and tubes imported into the State. Here again, large quantities are sent by Premier Tyres to other States. Since only Rs. 10 lakhs was being collected by way of Central Sales tax, implying a turnover value of Rs. 3.5 crores, the conclusion is inescapable that these despatches are taking place in the form of consignment sales.

Aluminium Products

4.13 The value of sales by the Aluminium Industries Ltd., has been to the tune of Rs. 11 to 12 crores per year. Aluminium products are subject to multipoint taxation. The average annual taxable turnover of aluminium products during the period 1968-69 to 1973-74 did not exceed Rs. 3 crores, though in 1972-73, this figure was Rs. 5.5 crores. Assuming a two-stage taxable turnover, the net value of taxable turnover may be taken at around Rs. 1.5 crores. Another Rs. 2 crores would represent the average annual value of taxable turnover determined for the purpose of the levy of Central Sales Tax. Thus, a major portion of the value of the aluminimum products manufactured within the State does not attract the sales tax. As in the case of many other industrial commodities, these products also are presumably sent to other States in the form of consignment transfers.

Rayon Textiles:

4.14. The output of Travancore Rayons and Gwalior Rayons has been expanding considerably in recent years. In the last two years, the value of sales by Travancore Rayons amounted to nearly Rs. 12 crores and by Gwalior Rayons to about Rs. 4 crores a year. Virtually the entire output of these two firms escaped the tax net in Kerala. The most favourable explanation one can give for this phenomenon is that the firms were making stock transfers of their output so that no sales tax is attracted in Kerala. In this context, it is very pertinent to State that both these units enjoy substantial concessions by way of specially low prices which the State Government has agreed to charge on the two major inputs into this industry, namely, electricity and raw materials.

4.15. It is evident from the foregoing that most of the industries in the State which produce largely for despatch to other parts of the country, resort to consignment sales on a very large scale. Only, a fraction of the value of thier output falls within the purview of sales taxation in the producing State. The Government sector undertakings have been no exception to this widespread practice. The Committee would urge that for the producing States to get their due share of sales tax, the consignment transfers should be brought within the fold of CST without any delay.

Commodities coming from other States:

4.16. As mentioned earlier, a wide range of commodities consumed in the State is brought from outside, and most of them are subject to sales taxation. Only three major items viz., tobacco, textiles and sugar are exempt from sales taxation as these are covered by the scheme of additional excise duties levied by the Centre in lieu of sales tax. Movement of goods into the State from outside occur either by sea or rail or road. Since the major points of entry into the State by these modes of transport can generally be identified, one would-presume that data regarding the volume and value of inflow of goods from other States should be available. Unfortunately, no attempt seems to have been made to collect these data on a comprehensive basis. In the absence of adequate data, it was not possible for the Committee to make any judgement as to whether the sales tax coverage of these commodities was adequate.

4.17. In the case of commodities for which information regarding inflow into the State from outside is available e.g., cement and iron and steel, comparison of the value of the quantities brought into the State with the value of taxable turnover of the goods shows that the extent of leakage is not inconsiderable. In the case of cement, the value of quantity brought into the State in 1973-74 for instance, was of the order of about Rs. 10 crores as against the value of taxable turnover determined in that year of Rs. 6.4 crores. In the case of iron and steel also,similar discrepancies had come to the notice of the Committee.

4.18. Considering that most of the industrial consumer goods liable to sales tax are not produced within the State and are brought from outside, it is extremely important that a comprehensive study be conducted by the Research and Statistics Cell of the Sales Tax Department, for the establishment of which a recommendation has been made eslewhere. The study should bring out the magnitudes of goods moving into the State by various modes of transport, and relate them to the points at which sales tax is attracted, so that the extent of leakage, if any, can be determined. One of the urgent tasks of the Cell should be to organise collection of data in this regard in a systematic manner from the railways and port authorities and border checkposts.

CHAPTER V

STRUCTURE OF SALES TAXATION

The reorganised State of Kerala came into being on 1st November, 1956 through the integration of the two former princely States of Travancore and Cochin with Malabar district which was part of the erstwhile State of Madras. Sales tax has been in force in the Malabar district since 1939. In Cochin and Travancore States, it was first introduced in 1946 and 1949 respectively. When the States of Travancore and Cochin were integrated in 1950, the Travancore-Cochin General Sales Tax Act was enacted unifying the laws in both the States. Consequent on the reorganisation of the State in 1956, this Act was amended in 1957 extending it to the Malabar area also. Before this Act came into force, the system of sales taxation was based virtually on the multipoint concept. The 1957 Act brought about a major change in the system, with the insertion of a schedule of 40 items of goods subject to single point taxation. Thus, if one takes the reorganisation of the State of Kerala as the starting point, the sales tax system in the State combined multipoint with single point levies.

5.2 An important event that coincided more or less with the reorganisation of the Kerala State was the enactment of the Central law on sales taxation of inter-State trade, namely, the Central Sales Tax Act, 1956. It enabled the State Governments to collect tax on the sale or purchase of goods in the course of inter-State trade or commerce. The Act actually came in to operation from July 1957. To begin with, the rate of tax was 2 per cent which was revised upwards from time to time, to the present level of 4 per cent.

5.3 To recall the other major developments since the enactment of the General Sales Tax Act in 1957, a notable development came about in December 1957. The Central Government, after consultation with the States, started levying an additional excise duty on mill-made textiles, sugar and tobacco in lieu of the State sales taxes. Another major development was the agreement among the States to try to subject articles of luxury consumption to a uniform single point tax. It was agreed to start with the rate of 7 per cent.

5.4 A reference would be in order to the introduction in 1970 of provision authorising the levy of tax on purchase in certain circumstances in which no tax was payable on sale. The purpose of this provision was to get over the narrow definition given by courts to 'sale'. Similar provision exists now in practically every State.

5.5 Apart from changes introduced in pursuance of the policy agreements among the States, Kerala like other States, has been effecting changes in its sales tax system from time to time. In 1957, a surcharge was introuduced at 2.5% and it was payable by dealers with turnover exceeding Rs. 30,000. The surcharge has stayed ever since, though at a higher rate of 5 % which came into effect in 1960. In 1961 a provision was introduced allowing the option of paying sales tax at compounded rates. The object was clearly to give relief to small dealers but the concession was given to dealers in multipoint goods only and hoteliers with turnover within specified limits.

5.6 But the major change in Kerala's system of sales taxation came about in 1962 when the coverage of single point levy was increased from 40 to 80 commodities. The list underwent the next major change in 1974 when 23 more items were brought under single point levy.

5.7 As was noted earlier, it was the draft law drawn up by the Nataraja Pillai Committee which formed the basis of the Sales Tax Act currently in force in the State. When this Act came into effect in 1963, the rate of multipoint levy was raised from 2 to 3 per cent, and the single point levy on luxury items was increased from 7 per cent to 10 per cent. In 1967, the rate on luxury items was raised to 12 per cent. In the wake of the Thavaraj Committee's Report, the rates of single point levy on some major items were enhanced. In the case of luxury items, the increase was from 12 per cent to 15 per cent. In respect of some of the agricultural products too, there was an upwards revision. For cashew, the rate was raised from 4 per cent to 5 per cent, and for rubber from 2 per cent to 3 per cent.

5.8 With effect from 1972, the multipoint tax rate was enhanced from 3 per cent to 3.5 per cent. This was raised to 4 per cent in 1975. The single point tax rates on commercial crops barring tea and rubber, have also been raised from 5 to 6 per cent. For tea and rubber the tax rate was retained at 5 per cent.

5.9 While the exemption limit for dealers in single point goods has remained unchanged at Rs. 2,500 since the introduction of single point sales taxation in Kerala, the exemption limit for dealers in other goods has undergone some change. It was raised in 1971 from Rs. 10,000 to Rs. 20,000. Hoteliers were exempt from sales tax if their turnover in a year fell below Rs. 20,000. This limit was raised, in 1971 to Rs. 35,000.

5.10 As it stands now, the system of sales taxation in Kerala is a combination of single point and multipoint levies; the former is levied at rates ranging from 1 per cent in the case of food grains to 50 per cent in the case of liquors, and the latter is levied at a uniform rate of 4 per cent. Broadly, the same mixed pattern obtains in the other Southern States of Karnataka, Tamilnadu and Andhra Pradesh. Among the Northern States which have a combination of single point and multipoint taxes are Uttar Pradesh, West Bengal and Bihar. The States of Maharashtra and Gujarat, have a composite system of sales tax consisting essentially of two kinds of taxes called the sales tax and the general sales tax (in Maharashtra there is also a retail sales tax of quarter per cent on selected goods). While the sales tax is leviable only at the point of the first sale of the goods by a registered dealer in the State as specified, the general sales tax is levied at the last stage of sale by the wholesaler to a retailer or consumer. This is only a variant of the single point system of taxation since ordinarily a commodity can attract only either of the two taxes.

5.11 Regarding rates of sales taxation, there are inter-State disparities, but the general policy is clearly discernible. As far as goods subject to single point are concerned the policy is to tax essential commodities at low rates, less essential items at higher rates and luxury items at the highest rates. In respect of multi-point rates, they vary from State to State and the range extends from 1 per cent in the case of Bihar to 4 per cent in Kerala and Tamilnadu. But the rate of multipoint levy is generally kept low. In Gujarat and Maharashtra, the general single point rate is 3 per cent leviable either at the first stage or the last stage. Luxury and semi-luxury articles are subjected to higher rates of single point tax.

5.12 In several States, there is also the practice of imposing a surcharge on sales tax payable by dealers whose turnover exceeds a particular limit. In Kerala, as already mentioned, the rate of this surcharge is 5 per cent for dealers whose turnover exceeds Rs. 30,000. In Tamilnadu, the rate of surcharge which was 10 per cent on sales tax payable by dealers whose annual turnover exceeds Rs. 10 lakhs, has recently been converted into a surcharge on taxable turnover at rates varying between 0.3 and 0.7 per cent on taxable turnover exceeding Rs. 3 lakhs per year. In Andhra Pradesh also the surcharge which is levied at a rate of quarter per cent is applicable to the taxable turnovers (exceeding Rs. 3 lakhs) and not to the tax. However, in Maharashtra the surcharge of 10 per cent is applicable to the tax payable by dealers whose taxable turnover exceeds Rs. 10 lakhs per annum.

5.13 An important point to note about the sales tax structure of Kerala is that there has been an increasing shift towards the single point taxation in recent years. In fact, as Table 5.1 would show, the bulk of the sales tax revenues is collected through single point levels.

TABLE 5.1

RATIO OF SINGLE POINT TAXES AND MULTIPOINT TAXES TO TOTAL SALES TAX REVENUE

Year	*Single point* — *Tax collected* (*Rs. crores*)	*Multipoint* — *Tax collected* (*Rs. crores*)	*Ratio of single point to multipoint Tax collected*
1968-69	10.28	4.93	68:32
1969-70	15.77	6.48	71:29
1970-71	19.94	9.21	68:32
1971-72	25.19	9.22	73:27
1972-73	20.73	10.82	66:34

5.14 As will be seen, between 1968-69 and 1972-73 the proportion of revenue from single point taxes varied between two-thirds and three-fourths of the total sales tax collections. During the subsequent years, the proportion would have been higher as 23 more commodities were shifted to single point taxation from July 1, 1974. It may be pointed out in this context that in practically all the States which have a combined system of multipoint and single point taxation, there has been the trend in recent years in favour of the single point system. In Uttar Pradesh, for example, the share of revenue from single point taxation rose from 43 per cent in 1960-61 to 78 per cent in 1972-73. In Tamilnadu, where more than 60 per cent of the sales tax revenue was being realised from single point levies, about 70 items were added to the single point list in 1974. In Karnataka also, there has been a major shift towards single point taxation which now accounts for more than three-fourths of the yield from sales taxes.

5.15 The question of the relative superiority of the two systems of sales taxation had engaged the attention of expert bodies in the past. After considering the merits and demerits of the two systems, the Thavaraj Committee came to the conclusion that for Kerala, the present system which embodies, a combination of the two is more suitable. The merit of the multipoint system lies chiefly in that it minimises chances of evasion. Every commodity undergoes taxation atleast at some stage. Since the rate of tax under the multipoint system is generally lower, the incentive for evasion is weaker. But the system has certain disadvantages too.

5.16 Firstly, a multipoint tax involves realisation of the tax from dealers at all levels, and thus the number of tax payers is naturally larger. Secondly, the incidence of the multipoint levy is uncertain. It is generally believed that a multipoint tax results in a final tax incidence equivalent to 2½ times the normal rate. If, however, a commodity goes through a large number of intermediate stages and is taxed at all such stages, the incidence can prove to be much higher (e.g., in the case of pulses, grains and mustard). It was pointed out to the Committee that on pulses, a multipoint tax rate of 4 per cent works out to be as high as 16 per cent on the consumer. Thirdly, and this is closely related to the point made about uncertainty, the scope for varying rates from commodity to commodity with a view to introducing progression or to subserving any other policy objective, is extremely limited. At the same time, however, the tax incidence on the consumer may differ from commodity to commodity and this may well work out to be highly regressive. Fourthly, the multipoint tax also interferes with the channels of distribution as it favours integration and puts the small dealers at a disadvantage.

5.17 Under signle point taxation, on the other hand, the incidence can be kept at the declared level. The rates can easily be varied from commodity to commodity with a much greater certainty about their incidence on consumers. The system is also neutral among the distribution channels. Assessment and collection are easier and more efficient for single point levies, because then the point or stage at which the tax becomes leviable can be decided upon, taking into account both the channels of trade peculiar to each and every commodity and the efficiency with which the administration can enforce the tax laws. The shift towards the single point system even in the States which originally had a predominantly multipoint structure of sales taxation recognise these merits.

5.18 It is generally believed, however, that the scope for tax evasion is greater under a single point scheme than under a multipoint scheme which ensures payment of tax atleast at one stage Under the single point scheme, when at the concerned stage, that is the first or the last, a commodity escapes tax liability, the whole chain of transactions escapes the tax. Some of the States, which have increasingly relied on single point taxation, have been experiencing this problem. Single point tax also seems to give rise to the emergence of bogus registered dealers, called (havala) traders in some States. In the case of first stage levy, a registered dealer, who is really the first seller, may escape the tax liability by showing his purchases as having been made from another registered dealer. Similarly under a last stage levy, the registered dealer who is really the last seller, can evade tax liability by dressing up his sales as if he is selling his goods to another registered dealer, but who may be only a bogus dealer. This problem calls for great vigilance on the part of the administering machinery.

5.19 If one analyses this problems in more depth, it would become clear, however, that whether it is a multipoint or singlepoint system, the extent of tax evasion is related inversely to the efficiency of the tax administration. Under either of the two systems, all the registered dealers have to keep proper accounts and the assessing officers are expected to subject them to same degree of scrutiny and examination. While under a multipoint system, the accounts of the intermediate dealers have to be examined because they themselves are assessable, under a single point scheme, the accounts of the intermediate sellers (who though registered, may not be assessable) have to be examined to ascertain and cross-check their purchases and thereby ensure that such purchases had already suffered, or will suffer, the tax. That is how the taxable dealer can be traced back or forth under a single point scheme of sales taxation. The point is that under either system it is extremely important to scrutinise the accounts of the intermediate dealers regardless of whether they are assessable to tax or not.

5.20 It may also be pertinent to point out here that the general argument in favour of a multipoint tax, that the tax will be attracted atleast at one stage in the trade channel of the particular commodity subject to such a tax, implies that the avowed objective of the tax is *not* to impose tax at all stages of transactions between the producer and consumer. Indeed, this is not so. The objective of multipoint taxation is actually to impose tax on all stages until a commodity reaches the dealer with turnover below the exemption limit. That is why the rate is kept low. Once the multipoint tax becomes operative on a commodity, the various stages through which it passes have got to be identified, however uncertain the trade channel be with respect to that commodity. But the point is that if it is possible to identify some stage of transaction, then it should also become possible to trace backward, or forward, the original purchase point, or the final selling point, of a commodity from the details of the purchase and sale bills of the concerned dealer. Under a single point tax scheme, it is such knowledge that helps in detecting tax evasion.

5.21. At the same time, the argument often advanced in favour of single point taxation that its enforcement and collection is easier can not be readily accepted for the simple reason that even though the bulk of the single point revenue can be collected from a relatively very small number of dealers (be they wholesale importers or manufacturers), the fact remains that the effective enforcement depends on the surveillance the department maintains with respect to the host of intermediate dealers.

5.22. On balance, therefore while the committee is in favour of bringing under single point taxation all those, items of which trade channels can be identified and stage of taxation located without difficulty, it recommends retention of multipoint taxation for all the other commodities, even if their contribution to revenue is not significant.

5.23. Before we go into questions of the rate structure of sales tax, there is one more aspect, which merits a brief discussion namely, the appropriate point of levy for the single point system of taxation. From the point of view of both effective administration and the convenience of tax payers, a last point purchase tax may be more efficient as well as convenient, for commodities which involve a large number of producers but only a few dealers. All agricultural products, particularly those which are largely exported outside the State should, by this token, be taxed at the point of last purchase within the State. In the case of commodities where the opposite situation obtains, that is, where the produces are few and dealers are large is number, a single point tax at the first stage of sale would have more to commend itself. Commodities manufactured in the organised sector would fall in this category. Then there are commodities which are imported into the State. In their case too, the importers will, ordinarily, be few and resellers many and therefore, the point of taxation should be that of first sale within the State.

5.24. The question what the general level of sales tax rates should be has to be decided on the basis of a number of considerations. An important one would be the additional revenue requirement and the revenue that can be collected optimally from other tax and non-tax sources. Another consideration would be the level of taxes and duties levied on a given commodity by the State and Union Government. Union excise duties on domestic manufactures and customs duties on the imported commodities are the two major levies that are relevant in this context. Both these imports are generally higher than the State sales taxes. Yet another major consideration would be the nature of the commodity involved. Commodities that constitute the basic necessities of life may either be totally exempted or subjected only to lower tax rates on welfare grounds. Also, tax rates in other States, particularly neighbouring States, have to be taken into consideration. High inter-State rate differentials could lead to unintended trade diversion. At the same time, it cannot be overlooked that a State Government might, on valid economic considerations such as generation of employment, promotion of industrial development etc., deliberately maintain rate differentials *vis-a-vis* other States. In a vast country like India, with not only wide inter-State disparities in the levels of income, employment and industrialisation, but also in the composition of their production and consumption baskets, it would be extremely unrealistic to aim at uniformity in sales tax rates. Thus, the rates of sales taxation on different commodities have to be fixed on a balance of these different considerations ensuring at the same time an economic rationale for the tax structure as a whole.

5.25. Under the system of sales taxation now prevailing in Kerala State, there are some commodities which are altogether exempt, there are 102 commodities covered by single point taxation and all other commodities are subject to multipoint taxation. While the multipoint tax is levied uniformly at the rate of 4 per cent, single point rates vary. There are at present as many as fifteen different rates ranging from 1 per cent in the case of foodgrains to 50 per cent on imported foreign liquor. It is true that for a tax like sales tax, a differential rate structure is needed to introduce some degree of progressiveness. However, it cannot be ignored that excessive rate differentiation is bound to create problems of compliance as well as increase administrative costs.

5.26. The question of tax exemptions may be dealt with first. The sales tax legislation of all States contain a list of exempted goods. Such exemptions are granted for a variety of purposes. Broadly the important consideration which underlie the exemptions are the following:

(i) Exemptions granted on sentimental goods e.g., salt.

(ii) Exemptions granted on account of the fact that commodities are taxed under other statutes or that the State has given up its rights to tax in favour of the Central by mutual agreement, e.g., electricity, sugar, mill-made textiles, tobacco and its products.

(iii) Exemptions granted presumably because the goods are either perishable or are administratively difficult to tax e.g., fresh milk, fresh fish, fresh fruits, vegetables, meat, eggs, toddy etc.

(iv) Exemptions granted to cottage industries and indigenous units employing large labour force e.g., handloom sector.

(v) Exemptions granted to co-operative societies, institutions of a charitable nature, defence establishments etc.

(vi) Exemptions for providing relief to agriculturists e.g., agricultural implements worked by hand.

(vii) Exemptions granted on sales to international agencies and countries. e.g., U.N, CARE, F.A.O., Bhuttan, Nepal etc.

(viii) Exemptions granted for promoting specific policy objectives of Government in the field of education, public health and family planning.

(ix) Exemptions granted to certain raw-materials to minimise cumulative tax burden. These are generally conditional exemptions.

5.27. Before going into the merits of the exemption policies of the State Government, it is necessary to comment upon the procedures adopted for granting such exemptions, namely, those granted on a statutory basis under Section 9 of K.G.S.T. Act and those which are granted either partially or in full by Government notifications under Section 10 of K.G.S.T. Act. From the list of goods included under these two categories, it would appear that those listed under Section 10 of the Act are generally intended to stimulate certain promotional activities of the Government. Such exemptions are mainly meant for certain specified institutions, national and international. One also finds, however, that the list includes many commodities, on which the exemption is of the same nature as that given under Section 9. Examples are agricultural implements worked by hand betel leaves, coconut shell, charcoal, flowers, fresh fish, fresh milk, grapes, meat, etc. These are being exempted for a number of years. Without going into the merits of these exemptions at this stage, the Committee would like to observe that there is no reason why they cannot be brought under the purview of Section 9. The Committee would suggest that to the extent possible, specific items which are to be granted general exemptions should be brought within the purview of that Section. Section 10 of the Act should include as far as possible agencies and organisations whose purchases and sales are to be granted exemptions from payment of sales tax.

5.28. One of the main objectives of exemptions granted to certain goods is to introduce an element of progressivity in the sales tax structure. It is on this consideration that basic necessaries are generally exempted from sales tax. However, note has been taken of the view, that the advantage of having a sales tax at the State level is to tap the tax potential of a dispersed industrial and agricultural sector. Since Union excise levies do not apply to many such decentralised sectors, they could be exploited with advantage by the State Government for the purpose of sales taxation. This would imply that exemptions under sales tax have to be kept to the minimum. It has been argued, therefore, that sales tax has necessarily to be as broad based as possible with very few items in the exempted schedule. The Committee recognises that items of common basic consumption should be either completely exempted or taxed only at very low rates. At the same time, there can be other grounds on which it may be considered desirable to exempt an article from sales tax.

5.29. On going through the list of commodities now exempted, the Committee finds that there is hardly any justification for granting exemptions on items like green tea leaves, toddy, and eggs. Exemption on green tea leaves can give rise to scope for evasion of tax on taxable tea. Exemption of toddy does not seem to be called for especially in the present context when the country is seriously considering reintroduction of nation-wide prohibition. Eggs are being exported in large quantities to other States, and being not an essential item of consumption, a last point sales tax on eggs would be both desirable and feasible. At the same time the Committee would recommend a few additions to the list of exempted items. Items like foodgrains sold through ration shops, atta, bread, country herbs, notebooks, school and college text-books, candles and clay products may be given total exemption. The only item which would involve relatively large revenue loss is foodgrains sold through ration shops.

5.30 The Committee would like also to dwell at some length on the question of exempting raw materials and component parts used in manufacturing goods. Such exemptions feature in the sales tax Acts of many States.

5.31 In Kerala, sale of component parts is subject to concessional tax rate of 1 per cent. provided the manufactured good and the component part are subject to tax at only one point, and the component part is used for the manufacture of goods within the State for sale. The term 'or sale' is interpreted to include not only sale within the State but also inter-State sale. Sales in the course of exports and consignment sales are at present not liable to tax. Even so, component parts used in the manufacture of goods sold in the course of exports or by way of consignment outside the State are being allowed the above concession.

5.32. In Maharashtra on the other hand, the expression "for sale" is clearly defined to cover sales within and outside the State including sales in the course of export but excludes all other sales or transfers of final goods which do not attract either the State's own sales tax or CST. Thus, when final goods are sent to other States by way of consignments sales, the tax concession given on raw materials, and components going into the manufacture of such final goods is withdrawn to the extent to which the State Government would have collected tax had the consignments gone out as sales liable to CST." In Delhi, raw materials are totally exempt from sales-tax if they are used in the manufacture of goods other than exempted goods for sale inside the State or sale in the course of export out of India. Evidently, this exemption is not available in respect of the manufacture of exempted goods if the goods are sold outside the State or consignment basis or through depots located in other States.

5.33. In Gujarat too, complete exemption is given to a maufacturer from sales-tax or raw materials, processing materials and consumable stores other than prohibited items provided, such goods are used in the manufacture of taxable products for sale including sale in the course of export. In addition, new manufacturing units set up in backward areas are given exemption for a period of five years from payment of sales tax on not only raw materials etc., but also machinery; but even this benefit does not extend to the manufacture of goods which are exempt from sales tax.

5.34. It may be seen from the foregoing that the concession allowed to manufacturers in respect of sales tax on inputs is generally intended to serve a two-fold purpose. One objective is to ensure that a commodity figuring in the single point list does not suffer taxation at more than one point. The other objective is to promote the growth of industries within the State. In Kerala too the promotional role of the concessional tax treatment of raw materials is recognised in the exemption allowed in the case of soft wood used for making packing cases. The concession allowed to oil millers on copra purchased by them is also intended to encourage processing of copra within the State. The provision for the refund of tax on raw cashew when the kernel is liable to tax is still another instance of this type. It is notworthy that the concession on raw materials is conditional on the final product bearing sales-tax whereas there is no such qualification in the case of the general concession applicable to component parts used for manufacture of goods in the single point list. In the Committee's opinion this concession should also be suitably qualified to ensure that it is not available when the final product bears no tax. At the same time, the Committee also recommends that for this concession to be effective in the promotion of industries there should be complete exemption of raw materials, including components, used in manufacturing regardless of whether or not they are also subject to single point tax.

5.35. In the course of the Committee's discussions with various groups, two suggestions bearing on the issue of industrial promotion were put forward. One was for the grant of unqualified exemption from sales-tax on raw materials and components used for manufacturing within the State. The other suggestion was for the grant of exemption for a specified period to new industries on the sale of their goods otherwise liable to tax. The Committee is aware of the urgency or promoting industrial development in a State like Kerala where the problem of un-employment is acute. Concessions are, however already available to industrial units in various forms such as lower power tariff, concessional price on land and raw materials including water. In addition, various infrastructural facilities are provided by the State at nominal rates. Then there are incentives given by the Central Government and financial institutions like the IDBI for the growth of industries in backward areas. In the circumstances there does not seem to be any need for going beyond what the Committee has already recommended in the preceding paragraph.

5.36. To pass on to the rate structure of sales-tax, a scrutiny of the existing list of commodities brought within the sales-tax schedule and also those that are being subject to the general multipoint rate of taxation showed no proper rationale in their classification. Also, the rates of taxation for individual items would appear to have been fixed largely on an *ad hoc* basis. What the Committee has attempted is a new classification of commodities and a review of the rate structure now obtaining in the State. In doing so, the Committee has not restricted itself to the list of commodities now covered by single point taxation. In fact, in pursuance of the Committee's view expressed earlier in this chapter, regarding the coverage of single point taxation, an attempt has been made to bring as many items within the fold of single point tax as possible, provided the points of taxation can be easily located taking into consideration the channels of trade. As a result of this exercise by the Committee, construction of a much more comprehensive schedule of the items covered by single point taxation has become possible. In this schedule, the Committee has attempted a commodity classification based on Revised Indian Trade Classification which, it is hoped, would considerably reduce the scope for conflict in interpretation of the clarifications in this regard.

5.37. Table 5.2 sets out in detail the commodity-wise rate structure worked out by the Committee. The main features of the proposed new rate structure are highlighted below:

(i) In the proposed restructuring of rates, the Committee has tried to keep the number of rates to the minimum, even though the list of commodities is almost twice as large as the one currently in force. The proposed rate structure is built round four rates below 10 per cent and five rates between 10 per cent and 50 per cent, the latter being largely applicable to semi-luxuries and luxuries.

(ii) Items like foodgrains and firewood are now charged to sales-tax at the rate of 1 per cent. Since these constitute the basic necessities of life, the tax rate on them cannot be fixed at a high level. It is however, relevant to point out in this context, that Kerala is deficit in food. The Committee found that the deficit States have generally been exempting foodgrains and other commodities like pulses totally from sales taxation. Only the surplus States are levying a sales tax on food grains. The reason is not difficult to see. Without State sales tax on food-grains, such States would be precluded from realising the Central Sales-tax on inter-State sales of food-grains. So the exporting States impose a tax on food-grains at the point of last purchase within their jurisdiction. This effectively exempts the local consumers but entitles the State to tax exports. For instance, Andhra Pradesh levies a tax of 6 per cent and Punjab and Haryana of 4 per cent on food-grains. Thus, food imported by deficit States like Kerala are already paying tax when they import their requirements from other States. It is also pertinent to point out here that prices of food-grains in deficit States are generally much higher than those in the surplus States. On the other hand, it cannot be ignored that the present 1% sales tax yields an annual sales tax revenue of about Rs. 1.8 crores to the State Government. In this connection, however, it will be appropriate to point out that while the entire quantities distributed through the public distribution system are paying the sales tax, the quantities imported and distributed on trade account seem to be practically escaping the present tax. On welfare considerations however, if there was to be any tax differentiation, it should have operated in exactly the opposite direction, namely of exempting the quantities distributed through public distribution system and taxing the quantities distributed on trade account. The latter should not have been difficult to enforce with respect to such imports on trade accounts as are made on the basis of permits granted by Government. While the Committee is in favour of abolishing sales-tax on food-grains altogether, on revenue considerations, however , it contents itself with the recommendation that food-grains channelled through the public distribution system should be exmepted from sales-tax and that foodgrains sole on trade account should be taxed at the rate of 2 per cent. Already tapioca which is now a major item of staple food of the low-income groups in Kerala is exempt from tax, if (i) when it is distributed through fair price shops and (ii) when it is sold in the open market by dealers whose turnover does not exceed Rs.35,000. This is in line with the Committee's thinking on taxation of articles of basic consumption. Tapioca consumed within the State is therefore, effectively exempt from sales taxation. Firewood was being taxed at the rate of 1 per cent single point until the decision of the Kerala High Court that having already suffered tax in the hands of the forest contractor, it cannot be subjected to a further levy. The Committee is of the opinion that even at the time of forest auction by the Department, the value of timber and firewood should be separately apportioned and the Committee would then recommend the imposition of tax at the rate of 4 per cent on firewood at the point of first sale, but with the qualification that firewood used for household consumption within the State will be totally exempted on the ground it is an item of essential consumption by low income groups.

(iii) The Committee has already submitted an interim report covering other essential commodities, namely, products to of rice and paddy, products of wheat, green gram, red gram, black gram, Bengal gram, dhall, chillies, coriander etc. On less basic but still essential items like kerosene and matches on which the present rate is 4 per cent single point and 3 per cent single point respectively, the Committee now recommends reduction to 2 per cent single point.

(iv) Coconut oil is the basic cooking medium used by almost every household in Kerala. As such, the Committee recommends that the tax rate on coconut oil sold within the State be reduced to 4 per cent single point, first stage. The same single point rate of 4 per cent first stage should replace the present multipoint rate of 4 percent on other oils also.

(v) The Committee has suggested the lowering of tax rate or conversion at low rate from multipoint to single point taxation of all such other commodities which are commonly used in households. For instance, jaggery is a common man's substitute for sugar. It is recommend that instead of the present multipoint taxation, jaggery should attract single point tax a t the rate of 4 per cent.

(vi) On manufactured tea, the prevailing tax rate is a 5 per cent single point leviable at the first selling point. The rate has been in effect since April 1963. No distinction is drawn between tea auctioned at Cochin, tea retailed loose and tea sold in packets under various brand names. It is recommended that tea auctioned at Cochin and tea which is retailed loose should be taxed at the rate of 6 per cent. On tea sold in packets, a higher tax rate of 10 per cent is recommended. The Committee would have liked to recommend similar rate structure for coffee which is already taxed at the rate of 6 percent single point. But after taking into account other considerations dealt with at great length in the Committee's Third Interim Report (See Annexure XIII) the Committee found it necessary to recommend that the rate on coffee should be raised to 10 per cent but that chicory be made tax free. The exemption of chicory should serve to reduce the overall incidence on the consumer of blended coffee within the State. It was felt necessary that the rate on coffee should be brought on par with the rate in Karnataka, because the lower rate in Kerala was unlikely to be of any benefit to the consumers within the State.

(vii) The tax on patented allopathic medicines is now 7 per cent single point first stage. The Committee recommends reduction of the rate to 6 per cent. Ayurvedic and homoeopathic medicines and all non-patented medicines are at present being taxed at 4 per cent multipoint. The Committee recommends switch-over to a single point first stage tax on these items at the raet of 4 per cent. Country herbs which are subject to multipoint tax may be exempted altogether.

(viii) The Committee attempted to draw a distinction between those other consumer goods that are either commonly used for household consumption or whose consumption is considered socially desirable and the rest. For instance, aluminium and aluminium products are subject to multipoint taxation. A distinction is recommended between aluminium products such as household untensils, and hospital equipments, and other aluminium products. While on the former category a 4 per cent single point is recommended, for the latter, tax rate at 8 per cent is suggested. Similarly, for stainless steel products, it is recommended that the present rate of 7 per cent be raised to 10 per cent on household utensils and hospital equipments and the rate may be fixed at 15 per cent for other varieties of stainless steel products. Footwear and other leather goods are subject to single point tax at 7 per cent. The Committee recommends a rate of 4 per cent single point for all footwear whether made of leather, rubber, plastic or other materials, and a rate of 8 per cent for leather goods other than footwear. Electrical goods are subject to a uniform rate of 9 per cent, single point. The Committee has grouped these goods into three categories and recommended three rates, namely, 6, 10 and 15 per cent. The lowest rate of 6 per cent is recommended for items like torch bulbs and lamps, electric fans, ironing machines and immersion rods. The rate of 10 per cent will be applicable to items such as radios and transistors while the 15 per cent rate will apply to items like telecommunication apparatus. However, the Committee has made an exception in favour of television sets by suggesting a reduced tax rate of 10 per cent as an incentive to a locally based industry with limited scope for sales within the State.

(ix) An attempt was made to identify items which should be taxed at higher rates. For instance, in the case of air conditioners and refrigerators, the Committee has recommended a higher rate of 20 per cent on the former while retaining the present rate of 15 per cent for the latter. On cosmetics and toilet preparations, some of which are now taxed at single point rate of 7 per cent, and others at multipoint, it is recommended that they should uniformly be taxed at the rate of 10 per cent single point. Talcum powder, tooth paste and tooth powder may however be taxed at a lower rate of 6 per cent single point. On the other hand, on items like butter, ghee and cheese, it is suggested that the tax rate should be reduced from 9 to 8 per cent; in many other States, tax rates on these are even lower.

(x) For the commercial crops of the State, the Committee recommends retention of the present single-point rate of 6 per cent at the last purchase point. Some exceptions are unavoidable, as for instance, coconut and copra because they are declared goods. In the case of rubber, an item which moves very largely out of the State in raw form, it is recommended that while the rate of tax thereon should be fixed at 6 per cent, complete exemption from sales tax should be granted for rubber used for manufacture within the State provided the products thereof are liable to be taxed. This differentiation, it is felt, should promote manufacture of rubber products within the State, particularly if the steps recommended elsewhere in this report for the effective sales taxation of raw rubber moving out of the State are implemented in full and in earnest. In the case of cashew, the Committee would like to draw a distinction between raw cashew imported and that locally procured on the one hand and processed kernel on the other. On imported cashew the Committee, would recommend relinquishing of the legal right of the State Government to levy a tax for three years. The position may be reviewed thereafter. On raw cashew procured internally, the Committee would suggest retention of the existing purchase tax, but at a lower rate of 4 per cent. However, on cashew kernel meant for internal consumption in the country, the Committee would recommend a single point first stage tax of 6 per cent notwithstanding the purchase tax on raw cashew procured internally. In the case of prawns, the Committee recommend the retention of the existing structure of purchase tax with, however, a nominal increase of the tax rate from 5 to 6 per cent, as the finished product is almost entirely exported.

(xi) The Committee recommends not only the imposition of 4 per cent single point tax on toddy at the last stage but also the enhancement of the rate on Indian made Foreign Liquor from 18 to 40 per cent.

(xii) For such of those items which would continue to be taxed under the multipoint system, the Committee recommends retention of the existing rate of 4 per cent.

(xiii) Surcharge on sales tax at the rate of 5% was payable by all dealers with turnover of Rs. 30,000 or more. In the Committee's Second Interim Report (*See* Annexure XII) it was recommended that while dealers with turnover of less than Rs. 1 lakh should be exempted from the liability to surcharge those with turnover of Rs. 10 lakhs and more should be liable to surcharge at an enhanced rate of 10 per cent. This recommendation of the Committee has already been accepted by the State Government. The Committee further recommends the repeal of the separate enactment on surcharge and its incorporation in the KGST Act itself.

5.38 On the basis of a rough exercise undertaken by the Committee regarding the revenue implications of the revised rate structure recommended by it, it was noted that full implementation of the suggested scheme would result in a net increase in the sals-tax collection. However due to paucity of firm data in respect of some commodities, it was not possible for the Committee to attempt a precise quantification of the financial gains that would accrue as a result of the recommended changes in tax rates. In any case, it is the Committee's firm conclusion that there would not be any loss of revenue. What is more important is that the Committee could bring to bear a rationale on the classification of different commodities and the structure of the tax and its rates thereon. The Committee believes that not only would problems of administration and compliance be rendered less difficult, but the question of equity would also be taken better care of under the reclassified and restructured rate schedule proposed by the Committee.

TABLE 5.2

Revised Rates and Commodity Classification

Serial No.	*Commodity*	*Code number*	*Current rate of ST*		*Proposed rate*	
			SP or MP	*Rate per cent*	*SP or MP*	*Rate per cent*
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	01. MEAT AND MEAT PREPARATIONS					
1.	Meat (Fresh, chilled or frozen and dried or smoked)other than that used for consumption within the State and eggs	011 & 012 025	exempted		SP	4 LP
2.	Meat in air tight containers	013	SP	9FS	SP	8FS
	02. DAIRY PRODUCTS AND EGGS					
3.	Milk products including Powder, Baby food, ghee, cheese, butter	022-2 023 & 024	SP	9FS	SP	8FS
	03. FISH AND FISH PREPARATIONS					
4.	Fish (fresh and simply preserved including salted, dried and smoked) other than that used for domestic consumption	031.1 & 2	Exempted	..	SP	4LP
5.	Prawns, crustacea molluses etc., fresh, chilled, frozen, salted or dried whether or not in air tight containers	031.3	SP	5LP	SP	6LP
6.	Fish in air tight containers nes and fish preparations whether or not in air tight containers	032	SP	9LP	SP	8LP
	04. CEREALS & CEREAL PREPARATIONS					
7.	Foodgrains*	04 (041, 042 043, 044 045)	SP	IFS	SP	2FS
8.	Wheat flour	046-0100	MP	4	SP	4FS
9.	Bread	048-4	Exempted			Exempted
10.	Biscuits sold under brand names (patented)	048-4201	SP	9FS	SP	10FS
11.	Biscuits other than those sold under brand names	048-4201	SP	9FS	SP	6FS
12.	Bakery products nes	048-4	exempted		SP	4FS
13.	Pulses	049-1	MP	4	SP	6FS
	05. FRUITS AND VEGETABLES					
14.	Cashewnuts					
	(i) Raw	051-7103	SP	5LP	SP	4LP
	(ii) Kernels for internal consumption		MP	4	SP	6FS
15.	Coconut	051-7104	SP	3FS	SP	4FS
16.	Edible nuts other than those specified in this schedule	051-7	MP	4	SP	6FS
17.	Tamarind (Dried)	052-0104	MP	4	SP	4LP

*Foodgrains sold through the Public Distribution System may be exempted.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
18.	Fruits, preserved and fruit preparations, vegetables, roots & tubers preserved or prepared nes whether or not in air tight containers	053 & 055	SP	9FS	SP	10FS
19.	Tapioca crude & chips (other than that used for consumption within the State)	054-8103	SP	2LP	SP	2LP
20.	Sugarcane	054-8200	SP	5LP	SP	6LP
21.	Chicory	099-0101	SP	6FS		exempted
22.	Tapioca products (Edible)	054-8300 055-4401	MP	4	SP	2FS
	06. SUGAR PREPARATIONS & HONEY					
23.	Jaggery	061-1201 061-1209 061-9004	MP	4	SP	4FS
24.	Confectionery including toffees and chocolates	062-0102 073-0001	SP	9FS	SP	10FS
	07. COFFEE, TEA, COCOA, SPICES & MANUFACTURES THEREOF					
25.	Coffee (excluding packed coffee or tinned)*	071-11 & 071-1201	SP	6FS	SP	10FS
26.	Tinned & packed coffee	071-3	SP	6FS	SP	10FS
27.	Manufactured Tea (excluding packed and tinned tea but including green tea leaves)	074-11 074-12 074-13	SP	5FS	SP	6FS
28.	Tea packed	074-11,12, 13	SP	5FS	SP	10FS
29.	Pepper	075-1002 to 1009	SP	6LP	SP	6LP
30.	Cardamom	075-2403 & 2404	SP	6LP	SP	6LP
31.	Green & dried ginger & kacholam	075-2904	SP	6LP	SP	6LP
32.	Turmeric	075-2907	MP	4	SP	4LP
33.	Spices nes, (includes chillies, corriander seed etc)	075	MP	4	SP	6FS
	08. FEEDING STUFF FOR ANIMALS					
34.	Coconut oil cake	081-3101 081-3201	SP	5FS	SP	2FS
35.	Cattle feed	081-9901	MP	4	SP	2FS
	11. BEVERAGES					
36.	Ice (Ice & Snow)	111-0101	SP	5FS	SP	6FS
37.	Non-alcoholic beverages bottled or canned	111-0102 111-0200	SP	5FS	SP	6FS
38.	Foreign liquors (imported)	112	SP	50FS	SP	50FS
39.	Foreign liquors (Indian made)	112	SP	18FS	SP	40FS
40.	Toddy	112-2	Exempted		SP	4LP
	21. HIDES, SKINS UNDRESSED					
41.	Hides & skins undressed	211	MP	4	SP	4LP
	22. OIL SEEDS					
42.	Groundnut	221-1	SP	4FS	SP	4FS
43.	Copra	221-2	SP	3FS	SP	4FS
44.	Oil Seeds n.e.s.	221-8	SP	3FS	SP	4FS
	23. CRUDE RUBBER					
45.	Crude Rubber excluding Synthetic Rubber	231-1	SP	5LP	SP	6LP
46.	Synthetic rubber and rubber substitutes	231-2	MP	4	SP	10FS

* If the Seeds or Powder have not suffered any tax.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
		24. WOOD, LUMBRE & CORK				
47.	Firewood used for household consumption	241-1001	SP	IFS		exempted
48.	Firewood nes		SP	IFS	SP	4FS
49.	Charcoal	241-2	MP	4	SP	6FS
50.	Wood in the rough or roughly squared	242	MP	4	SP	8FS
51.	Poles, piling, posts and other wood in the rough	242-9	MP	4	SP	8FS
52.	Splints and veneers (roughly squared)	242-31 & 242-32	MP	4	SP	6FS
		26. TEXTILE FIBRES				
53.	Cotton	263	SP	4FS	SP	4FS
54.	Aloe yarn	265-4002	SP	2LP	SP	4LP
55.	Clay products	276-21	MP	4FS	exempted	exempted
56.	Iron & Steel	282	SP	4FS	SP	4FS
		29. CRUDE ANIMAL & VEGETABLE MATERIALS NES				
57.	Bamboo and other such materials primarily used for Plaiting	292-3	MP	4	SP	4FS
58.	Arecanut	292-4005 4006 4007	SP	6LP	SP	6LP
59.	Nuxvomica	292-4018	SP	5LP	SP	6LP
60.	Country Herbs	292-4034	MP	4		exempted
61.	Beedi wrapper leaves	292-9901	SP	5FS	SP	4FS
		32. COAL COKE AND BRIQUETTES				
62.	Coal including coke	32	SP	4FS	SP	4FS
		33. PETROLEUM & PETROLEUM PRODUCTS				
63.	Petrol	331-01	SP	15FS	SP	15FS
64.	Motor spirit other than petrol	332-1	SP	20FS	SP	20FS
65.	Kerosene oil	332-2000	SP	4FS	SP	2FS
66.	Aviation turbine fuel	332-2000	SP	8FS	SP	8FS
67.	Lubricating oils and greases	332-5	SP	7FS	SP	8FS
68.	Furnace oil	332	SP	5FS	SP	6FS
		34. GAS NATURAL AND MANUFACTURED				
69.	Gas, natural and manufactured including cooking gas	34	MP	4	SP	10FS
		42. FIXED VEGETABLE OILS & FATS				
70.	Coconut oil	422-3000	SP	5FS	SP	4FS
71.	Other edible oils	421 & 422	MP	4	SP	4FS
		51. CHEMICAL ELEMENTS & COMPOUNDS				
72.	Menthol	512-2303	MP	4	SP	6FS
73.	Glycerne	512-2601 2602 & 2603	MP	4	SP	6FS
74.	Camphor	512-4307 512-4308	MP	4	SP	6FS
75.	All acids	512-5, 6, 7 513-3	MP	4	SP	6FS
76.	Carbon Black	513-2702 513-2709	MP	4	SP	6FS
77.	Titanium dioxide	513-5501 & 5502	MP	4	SP	10FS

(1)	(2)	(3)	(4)	(5)	(6)	(7)
78.	Caustic soda & Caustic potash	513-6201, 6202, 6203 & 513-6301	MP	4	SP	6FS
79.	Soda Ash	514-2801 to 514-2809	MP	4	SP	6FS
80.	Sodium Sulphate	514-2411	MP	4	SP	6FS
81.	Sodium Silicate	514-3301	MP	4	SP	6FS
82.	Chemicals not elsewhere specified	512-531 & 514	MP	4	SP	6FS
83.	Naphtha	521-4003	SP	5FS	SP	6FS
	53. DYEING, TANNING & COLOURING MATERIALS					
84.	Paints	533-3	SP	7FS	SP	6FS
85.	Varnishes	533-3113	SP	7FS	SP	6FS
86.	Dyestuffs	534-1	MP	4	SP	6FS
	54. MEDICINAL AND & PHARMACEUTICAL PRODUCTS					
87.	Allopathic Medicines patents	541-7003 to 7905	SP	7FS	SP	6FS
88.	Other medicines and drugs including Ayurvedic and Homoeopathic preparations	541-7001 & 541-7002	MP	4	SP	4FS
	55. ESSENTIAL OILS AND PERFUME MATERIALS					
89.	Lemongrass oil	551-1021	SP	6LP	SP	6LP
90.	Laurel oil		SP	5LP	SP	6LP
91.	Talcum Powder, Tooth Powder & Tooth Paste	553-0011, 553-0012, 553-0014	SP/MP	7FS	SP	6FS
92.	Perfumery and cosmetic nes	553	SP/MP	7FS	SP	10FS
93.	Soaps	554-1	SP	5FS	SP	6FS
94.	Detergents	554-1001	MP	4	SP	6FS
	56. FERTILISERS MANUFACTURED					
95.	Manufactured Fertilisers	561-1001 to 561-9001	SP	2FS	SP	2FS
	57. EXPLOSIVES & PYROTECHNIC PRODUCTS					
96.	Fireworks	571-3002	SP	7FS	SP	8FS
	58. PLASTIC MATERIALS ETC.					
97.	Cellophane	581-3221	MP	4	SP	6FS
	59. CHEMICAL MATERIALS & PRODUCTS NES					
98.	Insecticides	599-2401 to 2429	MP	4	SP	6FS
99.	Tapioca products	599-5101	MP	4	SP	4FS
100.	Rubber processing chemicals	599-9816	MP	4	SP	6FS
	61. LEATHER, LEATHER MANUFACTURE					
101.	Leather	611	MP	4	SP	4LP
102.	Leather goods other than footwear	612 and 8301-01	SP	7FS	SP	8FS
	62. RUBBER MANUFACTURE NES					
103.	Tyres and tubes for motor vehicles	629-1000, 1023-1041	SP	9FS	SP	15FS
104.	Tyres and tubes for motor cycles, scooters, mopeds	629-1004 & 1024			SP	10FP
105.	Tyres and tubes for cycles	629-1002, 1022			SP	6FS

(1)	(2)	(3)	(4)	(5)	(6)	(7)
106.	Tyres and Tubes for Truck and Bus	629-1007, 1027			SP	15FS
107.	Tyres and tubes for tractors	629-1006 1026	SP	9FS	SP	10FS
108.	Foamed Rubber products	621-0202	SP	12FS	SP	15FS
109.	Rubber products not elsewhere specified	62	MP	4	SP	10FS
	63. WOOD AND CORK MANUFACTURES					
110.	Veneer and Plywood (Veneer & Sheets)	631-1 and 632-2	SP	5FS	SP	6FS
111.	Tea chest	632-1	MP	4	SP	6FS
	64. PAPER, PAPER BOARD & MANUFACTURES THEREOF					
112.	Hard Board	641.6	SP	G5FS	SP	6FS
113.	Printing and writing paper in rolls or sheets including, bond paper and Manifolding & map printing paper	641-2	MP	4	SP	4FS
114.	Other paper nes	641	MP	4	SP	6FS
115.	Exercise books drawing and copy books	642-3001	exempted			exempted
116.	Articles made of paper or paper board nes	642	MP	4	SP	6FS
	65. TEXTILE YARN FABRICS AND RELATED ARTICLES					
117.	Coconut fibre, coir yarn	651-9301	SP	2LP	SP	2LP
118.	Handloom silk fabric	653-1101 to 1107	exempted	SP	SP	6FS
119.	Silk fabrics	653-1111	SP	7FS	SP	10FS
120.	Bonded fibre farbics including Rubberised coir products	655-4101	MP	4	SP	8FS
121.	Coir rope	655-6101	SP	2LP	SP	4LP
122.	Coir products including carpets and floor rugs	655-6301 & 657-6011 6012 6013 8001	SP	2LP	SP	2LP
123.	Jute	659	SP	4FS	SP	4FS
	66. NON-METALLIC MINERAL MANUFACTURES NES					
124.	Cement	661-2	SP	7FS	SP	8FS
125.	Asbestos sheets and products	661-83	SP	9FS	SP	10FS
126.	Bricks & Tiles	662-4100 662-4201 662-4209	SP	5FS	SP	4FS
127.	Mosaic Tiles	663-62	SP	15FS	SP	15FS
128.	Spectacle glasses, goggles, lenses & Frames	664-2 & 861-1 -2	SP	7FS	SP	6FS
129.	Mirrors	664-8007 to 8009	MP	4	SP	4FS
130.	China ware and porcelain ware	666-4	SP	7FS	SP	8FS
131.	Bangles excluding those made of gold, silver & other metals	893-0001 665-8201	MP	4	SP	4FS
132.	Glassware	665	SP	7FS	SP	8FS
133.	Precious and semi-precious stones unworked and worked	667-2,3 667-3 667-4	MP	4	SP	4FS
134.	Water supply fittings & metres, sanitary equipments	678 812	SP	7FS	SP	8FS

(1)	(2)	(3)	(4)	(5)	(6)	(7)
	67. IRON AND STEEL					
135.	Iron and Steel castings	679	MP	4	SP	6FS
	68. NON-FERROUS METALS					
136.	Aluminium and aluminium alloys unwrought, worked etc.	684	MP	4	SP	8FS
137.	Tin including tin sheets and tin plates	687	MP	4	SP	8FS
	69. MANUFACTURES OF METALS NES					
138.	Domestic utensils of Aluminium and Hospital equipments	697-23	MP	4	SP	4FS
139.	Articles of aluminium and aluminium alloys nes	698-94	-P	4	SP	8FS
140.	Household utensils and Hospital equipments made of stainless steel	697-2131	SP	7FS	SP	10FS
141.	Stainless steel products nes	698-9106	SP	7FS	SP	15FS
142.	Pressure cooker	697-2302	SP	9FS	SP	8FS
143.	Welding electrodes	698-8701	SP	9FS	SP	6FS
144.	Trunks Iron or Steel	698-9107	MP	4	SP	4FS
145.	All metallic products other than those specified including Zinc, Copper, Bronze, Brass etc.	69	MP	4	SP	6FS
	71. MACHINERY OTHER THAN ELECTRIC					
146.	Internal Combustin Engines	711-5	MP	4	SP	8FS
147.	Tractors	712-5	SP	7FS	SP	10FS
148.	Agricultural machinery and implements nes, other than handmade	712	MP	4	SP	6FS
149.	Typewriter, Tabulating machine, Calculators etc.	714-1 714-2 714-3	SP	15FS	SP	15FS
150.	Sewing machines & parts	717-3	SP	15FS	SP	6FS
151.	Printing and book binding machinery	718-29	MP	4	SP	10FS
152.	Excavating, levelling, boring etc., machinery	718-4201 818-42	SP	7FS	SP	10FS
153.	Airconditioning machines and parts	719-12	SP	15FS	SP	20FS
154.	Refrigerators and parts	719-15	SP	15FS	SP	15FS
155.	Centrifugal pumps—Electric motor operated	719-2107	SP	9FS	SP	6FS
156.	Centrifugal pumps—Engine operated	719-2108	SP	9FS	SP	8FS
	72. ELECTRICAL MACHINERY, APPARATUS AND APPLIANCES					
157.	Electric Motors	722-12	MP	4	SP	10FS
158.	Motor starters	722-2104 2105 2106	MP	4	SP	10FS
159.	Equipments for distributing electricity such as insulated wire & cable, electrical insulators Electricity supply metres control and switchgear	723-1 2 729-5100 722-21	SP	9FS	SP	10FS
160.	Television sets and parts	724-1	SP	15FS	SP	10FS
161.	Telecommunication apparatus nes	724	SP	12FS	SP	15FS
162.	Radios and Transistors	724-2	SP	15FS	SP	10FS

(1)	(2)	(3)	(4)	(5)	(6)	(7)
163.	Electric Fans and Irons and immersion rods	725-0301 0303 0304 0305 0306 0321 0504	SP	9FS	SP	6FS
164.	Batteries and accumulators	729-1	SP	7FS	SP	10FS
165.	Flourescent tube lamps	729-2101	SP	9FS	SP	10FS
166.	Bulbs for torches	729-2201	SP	9FS	SP	6FS
167.	Electric lamps nes	729-2	SP	9FS	SP	6FS
168.	Electrical carbons	729-96	SP	9FS	SP	6FS
169.	Electrical machinery apparatus and appliances nes	72	SP	9FS	SP	15FS
	73. TRANSPORT EQUIPMENT					
170.	Road Motor vehicles	732	SP	15FS	SP	15FS
171.	Road vehicles other than motor vehicles	733	SP	5FS	SP	6FS
172.	Boat (Canoes, wooden, Launches)	735-3101 735-3102 735-3103	MP	4	SP	6FS
173.	Machinery and Transport Equipment nes	7	MP	4	SP	6FS
	82. FURNITURE					
174.	Furniture made of Rattan, Bamboo and Wood	821-0101 0103 & 821-0901 to 0909	SP	7FS	SP	8LP
175.	Furniture made of other materials including steel	821	SP	12FS	SP	10FS
	84. CLOTHING					
176.	Readymade garments (except hosieries)	841-1 841-2	SP	1FS	SP	6FS
177.	Hosiery goods	841-4	SP	1FS	SP	6FS
178.	Do. manufactured within the State	SP	1FS	1FS	SP	2FS
179.	Watch strap made of leather or any other material	841-3001	MP	4	SP	10FS
	85. FOOTWEAR					
180.	Footwear and parts thereof	851	SP	7FS	SP	4FS
	86. PROFESSIONAL SCIENTIFIC AND CONTROLLING INSTRUMENTS PHOTOGRAPHIC AND OPTICAL GOODS					
181.	Binoculars and refracting telescopes	861-3100	SP	15FS	SP	15FS
182.	Photographic cameras, cinematographic cameras, projectors, sound recorders and sound reproducers Photographic film, plates etc., and cinematographic film in rolls etc.	861-4 5 6 862-4 & 863	SP	15FS	SP	15FS
183.	Watches and clocks	864	SP	12FS	SP	10FS

(1)	(2)	(3)	(4)	(5)	(6)	(7)
	89. MICELLANEOUS MANUFACTURED ARTICLES					
184.	Gramaphones, recordplayers and components	891-1 891-2	SP	15FS	SP	15FS
185.	School and College Text Books	892	exempted			exempted
186.	Printed books other than school and college books, newspaper and periodicals	892	exempted		SP	4FS
187.	Plastics and articles made by plastics	893-0001 to 0009 899-4301 581-1001 to 9909	MP	4	SP	6FS
188.	Firearms and ammunition	894-3	SP	15FS	SP	20FS
189.	Sporting goods	894-4	MP	4	SP	4FS
190.	Pens, pencils and fountain pens	895-2	MP	4	SP	4FS
191.	Inks other than printing inks	895-91	MP	4	SP	4FS
192.	Bullion and species		SP	1	SP	4FS
193.	Jewellery of gold silver & platinum group metals	897-1	MP	4	SP	4FS
194.	Do. If the metal & gemsset have already suffered tax in the State	897-I	MP	4	SP	2FS
195.	Basket work and other articles of plaiting materials nes	899-2	MP	4	SP	4FS
196.	Candle	899-3100	MP	4		exempted
197.	Matches	899-3201	SP	3FS	SP	2FS
198.	Mechanical lighters and cigarette cases	899-34 899-35	SP	15FS	SP	15FS
199.	Umbrellas and rain proof coats	899-4100	SP	5FS	SP	4FS
200.	Vacuum Flask and other vessels vacuum and parts thereof	899-9701	SP	7FS	SP	10FS

SP=Single Point
MP=Multi Point
FS=First Stage
LP=Last Point
Code number are as per the Revised Indian Trade Classification, 1965.

CHAPTER VI

TAX EVASION

Study of production and trade figures of the major commodities attempted in the preceding chapters clearly indicates that the revenue collected from sales tax in the State falls short of the potential, and the gap is substantial in the case of quite a few commodities. Leakage of revenue occurs in a variety of ways, both legal and illegal. The tax laws are often circumvented through clever devices or are simply violated. Sometimes evasion is facilitated by the structure of the trade itself. While as indicated, in the case of certain commodities the remedy lies in State intervention to regulate the trade, the problems of evasion and avoidance have to be tackled largely through appropriate administrative and legislative measures. This chapter discusses the adequacy of the existing arrangements for countering evasion and puts forward recommendations for their improvement.

6.2 The most common methods of evading sales tax are, as with all taxes, non-compliance with the basic statutory obligations (such as registering with the tax authorities and filing returns) and suppression of facts relating to nature and scale of business. Keeping duplicate sets of account books, storing goods in undisclosed godowns, selling goods without bills and transporting them in fictitious names are among the methods employed to evade sales tax. Some of the methods resorted to in sales tax evasion are however peculiar to the pattern and structure of the tax. For instance, where the tax is single point and is levied on first sale, the intending evader makes every effort to pass off his taxable sales as 'intermediate' by showing a "ha vala" or false purchase from a fictitious registered dealer. Exemptions and differential rates also open up scope for avoidance and evasion through various ways such as misclassification of goods. Certain lacunae in the Central Sales Tax Act afford scope for avoidance of tax on inter-State sales eg., the non-inclusion of primary producers of agricultural products in the definition of 'dealer'. Where, as is the present position in law, the liability to tax does not extend to movements of goods such as branch transfer or consignment sale, there is a tendency to cover up real sale as mere transfer from a branch to a head office and so on. The Committee's enquiries and discussions with persons concerned with sales tax administration in Kerala and elsewhere suggest that all these practices are widely resorted to.

6.3 Measures to counter evasion and avoidance can be grouped under two broad heads: (1) legal and (2) administrative. While laying down the liabilities and obligations of taxpayers, the tax laws also provide for sanctions against infringement. The Kerala General Sales Tax Act, 1963 which governs the levy of sales tax in the State follows the usual pattern. It spells out the obligations of taxpayers and others required to assist in the collection of the tax and the penalties for default. It also confers various powers on the authorities concerned with the administration of the tax to enable them to perform their function properly. At the administrative level, the Sales Tax Department is equipped with a large field staff. There is also a separate Intelligence wing to organise raids and undertake prompt action for detecting evasion where needed.

6.4 In order to facilitate detection of movements of goods against unaccounted sale, check posts have been set up within as well as at the borders of the State. Inspecting staff of the Department are also authorised to detain and check vehicles on the road. Inspite of all the measures, evasion is believed to be practised on a wide scale.

6.5 Whatever be the reason, the sanctions provided in the law against infringement failed to produce a sufficiently deterrent effect. The impression gained ground that the laws could be violated with impunity. The most important factor responsible for such impression was that infringement rarely entailed any deterrent punishment.

6.6 Instances where an offender had to suffer imprisonment for infrigement of sales tax laws are negligible. Even the number of cases where prosecution was launched for a sales tax offence is very small. As Table 6.1 would show, the cases in which prosecution was resorted to formed less than 1 per cent of the total number of crimes detected during the years 1969-70 to 1973-74. The cases were mostly compounded on a nominal fee. The compounding fee per case did not exceed Rs. 100 in any of the five years 1969-70 to 1973-74. Magisterial fine in cases where prosecution was launched was only Rs. 50 in 1972-73 and Rs. 9200 in 1973-74. There is no instance where an offender had to suffer imprisonment or conviction by a Magistrate. No one seems to have been punished for obtaining a tax concession by furnishing a wrong declaration although such practices are not uncommon.

TABLE No. 6.1

NO. OF CRIMES DETECTED, PROSECUTIONS LAUNCHED AND THOSE COMPOUNDED

Year	*No. of crimes detected*	*No. of cases compounded*	*No. of cases prosecuted*	*% of prosecution to crimes detected*	*Compounding fee levied*	*Average compounding fee per case*	*Magisterial fine*
					Rs.	*Rs.*	*Rs.*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1969-70	12342	3544	1	0.008	253207	71.40	..
1970-71	10571	7562	16	0.15	143643	18.90	..
1971-72	14353	10481	79	0.55	917316	87.52	..
1972-73	14082	9405	79	0.56	841465	89.46	50
1973-74	13863	6309	118	0.85	552231	87.53	200

6.7 Evasion is punished more through heavy assessment and imposition of penalty than through prosecution, as proceedings in courts are often time consuming and the results are uncertain. In cases where evasion is detected, tax liability is determined appropriately on the basis of material on record, and penalties too are levied. The Committee did not have adequate data to form any judgment about the efficiency of this system. Details of the number of cases in which the tax liability is enhanced on assessment, the extent of such enhancement, the quantum of penalty levied every year and how much of it is sustained finally at the appellate stages, are not available. The general impression, however, seems to be that in few cases is any heavy assessment or penalty sustained by the appellate authorities. This is partly corroborated by the fact that in only about 25 to 30 per cent of the cases in which appeals are filed before the Appellate Assistant Commissioners, the assessment is fully upheld. In the majority of cases, appeals against the orders of the assessing authorities are either partially or fully allowed. On the whole, it would appear that practitioners of evasion have little to fear; even if they get caught, they can get away lightly.

6.8 The possible reasons for the inability of the tax administration to bring the offenders to book are, (1) lacuna or deficiencies in the law or procedure and (2) weakness of the enforcing machinery. The law may be considered deficient if it is too lenient in the matter of penalties for offences, or contains too many loopholes or casts an undue burden on the administration. Several such deficiencies were pointed out to the Committee. The Committee recognises that the law and procedure are inadequate and also defective in certain respects and those deficiencies can be a serious handicap in enforcement. Accordingly, changes have been proposed in Chapter VIII in the law and procedure in serveral areas. At the same time, it would be incorrect to attribute administrative difficulties entirely to inadequacies of the law or procedure. There is reason to believe that better results could have been achieved had the enforcing authorities fully used the powers already available to them and the information which they can obtain under the existing system. This will be evident from the manner in which some of the vital instruments of enforcement available under the existing system are being used.

6.9 Among the various measures taken for the proper enforcement of sales tax, an important one is the establishment of check posts. There are at present 38 check posts, of which 16 are internal and the rest inter-State. Every vehicle passing through a border check post with goods worth more than Rs. 5 is required to carry documents covering the movement of the goods in the form of a bill of sale or delivery note or way bill or certificate of ownership. The person in charge of the vehicle has to submit a declaration in Form 27B indicating the nature of the goods, quantity, value and particulars of the consignor and the consignee. The declaration forms are retained at the check posts, while documents like delivery notes are checked and returned to the transport operators. In the absence of proper documents or when evasion is suspected, the goods are liable to be detained unless adequate security (which may be upto twice the amount of the estimated tax), is furnished. If properly used, information collected at the check posts should go a long way to help in detecting evasion.

6.10 Results achieved by the check posts however belie the expectations. As Table 6.2 will show, the average number of vehicles checked at the check posts during the years 1968-69 to 1973-74 was about 12.5 lakhs. The proportion of cases wherein irregularities were detected was about 4—5 per cent of the number of vehicles checked. What is more, the penalty collected did not exceed Rs. 25 on an average. It was stated that the functioning of the check posts was serioulsy handicapped by a judgment of the Kerala High Court delivered in 1970. To get over the difficulties, a new section was inserted in the Kerala General Sale Tax Act through an amendment in 1972 whereby officers were empowered to demand adequate security and, on failure to furnish the security, detain the goods.

6.11 A visit to some of the important border check posts, however, revealed that while there are deficiencies in the procedure for collecting information at check posts it is not so much the inadequacy of powers as the inadequacy of personnel, equipment and facilities which is hampering the functioning of the check posts. There is also reason to believe that information gathered at the check posts is not fully used.

6.12 Similarly, if the enhancement of the figures of turnover in assessment and by way of penalty are frequently interfered with by appellate authorities, it would be incorrect to lay the blame entirely on the lacunae or complexities of the law. For, in the bulk of the cases which go up before appellate authorities the assessment is made on the best judgement of the tax officers,

TABLE 6.2

Number of vehicles checked, offences detected and penalty collected at check posts

Year	*No. of Vehicles checked*	*No. of case wherein irregularities where found*	*% of cases of irregularities to No. of vehicles checked*	*Penalty Collected Rs.*	*Average penalty per case*
(1)	(2)	(3)	(4)	(5)	(6)
1969-70	1383239	69306	5.01	1205806	17.40
1970-71	1218393	462	0.04	916	1.98
1971-72	1194800	..	..	..	..
1972-73	1333401	57503	4.31	1358338	23.62
1973-74	1366000	71639	5.24	1421596	19.84

and the main reason for which these are set aside or are reduced drastically is that, the turnover has been determined without any basis. The general complaint of the assessing officers seems to be that the standards imposed by the courts for best judgment estimates are exacting. This is difficult to accept since the courts allow wide latitude in this regard. For instance, while restoring a best judgment assessment, the Supreme Court remarked: "In the very nature of things the estimate may be an over estimate or an under estimate". The fact is that seldom do the assessment orders contain any indication of the basis or have any firm basis. The Nataraja Pillai Committee had gone into this question and suggested that the Department should gather necessary data "so that assessing officers may be in a position to make a fairly accurate estimate of the probable turnover". A series of executive orders were issued thereafter to guide the officers in the matter. But due to various reasons it has not been possible for the officers to implement these instructions fully in all cases.

6.13 Inadequate flow of information and data is the most important feature coming in the way of sustaining orders of assessment and penalty. It is also responsible for the Department's inability to obtain conviction in prosecution cases. Therefore, for countering evasion effectively, the first essential step is to build up an efficient information system.

6.14 The kingpin of the existing information system is the Intelligence Wing. This is a separate wing of the Sales Tax Department, headed by a Deputy Commissioner who is attached to the Board of Revenue. The Intelligence Wing is functioning in three branches, viz. (1) the Ditection Branch, (2) the Inspection Branch and (3) the Collation Branch. The Detection Branch consists of three central intelligence squads, under three Inspecting Asst. Commissioners (Int.) and thirteen district squads. Each squad consists of one Intelligence Officer (I.O.) who is of the rank of a Sales Tax Officer and two Inspectors. The Inspection Branch is manned by Inspectors who until recently worked under the control of the Intelligence officers of the local squads and are now attached to the assessing officers. The Collation Branch consists of Inspectors under the control of the Intelligence Officers of the local squads. Two Inspectors are attached to the Office of the Deputy Commissioner (Int.)

6.15 Control of the central squads and the local squads as also the responsibility for general supervision of the work of the Inspectors in the Inspection and Collation Branches lies with the three Inspecting Assistant Commissioners (Int.). Responsibility for organising inter-district raids and 'mass' raids also lies with the I. A. C. (Int.) The I.A.C. (Int.)'s duties include planning and execution of other anti-evasion programmes like physical control of "feeding" centres, investigation of legal avoidance and agricultural income tax evasion, enquiries on petitions and watch over follow-up action by assessing officers.

6.16 The main function of the central squad is to conduct joint raids and inspection in cases with turnover of more than Rs. 5 lakhs. Over-checking of verifications done by the Collation Branch is also done by the Central Squads. The local squads too carry out raids and inspections on their own in smaller cases. Besides carrying out these raids and participating in the joint raids, the local squads also help in the verification of extracts regarding purchases, sales and despatches in the course of their inspection of shops. Special investigation is undertaken by these squads in respect of important commodities and important dealers. They are expected to undertake 'test purchase' occasionally to trap dealers who sell goods without bills. The squads are provided with an advance of Rs. 75 for this purpose.

6.17 The Inspection Branch carries out inspection of shops with a view to gathering material to help the assessing officers. Inspectors of this branch, however are required to confine their inspection only to shops with turnover of not more than Rs. 50,000. Inspection of bigger dealers is done by the Intelligence squads. Each local Intelligence squad is required to carry out not less than 15 inspections per day.

6.18 The Collation Branch collects information about production, purchases, sales, despatches, deliveries, movements etc., of goods and on transactions of dealers from various sources such as banks, railways and clearing and forwarding agents. Dissemination of such information and verification with the accounts of the dealers also form part of the duties of this Branch.

6.19 The main responsibility for collecting intelligence for raids and carrying out the raids lies with the Intelligence Wing. The immediate follow up action leading to the imposition of penalty or composition following detection is the responsibility of the wing. Further follow up action in the matter of assessment is the responsibility of the assessing officers.

6.20 Major deficiencies noted in the working of the Intelligence Wing are indicated below:

(1) Though its primary function is to gather intelligence, the wing does not seem to have succeeded in setting up any net work for collecting intelligence systematically.

(2) Although it organises raids all over the State, most of the raids and inspections undertaken by the officers of the wing seem to have been reduced to a routine. Seldom is any raid or similar action organised after adequate spadework.

(3) The wing does not have the necessary resources to conduct intensive investigation.

(4) No attempt is made to study the problems of evasion in depth and devise ways of tackling them effectively.

(5) Follow-up in most cases is inadequate. The tendency is more to get the detected cases evasion compounded rather than go in for prosecution.

(6) The wing was sometimes handicapped by lack of powers to raid any residence without a warrant from a Magistrate. The time limit for retaining seized documents etc., is also a handicap in thorough investigation. Changes have been recently made in the law to remove these handicaps. But as will be discussed in Chapter VIII, they do not go far enough.

(7) Work done by the Collation Branch does not seem to have made much impact in the form of worthwhile detection.

6.21 If the Intelligence Wing is to function in a more effective manner, three things are needed. First, the entire approach to intelligence work should undergo a radical change. The emphasis should be on intensive investigation on a selective basis rather than routine check on the hit-or-miss principle so that concrete results are obtained in at least a few cases. Secondly, impediments, if any, in the collection of information or the smooth operation of raids and associated actions whether from lack of co-ordination with other authorities or legal constraints should be removed. Thirdly, there should be better arrangement for follow-up in cases where incriminating material is found.

6.22 In order that intelligence work is not reduced to a routine, the Committee felt that it would be desirabe for the Intelligence Wing to give up inspection work and concentrate more on areas calling for prompt and vigorous action. It is understood that Inspectors are now attached to the various Sales Tax Officers for assisting them in their inspection and enquiry work. They are required to inspect business premises and make inquiries and also collect information from banks, etc. They have also to watch the action taken on the information and reports passed on by the Intelligence Officers for purposes of assessment. This is in conformity with the Committee's suggestions. For better results from inspection and raids, however, performance of the officers engaged in detection and intelligence work should be judged more by quality than mere numbers. While it is necessary to have a quantitative norm, the results achieved in detecting evasion should be taken into account in evaluating the work of the officers. Thus some remission from the quota may be allowed wherever an officer detects substantial evasion. The Committee learns that most of these suggestions have been already acted upon. An inspection which results in booking of new cases is now treated as equivalent to two; one which leads to detection of supersession with tax effect of more than Rs. 10,000 is treated as equivalent to five.

6.23 For effective action, raids by the central and local squads should be better planned and carried out with adequate preparation. For this purpose payment of rewards to informers should be permitted. The income-tax Department pays for information leading to detection without waiting for the assessments to be finally decided in appeals, if the Commissioner think fit. In Maharashtra also there is a system of rewards. Reward is paid upto 7 1/2 per cent of the additional tax; of this 2 1/2 per cent is paid after assessment, and 5 per cent after recovery and disposal of appeals, if any. In addition, another 2 1/2 per cent is paid for information which aids recovery of tax.

6.24 The Committee understands that in Kerala the question of paying rewards to informers is under reconsideration by Government. The present system provides for payment of only upto Rs. 100 in each case and the power to sanction such payment lies with the Board of Revenue. It is now proposed to pay reward not exceeding 7 1/2 per cent of the additional tax realised as reward for information or assistance, of which a portion (upto 2 1/2 per cent) shall be paid as soon as the assessment orders is passed. Further payment (not exceeding 5 per cent) shall be paid after the tax is realised. A reward of 2 1/2 per cent shall be paid for information helpful for realising irrecoverable amounts. The authority competent to grant rewards will be empowered to grant an interim rewards of 1 per cent of the extra tax due or Rs. 250, whichever is less, if the information furnished makes out a prima facie case of evasion. Deputy Commissioner (Int.) will have the power to grant rewards of upto Rs. 1,000 and the Board of Revenue upto Rs. 5,000. Rewards exceeding Rs. 5,000 will require the sanction of the Government. On the whole, the proposals seem to meet the requirements. Only, the limit of 1 per cent or Rs. 250 whichever is less appears to be on the low side.

6.25 While the system of rewards is useful, the Intelligence Wing should not depend exclusively on informers but undertake special investigation on its own initiative. It should select areas and commodities for intensive investigation and locate the offending dealers with the help of data collected from banks, railways, clearing and forwarding agents, etc. Plans for special investigation may be drawn up at the Headquarters of the wing. Some initiative should be allowed to the local I. A. C. also to draw up plans for investigation in their areas.

6.26 Since economic offences are often inter-related (e.g., suppression of turnover taxable under the sales tax has it reflection on income tax too), proper co-ordination of the tax authorities under the Central and State Government is desirable. The Committee learns that some initiative has already been taken in this regard and that a committee has been set up for co-ordination among departments of Sales tax, Income tax and Central Excise and Customs.

6.27 Detection of offences committed in the course of inter-State sales calls for co-ordination among the States. Need for such co-ordination was felt for a long time as it appeared that evasion of sales tax by showing fictitious transfer across the border or by importing (or exporting) goods against spurious 'C' forms was being practised on a large scale. Following up a suggestion of the Regional Council of South Zone, an Inter-State Investigation Cell was created in Kerala in October, 1975, with an Assistant Commissioner of Sales Tax in charge under the overall control of the Deputy Commissioner (Int.) to make enquiries in cases referred to the Department from other States and also to get such enquiry expedited by other States where a reference is made by officers from this State. The Assistant Commissioner in charge of this Cell is expected to concentrate on the inter-State movement of goods, ascertain the various *modus operandi* adopted by the dealers for evading sales tax with particular attention to transactions in coconut, copra, coconut oil, rubber, arecanut, cardamom, etc., and to visit the check posts to study the movement and transfer of these goods. Results achieved by the Cell seem to be encouraging. Working of the Cell would need to be reviewed after a year.

6.28 As regards follow-up of raids, as noted already, the assessment of cases wherein raids have been carried out is at present left to the assessing officers having jurisdiction over the case. It is doubtful whether with the pressure for disposals, the assessing officers would be in a position to devote adequate attention to these cases. The Committee, therefore, recommends that assessment of cases where substantial evasion is involved, should be handled in special circles by special officers of appropriate rank.

6.29 There is at present no separate prosecution machinery. Where prosecution is decided upon, the officers file complaints in the Court with the help of the Public Prosecutor. The Committee examined the question of attaching a complement of Police Officers, as in West Bengal, to assist the Intelligence Wing. The Committee does not consider such an arrangement necessary or desirable. Economic offences require investigation by officers who have specialised in this area. For co-ordination with the police, arrangements are already there for exchange of useful information between the Intelligenc Wing of the Sales Tax Department and the Economic Offences Wing of the Police Department and this arrangement appears to be working satisfactorily. So far as prosecution work is concerned, Sales Tax Officers should be specially trained for the purpose and one Sales tax Officer (Law) may be posted in each district to look after prosecution as well as other work requiring specialized knowledge of civil and criminal laws.

6.30 Checkposts, if properly maintained, should be a valuable source of information. But, as noted already, actual inspection of some of the checkposts revealed several weakness in their operation. The major deficiencies that came to notice are:

1. Most of the checkposts are not properly equipped for the kind of work expected of them lighting arrangement is poor. At one of the checkposts, it was found that the cross bar intended to stop vehicles is a manually operated bamboo pole which can be of no help in stopping speeding trucks. Not all of them have weighbridges. Data regarding prices often required for checking the value of articles described in the transport documents are not supplied regularly to the officers. Communication facilities are also poor. There is no means of contacting the police or the headquarters in emergencies.

2. Staff posted at the checkposts is inadequate. At one of the border checkposts visited by the Committee, out of the sanctioned strength of three Inspectors only two were in position. Of the clerks too, only one out of the sanctioned three was in position, as a result of which the Inspector on duty had to attend to clerical work neglecting the work of vehicle checking. The position can be well imagined when any one goes on leave.

3. No living quarters are provided to the staff at or near the checkposts. It is thus difficult to find any good worker willing to work at the checkposts.

4. At present, transport operators are required to furnish a declaration at the checkposts in the prescribed form (Form 27B) indicating the name of the consignor. This does not provide adequate safeguard against evasion as the consignor may deny having despatched the consignment attributed to him. The Delivery Notes (Form 26) now in use are also amenable to misuse as different copies of the delivery note bearing the same numbers may be used for despatching two consignments.

5. The number of registers prescribed for check posts also seem to be too large. There are nine general registers and nine special registers.

6.31 To remove the deficiencies noted above, the Committee recommends the following measures:—

1. Checkposts should be adequately equipped with proper lighting including a search light, metallic gate (preferably of the see-saw type) storage facilities, weigh bridges and telephones. Wireless transmitters may be provided at important checkposts.

2. Every major checkpost should be in charge of an I. A. C. Besides, there should be one Officer, one Inspector and one clerk to man these checkposts round the clock on eight hour shifts. Minor checkposts should be placed in charge of Sales Tax Officer assisted by one Inspector and one clerk on similar shifts. There should be one Inspector and one clerk at each checkpost as reserves. No one should be required to serve at check posts for more than a year at a stretch....

3. Proper accommodation facilities should be provided at the checkposts. Suits and dormitories should be constructed for the accommodation of officers and their staff.

4. Registers at the checkposts should be simplified and reduced in number. There should be one basic movement register, in two separate parts, one for incoming vehicles, and the other for outgoing ones.

5. Forms prescribed for vehicles transporting goods should also be revised. Form 27B should be so drawn up as to require use of separate forms for each consignor/consignee in order that they can be easily sorted out and despatched. Delivery notes (Forms 26) and way bills

should be prescribed in duplicate so that one copy may be surrendered at the checkpost. The original and the duplicate copies of the delivery notes should be printed in different colours as is practiced in some States. Duplicates should invariably be carbon copies of the original. Way bills and other allied certificates should also be security printed.

6. It would be useful to have common checkposts for Sales Tax, Motor Vehicles, Excise and Civil Supplies Departments. This will not only lead to economy but create confidence among the staff manning the checkposts and help to get over difficulties created by a temporary shortage of staff in one department. It will also reduce harassment to transport operators.

7. The working of the checkposts should be properly supervised. Inspection of remote checkposts does not seem to be adequate at present. Supervision and control of checkposts should be entrusted to the Intelligence wing. Local squads of the Detection Branch of the wing should be in a better position to exercise supervision over the checkposts than the local Sales Tax Officers. It should be the special responsibility of the I. A. C. (Special) to inspect the checkposts regularly and see that the checkposts are properly supervised. Deputy Commissioner (Int.) and also Zonal Deputy Commissioners should do some overchecking from time to time.

6.32 The Committee understands that the suggestions put forward above are under the consideration of the Government, and that some have already been acted upon. Investigations conducted by the officers of the Department revealed that there had been large-scale evasion of sales tax by dealers, especially in the northern districts of the State, by booking goods through rail in bogus names. The Kerala General Sales Tax Act, 1963 contains a provision requiring the transport of notified goods of more than Rs. 200 against the production of certain permits from the sales tax authorities only. The goods which have been notified are: certain rubber products, pepper, dried ginger, lemongrass oil, arecanut, coconut and copra, timber and coconut oil. The Railway authorities, however, did not consider it possible to implement this requirement. The Railways are only agreeable to allow the Department to extract information from station records, subject to certain conditions such as that the clerks of the State Government should visit goods and parcel offices at hours convenient to the railway staff etc. The Railways also advised that the State Government can make arrangements outside railway premises for checking all goods entering or coming out of the goods sheds/parcel offices for the realisation of sales tax, if necessary. The State Government, however, does not consider the arrangement, suggested by the Railways adequate for checking evasion. Another suggestion put forward to the Railways was not to allow delivery of consignments without production of railway receipts countersigned by appropriate Sales Tax authorities or a declaration/permit prescribed by State Government. This was also considered unacceptable by the Railways as it might lead to congestion in goods yards and diversion of goods traffic.

6.33 Considering the volume of goods moving through railways, an effective method urgently needs to be devised for ensuring that the true particulars of the consignors and consignees are recorded in the station registers and no one can despatch goods in fictitious names. If it is not possible for the Railways to undertake the task of checking the permits etc., before booking or delivering goods, there will be no alternative but to set up check posts at or near important rail heads. But checkposts at a few stations will not be effective unless all the railway stations in the State are covered by check posts in this way. But this might give rise to inconvenience and lead to diversion of traffic from railways. The Committee would, therefore, suggest that the Railways are requested to reconsider the matter and evolve a mutually convenient arrangement with the sales tax authorities of the State whereby malpractices can be effectively checked.

6.34 For proper and prompt use of the information flowing in from different agencies, there should be adequate arrangement for their analysis and transmission to the concerned officers. For this purpose, the Committee suggests the following measures. First, the Collation Branch should be reactivated and expanded. Information gathered at check posts and by other agencies should be collated at this Branch. At present, the declaration forms collected at the check posts are sorted out and sent to the respective assessing officers directly from the check posts. This casts a heavy burden of clerical work on the check post staff. It would be more convenient to get the forms sent over to the Collation Branch who would sort them out and send them on to the concerned officers, with an intimation to the I. A. C. in charge who would in turn check whether the information had been made use of. Other sources of information like the Customs manifestos and returns forwarded by the clearing and forwarding agencies should be similarly collected.

6.35 At the same time there should be a separate Research and Statistics Cell to undertake collection of data bearing on sales tax yield such as production and turnover of commodities, price trends, channels of trade and so on. The Committee, in the course of its studies, experienced considerable difficulties in obtaining reliable data regarding turnover of even such major commodities as coconut, arecanut, pepper, rubber and cardamom, which might help to indicate the potential of the sales tax revenue. In the case of commodities coming from other States the Committee could not even attempt any estimate of the gap between the tax potential and actual realisation because of the virtually total lack of any information on movements of goods into the State. All that the Committee could get was the checkpost data and the figures of taxable turnover determined by the Department. But these data, as already observed, suffer from serious limitations.

6.36 It should be the function of the Research and Statistics Cell to gather material from all possible sources and organise collection of data where there are gaps in knowledge. It should also undertake analysis of such data with a view to arriving at independent estimates of turnover of various commodities. It should also collect from the Department commodity-wise information regarding turnover and tax in respect of various commodities and relate it to information gathered from other sources in order to identify the areas of leakage. Indexing of basic information regarding major assessees (such as location of business, godowns, branches, turnover, nature of goods traded, tax arrears, history of crimes committed and penalty imposed, if any etc.) also should be undertaken by this Cell. Classification of data may be done both commodity-wise as also assessee-wise. The Cell should function in close co-operation with the Intelligence Wing and should bring out periodical bulletins for use of assessing officers in their assessment work. The Cell should help in the formulation of policy changes. In view of the importance of this work, the Committee recommends that the proposed Cell should be headed by a qualified economic statistician of a senior rank, preferably of the rank of Additional Director.

6.37 The Committee considered the question of the Department availing itself the services of computers. States like Tamilnadu, Karnataka and West Bengal are already making use of computers for the processing of sales tax data. In the Committees' opinion the area in which computerisation will be most useful is the indexing of information on major assessees whereby all relevant information relating to each major assessee can be collected on one card and drawn upon as and when necessary. It would also be useful to put the checkpost data on the computer so that information regarding movement of goods can be related to individual dealers and also subjected to various classifications such as commodity-wise and destination-wise, that may be needed for cross-verification. Only if computer facilities are available for this kind of job at reasonable cost would it be worthwhile to make use of computers. Until then the Department should have adequate staff to undertake manually the task of compiling essential information regarding each of the major assessees.

6.38 While an efficient information system will help improve the quality of assessments, to produce the much-needed deterrent effect, efforts must be directed to concentrate on cases involving evasion of fraud and frame the orders in such a way that the taxes and penalties levied are fully sustained on appeal. One successful heavy assessment or penalty is obviously more valuable as a deterrent than a hundred cases of petty additions. Unfortunately, there is a general tendency to make additions to returned figures as a matter of habit and on flimsy grounds though it serves little purpose as few of them survive at the appellate stages. If this situation is to be changed, two things are needed, (1) infructuous and unproductive work must be cut down so that more attention can be paid to cases deserving detailed scrutiny and (2) due regard must be paid to quality of assessments and not merely their number in the evaluation of officers' performance. If infructuous work is to be avoided, the procedure of assessment needs to be simplified and if quality of assessments is to figure in the valuation of officers' work, the system of reporting would need to be reviewed. Measures to these ends are considered in the next chapter.

CHAPTER—VII

TAX ADMINISTRATION

At the apex of the Kerala sales tax administration, is the Board of Revenue. One of the Members is in charge of Salestax. Decisions on major policy matters including legislation are ordinarily taken by Government in consultation with the Board. Control over the sales tax administration is exercised by the Government through the Board. All officers of the Sales Tax Department have to follow the instructions and orders issued by the Board except when exercising their judicial discretion. Apart from his administrative responsibilities as Head of the Department, the Member concerned has some judicial functions too.

7.2 The field organisation is divided into two broad wings: the assessment wing and the appellate wing. The assessment wing consists of three Deputy Commissioners (Zonal) with their headquarters at Kozhikode, Ernakulam and Quilon. Below the Zonal Deputy Commissioners are Inspecting Assistant Commissioners (I. A. C.), who supervise the work of Sales Tax Officers. There are, however, a few Assistant Commissioners (Assessment) in charge of Special Circles in which cases yielding substantial revenue are concentrated.

7.3 At the head of the appellate wing is the Sales Tax Appellate Tribunal. There are at present two benches of the Appellate Tribunal, one at Trivandrum and the other at Kozhikode. The latter was established only recently. First appeal against an assessment order passed by the Sales Tax Officer is heard by the Appellate Assistant Commissioner (A. A. C.) appeal against orders of Assistant Commissioner (Assessment) is heard by Deputy Commissioner (Appeals). All officers of the appellate wing except the members of the Appellate Tribunal are under the administrative control of the Board.

7.4 As indicated in the preceding chapter, the Intelligence Wing too has an extensive field network. Control over the Intelligence Wing is centralised in the Board through Deputy Commissioner (Intelligence) who functions as a part of the Board's Office.

7.5 Though the trend now is towards a separation of sales tax administration from Revenue Board it has to be recognised that the system followed in Kerala has its merits. The Board of Revenue is a collective body with statutory authority and carries greater weight *vis-a-vis* the Government than a single officer functioning as Commissioner would command. Besides, being the collective head of the Departments of Excise, Civil Supplies, Transport and Revenue, the Board can secure the co-ordination of salestax administration with officers of these other departments more easily and effectively than is possible otherwise. Such co-ordination is often needed for efficient implementation of sales tax laws. The Committee, therefore, does not consider it advisable to abandon the present system. However, in the interests of efficiency the organisation of the Board's office needs some reform.

7.6 At present the Member in charge of Sales Tax Department also looks after the administration of the Agricultural Incometax Act and the Moneylenders' Act. In technical matters he is assisted by the Secretary (Taxes) and, in administrative matters, by the Additional Secretary (Taxes). Secretary and Additional Secretary (Taxes) are assisted by Assistant Secretary (Taxes) and Assistant Director of Statistics.

7.7 The Member in charge of salestax, like the other members of the Board of Revenue is drawn from the I. A. S. Secretary (Taxes) is an officer of the Sales Tax Department in the rank of Deputy Commissioner. The Additional Secretary (Taxes) is again an officer of the I. A. S. while the Assistant Secretary (Taxes) is an officer of the Department in the rank of Assistant Commissioner.

7.8 In the Board's office, work relating to sales tax is divided among five sections. The allocation of work among the sections is as follows:—

Sections	*Subjects*
A	Establishment
B	Accounts, Revenue recovery, write off and remission.
C	Law
D	Statistics
E	Revision, audit and P. A. C.

Sections A, B, C and E are each in charge of a Superintendent, while section D is in charge of a Statistical Officer. In addition to the Law Section in the Board's Office, there is an attached office at Ernakulam which looks after all legal matters and is headed by the Deputy Commissioner (Law). He is assisted by an Assistant Secretary (Law) and a Superintendent. The Deputy Commissioner (Intelligence) also functions as part of the Board's office and looks after audit. The chart given in page 68 shows the set up of the Board's Office and the staff strength.

7.9 To appraise the existing arrangements in the Board's Office, one has to examine the workload and staff strength as well as the volume of receipts and disposals at each level. With the limited resources available at its disposal, the Committee was not in a position to undertake such a detailed study. A few observations and suggestions may however, be in order.

7.10 The burden on the Member in charge of sales tax appears to be heavy considering that in addition he has also to administer Agricultural Income Tax and the Money Lenders' Acts. The practice of combining the responsibility for administering several taxes in one hand is not uncommon. However, in view of the growing complexity of the tax laws and the need to curb evasion and avoidance, it is necessary to ensure that adequate assistance is provided to officers who have multiple functions to perform. While the Committee does not want the Member in charge of Sales Tax to be divested of his functions as Commissioner of Agricultural Income Tax, it feels that matters relating to Agricultural Income Tax and Money Lenders' Act should not make a disproportionate demand on his time and attention. The Committee, therefore, recommends that the powers under these two Acts be delegated to the Additional Secretary (Taxes). The Additional Secretary (Taxes) should still continue under the control of the Member in charge. With the Additional Secretary exercising the powers under the Agricultural Income-tax and Money Lenders' Acts Secretary (Taxes) should be in a position to look after sales tax exclusively. Since he has to issue directions to subordinate officers of the Sales tax Department including Deputy Commissioners the rank of the Secretary (Taxes) should be higher than that of Deputy Commissioner and should be raised to that of a Joint Commissioner.

7.11 The Committee recommends the following other changes in the set up and distribution of work in the Board's Office:

1. Deputy Commissioner's (Intelligence) office should function as part of the Board. Audit work should however be taken out of the responsibility of the Deputy Commissioner (Intelligence).

2. There should be a separate section to look after Audit and Public Accounts Committee matters. There should be a Deputy Commissioner (Audit) to head this section. The post of a Superintendent should also be created for this section. Control over the I. A. C. (Audit) should be transferred to the Deputy Commissioner (Audit).

3. The Law Section in the Board's Office should be headed by a separate Assistant Secretary (Law). At present this section is looked after by a Superintendent while the Deputy Commissioner (Law) functions from Ernakulam. Office of the Deputy Commissioner (Law) appears to be under-staffed. Duties assigned to him are to assist the Advocate General and the Government Pleader in the conduct of cases in the High Court, to function as controlling officer of the A. A. Cs. and carry out inspection of their offices, to hold conferences of officers to give instruction on legal matters; to propose amendments to law; to look-after the publication of the Kerala Board of Revenue Bulletin, to offer comments on matters referred to by the Board and to give instructions to officers with a view to improving the quality of assessment. The burden on the Deputy Commissioner (Law) can be somewhat lightened if field officers are asked to refer law points to the Deputy Commissioners (Zonal) through their respective I. A. Cs. and only when the former require clarification, the points may be referred to the Deputy Commissioner (Law).

4. Monitoring of changes in law and procedure in other States should be the responsibility of the Law section of the Board of Revenue which should, therefore, be strenghend by the appointment of an Assistant Secretary.

5. To assist the Additional Director (Research and Statistics) whose appointment has been recommended in the preceding chapter, adequate staff should be provided. There should be adequate staff for statistical work in the field. Each Sales Tax Office should have a compiler. There should be one Research Assistant with each Inspecting Assistant Commissioner and Zonal Deputy Commissioners. Technical control over the statistical staff should however be centralised in the hands of the Additional Director (Research and Statistics).

7.12 As stated already, the head of the Sales Tax Department in Kerala comes from the IAS. This is the practice in other States too. While the Committee does not propose any change in this practice, the Committee feels that it would be desirable to train up, from an earlier stage suitable officers of the IAS to hold this post, considering the technical nature of the work involved. For this purpose, one post in the rank of Deputy Commissioner and two in that of Assistant Commissioner should be encadred. This practice is followed in a few other States also (eg, Andhra Pradesh and Maharashtra). Since officers of the Sales Tax Department also are eligible for promotions to IAS, this should not act as a bar to their occupying top positions in the Department. In order that such earmarking of posts for IAS officers does not adversely affect the promotion prospects of the departmental officers, the Committee recommends that the quota for promotion to IAS from officers of Sales Tax Department should be enlarged. At present 50% of the promotion quota for IAS is reserved exclusively for officers of the Revenue Department, the remaining 50 per cent being available to other State services of which sales tax is only one. Considering the growing importance of the Sales Tax Department, there should be adequate representation for its officers in the IAS. The promotion quota reserved for the Revenue Department officers should be thrown open to officers of Departments like sales tax and excise also.

7.13 The Secretary (Taxes) should continue to be taken on a selection basis from officers of the Sales tax Department. Additional Secretary (Taxes) should continue to come from the IAS.

7.14 Deputy Commissioner (Audit) for the proposed audit section should be recruited from the following sources: (i) Officers of the Sales Tax Department, (ii) Officers of the IA & AS and IRS, (iii) Financial Managers of the Public Sector Enterprises and (iv) Chartered Accounts with suitable experience. A minimum period of service may be laid down for them.

7.15 As indicated earlier, the field organisation of the Sales tax Department falls under two broad divisions: (1) the assessment wing and (2) the appellate wing.

7.16 The assessment wing is in charge of three Deputy Commissioners (Zonal), each responsible for the proper working of the sales tax administration in their respective zones. Below the Zonal Deputy Commissioners are the I. A. Cs. There are at present 12 I. A. Cs. to supervise the work of 169 assessing officers functioning in 86 Sales Tax Offices. Each Sales Tax Officer's Office has its complement of clerical hands and Class IV staff. The appellate wing is made up of the Appellate Tribunal with two benches, 3 Deputy Commissioners (Appeals), 9 A. A. Cs. and 3 Additional A. A. Cs. Two Assistant Commissioners act as Departmental Representatives before the Appellate Tribunal and one as its Secretary.

7.17 Efficiency of the field organisation in a tax department depends, apart from the quality of the personnel, primarily on: (i) quality of control and supervision, and (ii) simplicity of law and procedure. This chapter is confined to the consideration of the first aspect. The latter viz., law and procedure is dealt with in the following chapter.

7.18 For effective control, the chain of command should be clearly laid down and the controlling officers should have adequate powers to enforce their authority. Duties of officers at various levels should be specified. For efficient supervision, work norms should be decided on a rational basis and there should be a well planned periodic review of work done at all levels.

7.19 For officers in the assessment wing the chain of command is fairly clear. Functions of officers at various levels have also been laid down. The Board has recently attempted to specify the functions and duties of the clerical staff in the assessing offices. The question which arises in this context is whether the overall responsibility for lapses occurring in work specifically assigned to clerks should still lie with officers. One view is that officers cannot be absolved completely from such responsibility. The Committee is however, of the opinion that a line can and should be drawn between the responsibility for the proper execution of work assigned to a particular level of officers or clerks and that of overseeing that the work so assigned is properly executed. Viewed thus, the attempt to specify the functions and duties of clerical staff in the assessing offices is a move in the right direction.

7.20 For exercising their authority, the controlling officers should have adequate powers and also know—how to use them effectively. The main instrument used in administration for this purpose is the confidential reports. The system of reporting on the performance of officers now in vogue follows the usual pattern. The performance of an officer is assessed by the next superior officer who submits the report to the next specified higher authority for review. The reporting authority for officers at different levels and also the authority through whom the reports are to be routed are indicated in a Government Order of 1966. Instructions are also issued from time to time about the manner in which the performance of the officers should be evaluated.

7.21 Consequent on the creation of some new posts, changes are now needed in the chain of reporting in certain cases. The Committee understands that proposals have been put forward to Government in this regard by the Board. The Committee would like to emphasise in this connection that as far as possible, reporting on an officer by more than one superior authority equivalent level should be avoided. Dual control is seldom healthy for any administration. Hence, it may not be advisable to require the reports on Sales Tax Officers written by I. A. Cs. to be submitted to Deputy Commissioner (Zonal) through Deputy

Commissioner (Intelligence). If the intention is that the quality of intelligence work done by an officer is reflected in his confidential report, it would be better to require the Deputy Commissioner (Intelligence) to bring to the notice of the Deputy Commissioner (Zonal) concerned instances of commendable intelligence work or lapses in intelligence matters, if any, on the part of any officer so that suitable entries are made in his confidential report. It should be left to the Deputy Commissioner (Zonal) to determine the final rating of the officer in the light of the Deputy Commissioner (Intelligence)'s report. Otherwise there may be conflict in the I. A. Cs. report and that of Deputy Commissioner (Intelligence) which, if unresolved, might create difficulty in the overall assessment of an officer's performance.

7.22 The form of reporting should be carefully devised so that all important aspects of an officer's work are adequately reflected. In order to reduce the subjective element in the confidential reports, it would be useful to specify norms for evaluating each item of work such as, assessment and recovery. The Committee had an opportunity to look into the forms introduced in Andhra Pradesh for this purpose. This form attempts to lay down such norms on a rational basis. The Committee suggests that the forms for reporting on the work of officers be streamlined on these lines.

7.23 In Andhra Pradesh, it may be mentioned, norms have been laid down for grading an officer's work under different heads. Thus, for final assessment work, the following norms have been prescribed—

3rd Quarter

(a) If 100% of final assessments are completed	Outstanding
(b) above 95% to 100% of final assessments are completed	Good
(c) above 90% to 95% of final assessments are completed	Satisfactory
(d) below 90% of final assessments are completed	Poor

7.24 Similar norms are laid down for old arrear collection work and for collection of arrears of Rs. 10,000 and above. For Commercial Tax Officers engaged in detection work the norms are related to the amount of tax and penalties. Performance of Commercial Tax Officers engaged in detection work who collect more than Rs. 1.5 lakh in tax and penalty out of detected cases is rated as 'outstanding'; if the amount is between Rs. 1—1.5 lakh, it is rated as 'good'; if it is between Rs. 50,000 and 1 lakh, the rating is 'satisfactory'. Collection below this figure is treated as 'poor'. Suitable variation is made in these norms in the case of Additional Commercial Tax Officers.

7.25 For rating various items of work in the manner indicated above, norms will have to be laid down. At present, the performance of officers is reviewed mainly on the basis of the number of cases disposed of as compared to the quota fixed for them. The quota laid down since 1971 for assessing officers are as follows:

	No. of assessments per annum
Assessing authorities in the Sales Tax Special Circles	275
Sales Tax Officers and Additional Sales Tax Officers	325

7.26 The Committee is of the view that to improve the quality of assessment, first, the quota should be related to turnover and secondly, quality should find an explicit place in the evaluation of the officers' performance.

7.27 Fixing the quotas irrespective of the type of the case creates a tendency on the part of the officers to go in for simple and small turnover cases to the neglect of relatively complicated ones. Hence, it is necessary to devise a method whereby the number of cases disposed of is weighted according to the size of the turnover of the cases completed. As may be seen from Annexure VII such a system is in vogue in Maharashtra where norms for assessment work are prescribed in terms of turnover. In Karnataka in addition to turnover the tax revenue involved is taken into consideration.

7.28 The Committee recommends that the quotas for assessment work should be laid down in terms of units which should be fixed on the following lines:

	Unit
For cases with turnover of not more than Rs. 1 lakh	1/2
For cases with turnover between Rs. 1—2.5 lakh	2/3
For cases with turnover of more than Rs. 2.5 lakh	1

7.29 The quota of assessment for Sales Tax Officers should be fixed at 300 units per year. Cases of above Rs. 5 lakh turnover should continue to be dealt with by Assistant Commissioners. The quota of 275 fixed for them at present appears however to be a little on the high side and should be reduced to 250 per year to enable them to devote greater attention to each case.

7.30 To encourage officers to turn out assessments of better quality, the Committee suggests that in rating an officer attention be paid to the number of cases where evasion is detected and penalty imposed. This will necessitate keeping watch over the fate of assessments made by an officer at the appellate stages. Since appeals may not be disposed of in the year of assessment, it would be necessary to consider an officer's work over a three or five year period. Appeals beyond the Tribunal stage need not be considered. In short, quality of assessment made by the officer whose assessments suffer least interference upto the Tribunal stage should be rated higher than that of others. Every officer's confidential role should contain a column to show the number of cases in which the tax demanded exceeds the tax admitted in the return by Rs. 500 or more and the percentage of such assessments upheld in appeals (in terms of the number as well as the tax demand).

7.31 While assessing the overall performance of an officer, it will be necessary to specify the weight to be attached to different items of work. For, an officer's performance may be outstanding in assessment, but poor in collection. The reporting officers should have some idea of the importance to be attached to each item. Mechanical adherence to quantitative norms sometimes tends to produce undesirable results (e. g., officers deployed in detection work booking cases simply to add to their number and levying penalty without adequate basis).

7.32 The Committee would like to stress the need for due care on the part of the reporting officers in appraising the performance of their subordinate officers. Ability to write the confidential reports in an objective and informative way should be one of the criteria for judging the calibre of officers in the superior ranks.

7.33 Annual reporting on individual officer's work should be based on periodical inspections and reviews. Such inspection is needed also to ensure proper implementation of the statutory provisions and prompt disposal of cases. The programme and procedure for the inspection of subordinate offices by the Board, Zonal Deputy Commissioners, Deputy Commissioner (Intelligence) and Inspecting Assistant Commissioners have been laid down by Government. Under the existing arrangement, the Members of Board of Revenue inspect by turn the offices of the Zonal Deputy Commissioners and the Deputy Commissioner (Intelligence) annually. Zonal Deputy Commissioners inspect the offices of the Inspecting Assistant Commissioners and Appellate Assistant Commissioners once in every year and of the Sales Tax Officers once in three years. Deputy Commissioner (Intelligence) is supposed to inspect all the Intelligence Offices and checkposts once in a year. Inspecting Assistant Commissioners have to complete the round of inspection of all Sales Tax Offices and checkposts within their jurisdiction in a year. A questionnaire is prescribed for the annual inspection of Sales Tax Offices by the Inspecting Assistant Commissioners. Inspecting Assistant Commissioners are also expected to carry out 'cursory' inspection of Sales Tax Offices every month. Advance programme of inspections for each year has to be communicated before the 25th of December of the preceding year to the offices to be inspected and also to the immediate superior officer. Copies of inspection reports are also required to be submitted to the immediate superior officer with a covering note giving details of serious irregularities and defects. This report is reviewed by the appropriate superior authority and the results of review are communicated both to the Inspecting officer as well as the officer whose office is inspected. Rectification of mistakes has to be watched by the Inspecting officer. Board is required to forward to Government copies of its notes of inspection of offices of Deputy Commissioners and of its reviews of the inspection notes of Inspecting Assistant Commissioners' office done by Deputy Commissioners.

7.34 Although the arrangements for inspection and review of inspections do not seem to be inadequate, the Committee would like to make the following suggestions to make them really effective and useful:

1. There should be strict watch on the progress of inspections and their follow-up.

2. Inspections, especially those of Sales Tax Officers by the Inspecting Assistant Commissioners, should not be reduced to a routine but should really assess the quality of work done by the Sales Tax Officers. In these inspections, Inspecting Assistant Commissioners should look carefully into individual files and not content themselves with the inspection of only registers. Copies of these inspection reports should go to the Board's office along with the review by the Zonal Deputy Commissioners.

3. Cursory inspections should be taken seriously. Copies of inspection notes of cursory inspections too should be sent to the immediate superior officer.

4. Work of the clerical staff in various offices is now reviewed once a month by the heads of offices. A consolidated review should be made of all the offices in the districts by the Inspecting Assistant Commissioner concerned every six months and a report submitted to the Board. The Board should attempt a similar review of all the district offices.

5. Reports of inspection and review should be taken into account at the time of annual evaluation of an officer's performance.

7.35 To ensure proper supervision, the number of officers to be supervised by a superior officer should be kept within manageable proportions. At present, the number of Sales Tax Officers in an Inspecting Assistant Commissioner's range is, on an average, 14. This span of control is somewhat on the high side and does not allow the Inspecting Assistant Commissioners sufficient time to look carefully into all aspects of each Sales Tax Officer's work. Figures collected on a sample basis show that only in very few cases the Inspecting Assistant Commissioners make any constructive suggestion for enhancement of turnover. Out of 126 cases scrutinised by the Inspecting Assistant Commissioner, suggestions for change were made by him only in eight cases and the total enhancement in turnover made in those cases as a result of their suggestions amounted to about Rs. 2,56,000 only. To enable the Inspecting Assistant Commissioners to provide more effective guidance to the Sales Tax Officers in the matter of assessment and investigation, the Committee recommends that there should not be more than 8 to 10 Sales Tax Officers under one Inspecting Assistant Commissioner. With the introduction of simple assessment scheme recommended by the Committee elsewhere, Salestax Officers should be in a position to devote more attention to the relatively big cases. They will need the Inspecting Assistant Commissioners' guidance more than at present.

7.36 The Appellate Tribunal consists of the Chairman and two members. Until recently, the post of the Chairman was filled by a District Judge belonging to the Judicial Department. At present recruitment to this post is made directly from persons who have been or are qualified for appointment as District Judge. Of the two members of Appellate Tribunal, one is an Officer of the Department in the rank of Deputy Commissioner and the other an Accounts Member, usually a Chartered Accountant. There are at present two Benches of the Appellate Tribunal functioning at Trivandrum and Kozhikode. There is a Law Officer in the rank of Assistant Commissioner to represent the Department before the Appellate Tribunal at each of its benches. The Law Officer is assisted by an Additional Law Officer in the rank of Sales Tax Officer. The Secretary of the Appellate Tribunal is also an officer of the Sales Tax Department in the rank of Assistant Commissioner. The administrative control over the Appellate Tribunal lies with the Government in the Department of Taxes.

7.37 During the last few years, the number of appeals pending with the Appellate Tribunal has steadily increased, as Table 7.1 would show:

TABLE 7.1

Appeals pending with ST & AIT Appellate Tribunal

Year	*No. at the beginning of the year*	*No. of appeals filed*	*Total*	*Total disposed of*	*No. pending at the end of the year*
(1)	(2)	(3)	(4)	(5)	(6)
1968-69	919	1168	2087	935	1152
1969-70	1152	1119	2271	695	1626
1970-71	1626	1053	2679	813	1866
1971-72	1866	1019	2885	646	2239
1972-73	2239	990	3229	621	2608
1973-74	2608	1177	3785	1369	2416

7.38 Previously, the Appellate Tribunal used to move about to different centres in the State to hear appeals, which though convenient to the public, involved some waste of time and travelling. With the constitution of a bench at Kozhikode the Appellate Tribunal, it is expected, will be able to dispose of a large number of appeals and the pendency would come down. The position may be reviewed after two years.

7.39 The existing arrangements for control over the Appellate Tribunal need some reform. One view is that, to ensure the independence of the Appellate Tribunal and inspire confidence of the tax payers in the fairness of the Appellate Tribunal, administrative control over the Appellate Tribunal should be taken away from the Taxes Department and vested with the Law Department in the same way as control over the Income Tax Appellate Tribunal is exercised by the Ministry of Law. There is, however, no evidence that the control of Taxes Department over the Appellate Tribunal has impaired its judicial independence in any way. The Committee, therefore, sees no need to suggest any change.

7.40 One reason for the misgivings expressed about the independence of the Appellate Tribunal is the inclusion of a Departmental Member on the Bench. As indicated already, the Departmental Member is chosen from the Deputy Commissioners. After serving on the Appellate Tribunal, the Departmental Member ordinarily reverts to his post as Deputy Commissioner. The prospect of his reversion to the Department seems to undermine confidence in his judicial independence. Besides, frequent changes in the Departmental Member causes dislocation in the work of the Appellate Tribunal. There would be no cause for any such misgivings and dislocation to work can be avoided if the Departmental Member does not have to revert to the Department. The Committee therefore recommends that the practice of Departmental Member reverting to the Department should be discontinued. An officer selected as the Departmental Member should have the option to join the Appellate Tribunal or continue in the Department. The Committee also recommends that the rank of the Members of the Appellate Tribunal should be raised to that of Joint Commissioner, that is, above the level of Deputy Commissioner.

7.41 First appeal against assessment and other orders of the specified category* passed by the Sales Tax Officers and authorities of that rank lies before the Appellate Assistant Commissioner. When the order is passed by an officer of the rank of Assistant Commissioner, the first appeal lies before the Deputy Commissioner. The Deputy Commissioners also have certain powers of revision *suo motu*. Moreover, where no appeal is provided for before Appellate Assistant Commissioner or Appellate Tribunal against an order passed under the KGST Act, there is a provision for application before the Deputy Commissioner for revision. Both Deputy Commissioners (Appeal) and Appellate Assistant Commissioners are under the administrative control of the Board.

7.42 There are at present 3 Deputy Commissioners (Appeal) and 9 Appellate Assistant Commissioners. There are three Additional Appellate Assistant Commissioners with the same powers and functions as those of Appellate Assistant Commissioners. Tables 7.2 and 7.3 give the number of revisions/appeals pending with the Deputy Commissioners (Appeals) and Appellate Assistant Commissioners and the number filed and disposed of during the years 1968-69 to 1973-74. As on 1st April 1975, the number of appeals and revisions pending before Deputy Commissioners (Appeal) was 4,147 (including AIT cases) while appeals before the Appellate Assistant Commissioners numbered 22,507.

7.43 The number of appeals pending with Appellate Assistant Commissioners seems to be rather high and constitutes more than a year's work at the current rate of disposal. Moreover, the proportion of old appeals (that is, those pending for two years or more) in the total number of appeals pending before them is quite large, 2,468 out of about 22,500; the proportion of such old cases pending before Deputy Commissioners (Appeal) is also pretty high, 463 out of 4147.

7.44 The quota of disposals for the Appellate Assistant Commissioners was until recently 125 per month and that for Additional Appellate Assistant Commissioners 150 per month. The Board has in a recent review of the progress of appeals enhanced the quota for Appellate Assistant Commissioners taking into account the nature of the disposals and fixed the quota for all appellate officers at 150 a month. Transfer or rejections on technical grounds will not count as disposal and three remands will count as one disposal. An order of enhancement will count as two disposals.

* Vide Sec. 34 of the K.G.S.T. Act.

TABLE 7.2

Appeals pending with Appellate Assistant Commissioners

Year	*No. at the beginning of the year*	*No. filed during the year*	*No. transferred*	*Total for disposal*	*No. disposed during the year*	*No. pending at the end of the year*
			SALES TAX			
1968-69	10472	9169	32	19609	10195	9414
1969-70	10238	8546	1410	17374	9527	7847
1970-71	7847	8014	7	15854	8948	6906
1971-72	6906	10980	532	17354	8622	8732
1972-73	8726	10283	4	19005	9371	9634
1973-74	9634	10246	1083	18797	9423	9374
			AGRICULTURAL INCOME TAX			
1968-69	10196	7305	54	17447	7347	10100
1969-70	10621	7669	581	17709	8107	9602
1970-71	9602	7852	11	17443	9057	8386
1971-72	8386	9064	1169	16281	8321	7960
1972-73	8139	6489	17	14611	6295	8316
1973-74	8316	6927	32	15211	5512	9699

TABLE 7.3

Disposal of Revision Case by Deputy Commissioner

Year	*No. at the beginning of the year*	*No. filed or received during the year*	*No. transferred*	*No. disposed off excluding No. transferred*	*Balance*
		SALES TAX			
1968-69	170	176	..	169	177
1969-70	157	161	..	176	142
1970-71	142	171	..	91	222
1971-72	222	244	..	140	326
1972-73	337	378	..	304	411
1973-74	411	288	..	363	336
		AGRICULTURAL INCOME TAX			
1968-69	1168	808	2	913	1061
1969-70	814	1461	..	858	1417
1970-71	1417	1022	1	755	1683
1971-72	1683	1385	..	1503	1566
1972-73	2096	1695	1	1345	2445
1973-74	2445	1151	*2771	825	....
Dy. Commissioner (Appeals)	..	3458	10	744	2704

* The office of the Deputy Commissioner (Appeals) started functioning in 1973-74, 2771 revision petitions have been transferred to from the offices of the Deputy Commissioners (Zonals) to the offices of the Deputy Commissioners (Appeals).

7.45 The need to pay adequate attention to appeals pending for more than two years cannot be over emphasised. To accelerate the disposals of old appeals, the Committee suggests that the disposal of old appeals should be given weightage in meeting the quota of disposals. Disposal of an arrear appeal (otherwise than by way of transfer, rejection on technical ground or remanded) should count as two disposals.

7.46 The work of Appellate Assistant Commissioners has come in for criticism from time to time. Apart from delay in disposals, especially of old cases, there seems to be some disatisfaction with the quality of the Appellate Assistant Commissioners' orders. One suggestion is that the Appellate Assistant Commissioners should constitute a separate cadre of officers with adequate training in judicial procedures. It is also suggested by some that the Appellate Assistant Commissioners should not be under the control of the Board.

7.47 The suggestion for creating a separate cadre of specially trained officers or judicial officers to serve as Appellate Assistant Commissioners was considered by the Thavaraj Committee* but such a measure was considered unnecessary. Instead, it suggested that for appointment as Appellate Assistant Commissioner, preference should be given to senior officers having legal qualifications. It was also suggested that officers selected for appellate work should be given adequate training in judicial procedures. Following the recommendations of the (Central) Law Commission and the Administrative Reforms Commission's Working Group on Central Direct Taxes Administration, the Thavaraj Committee suggested that Appellate Assistant Commissioners should be attached to a Judge of a Civil Court for some time for training in judicial practice and procedure.

7.48 The present Committee gave some thought to the suggestion for separating the cadre of Appellate Assistant Commissioners from that of other Assistant Commissioners. In this connection the Committee understands that the Government has already decided to constitute a separate cadre of officers for the appellate wing, and that 50 per cent of the posts in this wing are earmarked for direct recruitment. This decision appears to the Committee to be a step in the right direction.

7.49 As for the suggestion for judicial training, the Committee agrees that there is need for adequate training of the officers and such training should be imparted by attaching the officers to a Judge for some time. On other aspects of training, the recommendations of the Committee are set forth in another part of this chapter.

7.50 The Committee suggests that the administrative control over Appellate Assistant Commissioners should be vested in the Deputy Commissioners (Appeal). While the scrutiny of Appellate Assistant Commissioners' orders may continue to be carried out by the Deputy Commissioners (Zonal) with a view to deciding whether a second appeal is to be preferred, it would be better if the administrative control over the Appellate Assistant Commissioners was transferred to the Deputy Commissioners (Appeal). Report on the work of Appellate Assistant Commissioners should be written by Deputy Commissioners(Appeal) and the inspection of Appellate Assistant Commissioners' Offices also should be done by the Deputy Commissioners (Appeal) instead of by the Deputy Commissioner (Law) as at present.

7.51 Quality of any administration depends ultimately on the quality of the personnel which in turn is determined by the calibre of officers at various levels, and, what is more, the interest they bring to bear on their work. The mode of recruitment, status, pay and promotion prospects, training, working conditions—all have a profound influence on the character of an administration. If talent is to be attracted to the tax field, a career in tax administration should offer at least the same status and remuneration as is available in alternative avenues. Officers in the field should be properly equipped. Moreover, there should be adequate incentives for sincere and meritorious work. All this calls for careful planning and sound career management of officers in the Tax Department.

7.52 It is beyond the purview of the present Committee to go into the question of pay structure and allied issues. However, the Committee would like to make certain suggestions on the modes of appointment of officers in the Department and their promotion prospects in order that men of good calibre are drawn to the service.

7.53 At present officers for the Department are drawn from the following sources:—

1. Kerala Agricultural Income Tax and Sales Tax Service.
2. Kerala Agricultural Income Tax and Sales Tax Subordinate Service.

Officers belonging to Kerala Agricultural Income Tax and Sales Tax Service are grouped under the following categories:

Category 1: Secretary (Taxes), Board of Revenue; Deputy Commissioners, and Departmental Members of Sales Tax Appellate Tribunal.

Category 2: Appellate Assistant Commissioner; Inspecting Assistant Commissioner; Assistant Secretary, (Taxes), Board of Revenue; Secretary, STAT; Assistant Secretary (Law) and Law Officer.

Category 3: AITOs., I. Os., S.T.Os., Additional Law Officer, Manager STAT; Superintendents in the Office of Board of Revenue (Taxes) and Managers in the Office of the Deputy Commissioners.

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* Paras 6.50 to 6.62 of the Report of the Taxation Enquiry Commission, 1969.

7.54. The Kerala Agricultural Income Tax and Sales Tax Subordinate Service consists of A.S.T.Os Junior A.I.T.Os., S. T. Inspectors, A.I.T. Inspectors, Intelligence Inspectors and Check-post Inspectors.

7.55. Pay scales, methods of recruitment and the time normally taken for promotion to the next higher level for different categories of officers belonging to the two services mentioned above are indicated below:—

Category	*Pay scale*	*Mode of recruitment, minimum qualification for direct recruitment*	*Time taken for promotion*
Kerala AIT & ST Subordinate Service	Rs. 405-660	25% of substantive vacancies by direct recruitment, rest by promotion from below. Qualification for direct recruitment: Graduate, preferably with a degree in Commerce & Law or in either of them.	8 Years
Kerala AIT & ST Service Category 3 (i.e. STOs. & equivalent rank)	Rs. 495-835	25% by direct recruitment. Qualification for direct recruitment: Degree in Law. A degree in commerce is considered desirable.	10 years
Category 2 (A.Cs. and equivalent rank)	Rs. 710-1200	By promotion from category 3	14 years
Category 1 (DCs. and equivalent rank)	Rs. 1050-1550	By promotion from category 2	No further rise possible unless promoted to I. A. S.

7.56. The provision for direct recruitment to the posts of Sales Tax Officers (i.e. Category 3 of Kerala AIT & ST Service) was introduced in 1964. It appears, however, that while the rules provided for direct recruitment to one out of every four substantive vacancies, no direct recruitment to the posts of Sales Tax Officers and above was made for a long time for posts reserved for Scheduled Castes and Scheduled Tribe candidates. As a result, there was no infusion of fresh blood into the rank of Sales Tax Officers for a long time. The Committee understands that the Government has recently decided to proceed with direct recruitment as provided in the rules. This, it appears, was strongly resented as it might adversely affect the chances of promotion of officers in the lower ranks.

7.57 Considering that Sales Tax Officers have to face a challenging task and that posts in the higher categories of the Service are also filled by promotion, it is essential that at least a fraction of the vacancies in Sales Tax Officer's rank is filled by direct recruitment. Unless there is direct recruitment to Sales Tax Officer's rank it takes nearly 30/32 years for an officer to rise to the level of a Deputy Commissioner from that of an Assistant Sales Tax Officer/Sales Tax Inspector. This is an undesirable state of affairs. At the same time, it has to be seen that the chances of promotion of deserving officers in the lower ranks are not unduly jeopardised. Clearly, a balance has to be struck between conflicting considerations. In most States the quota for direct recruitment to equivalent ranks is higher than 25 per cent as may be seen from Annexure VIII. The Committee is of the view that the quota of 25 per cent for direct recruitment to posts of Sales Tax Officers is not unreasonable and should be adhered to.

7.58 In order however that direct recruitment to Sales Tax Officers does not affect the promotion prospects of officers in subordinate ranks, the Committee recommends that direct recruitment at the level of A.S.T. Os./S.T.Is. be discontinued. No harm will be done if the posts of A.S.T.Os. are filled by promotion from Head Clerks/U.D. Clerks, who qualify in the required departmental tests. Promotion to the rank of A.S.T.O./S.T.Is. should be made mainly on the basis of seniority cum-fitness instead of selection on merit.

7.59 Rules governing the Kerala AIT & ST Service provide that for direct recruitment to the service a candidate must be a graduate in Law. B.Com. degree is considered a desirable qualification. Recruitment is made by the State Public Service Commission from candidates with the necessary qualifications. The age limit is 28 years with the usual relaxation for scheduled castes and scheduled tribe candidates. Relaxation of 5 years is also allowed in the case of candidates working in the AIT & ST Department.

7.60 The Committee does not see any special merit in recruiting Sales Tax Officers only from law graduates. With adequate training, it should not be difficult for a candidate of some merit to pick up the requisite knowledge of law and accounts to perform the function of a Sales Tax

Officer efficiently. Hence a candidate with good academic record should be preferable to a law graduate who has managed to scrape through in his examinations. The Committee, therefore, suggests that the field of choice of candidates for direct recruitment should be widened to include commerce graduates and Chartered Accountants and also graduates in arts and sciences with performance above a prescribed level (say 50 per cent). Another alternative is to make the recruitment through the competitive examination held jointly for the State Civil Service and other Services. This practice is followed in several States. The Committee would not recommend this mode of recruitment unless the pay scales of the AIT and ST are raised to that of the State Civil Service.

7.61 The pay scales of officers of Kerala ST Department do not compare too unfavourably with that of some other States (Vide Annexure VIII). Even so, the Committee would like the pay structure of the AIT & ST Service to be revised upward to equate the service with the State Civil Service. It would be idle to expect the best available talent to joint the Department unless the existing disparity is removed. It is also necessary to ensure reasonable chances of promotion at every level without too long a period of waiting. There should be avenues for promotion for officers at all levels once in every ten years. Stagnation at any level is unhealthy. If the number of posts at some levels cannot be raised sufficiently, officers should be encouraged to go on deputation.

7.62 The clerical staff fall under two categories: Lower Division Clerks and Upper Division Clerks. Recruitment to posts of L.D. Clerks are made mostly directly; a few are filled by promotion from the Class IV staff. U.D. Clerks are recruited entirely by promotion from L. D. Clerks, provided they pass the requisite departmental tests. Promotion from the rank of L. D. Clerk to that of U.D. Clerk ordinarily takes about 6 years. The present system seems to be working well. The existing requirements of departmental tests for promotion to posts of Assistant Sales Tax Officers should continue.

7.63 Growing complexity of the tax laws calls for adequate training of the officers administering it. Training is essential not only for new entrants into the cadre of officers but also for those joining at lower levels. To keep abreast of the changing laws and the rulings of the courts, some refresher courses too seem to be desirable for all officers including those at higher levels.

7.64 Concerned at the adverse comments of High Court about the poor quality of assessments, the Government of Kerala formulated a training scheme for officers of the Department in 1973. The salient features of the scheme were as follows:

(i) Training was to be given to officers who were recently promoted to the cadre of STOS, and were on probation, in batches of 10 to 15.

(ii) The period of training was to be three months. There would be four sessions in a year.

(iii) The syllabus was to be laid down by the Board of Revenue. Besides, the Sales Tax Acts and Rules, Notifications and Judicial decisions, important and relevant provisions in the allied enactments like Indian Contract Act, Sale of Goods Act, Partnership Act, Criminal Procedure etc., would also be included in the syllabus.

7.65 A training college was proposed to be established for the purpose. The services of one Appellate Assistant Commissioner would be spared for giving instructions. Besides, guest speakers would be invited to give lectures on important topics at least once in a week followed by a discussion. It was envisaged that the trainees would be required to take weekly test and also a final test at the conclusion of the course. The training scheme outlined was instituted on the first of July, 1973 and continued upto September 1974. About 65 officers were trained. The scheme was thereafter suspended pending the establishment of a training centre or institute at Ernakulam.

7.66 The Institute has now been brought under the control of the Deputy Commissioner (Law). The training has also been widened on the following lines:

1. The programme now includes a course on Agricultural Income Tax Act and Rules.
2. The period of training has been extended from three to four months and hours of work also have been increased.
3. The training programme has been extended to officers in the cadre of ASTO/STI also.

7.67 Considering that not all States have regular arrangements for training their officers, initiative of the Government of Kerala to impart training to its officers on a regular basis is to be welcomed. The Committee would like to offer the following comments and suggestions on the training scheme.

(i) There is no arrangement for any refresher course at present. Such courses had been contemplated earlier but were rarely organised. The Committee suggests that there should be refresher courses for officers who are in the field for more than 5 years at a stretch. The course should be of a duration of 3 to 4 weeks. The number of trainees in each batch should be so fixed as to ensure that all officers in the Department would have undergone such a course within the next three to four years.

(ii) There should be arrangement for specialised courses at the training institute such as for appellate work, recovery and prosecution.

(iii) Both in the case of officers who go in for foundational training as well as refresher trainees, there should be a compulsory test at the end of the course. To encourage officers to take active interest in the training, some incentive should be given in the form of an advance increment to those who secure more than, say, 60 per cent marks.

(iv) Some training should be given also to officers below the level of ASTO/STI through a condensed course. If the institute is not in a position to undertake this task, it may be entrusted to the Secretariat Training School. The form of the course should be laid down by the Board. In this connection, it may be noted the Income Tax Department has been giving training not only to officers and Inspectors but also to Head Clerks and Supervisors. A short course of about 8 weeks may be prescribed for Head Clerks and Supervisors to equip them with some basic knowledge of accountancy and Sales Tax Act and Rules. For these trainees too, suitable rewards for good performance in the tests may be offered.

(v) To improve the quality of teaching, it would be useful to invite guest speakers from the Bar as also practising accountants.

(vi) To assist the Deputy Commissioner (Law) in the training matter, there should be a separate section in his office headed by a Sales Tax Officer. Full time services of one Assistant Commissioner and two Sales Tax Officers may be made available.

7.68 The syllabus of training may be revised on the following lines:

1. The course for Sales Tax Officers should include some lectures on accountancy and auditing as well as on the Constitution and the following Acts:

(i) Sale of Goods Act.
(ii) Partnership Act.
(iii) Companies Act.
(iv) General Clauses Act.

2. The same course as that for Sales Tax Officers may be followed for ASTOs/STIs with the difference that the structure of the Sales Tax Act and its main features may be covered in 6 to 8 lectures. More emphasis should be given to the procedures to be followed at check posts and inspection of shops and vehicles and to collation work.

3. The course for Head Clerks should include training in maintenance of office registers, records and audit apart from the structure of Sales Tax Act, rules and circulars.

4. Independently of the refresher courses, legal seminars may be held periodically (at least once in two months') to discuss the implications of judicial pronouncements, important changes in law and controversial law points. Officers may be invited to contribute papers to the seminar. It should be the responsibility of the Assistant Commissioner (Training) to organise the seminars. The Committee feels happy to learn that the first seminar has already been held.

7.69 The Audit Wing consists of 3 Inspecting Assistant Commissioners (Audit), 9 Sales Tax Officers (Audit) and 24 A.S.T.Os. (Audit). There is an audit team for almost every revenue district, consisting of one STO (Audit) and one to five ASTOs (Audit).. Audit teams are divided into convenient batches and each batch conducts audit independently. The three Inspecting Assistant Commissioners (Audit) are stationed at Trivandrum, Ernakulam and Kozhikode with jurisdiction over their respective zones.

7.70 The programme for audit is drawn up at the beginning of every year by the Deputy Commissioner (Intelligence) with a view to covering all assessments made in the previous year. It was however not possible to follow this routine, and arrears started piling up. Attempts were made to clear up the arrears by starting afresh with assessments completed in 1971-72 and looking into only 10 per cent of the assessments made in previous years.

7.71 Under the system now obtaining, every assessment completed in a year is supposed to be audited by the audit wing in the following year. Files with turnover of Rs. 20,000 are audited by ASTOs (for Ernakulam and Kozhikode the limit is Rs. 50,000). IACs (Audit) are expected to overcheck 10 per cent of the files audited by the STOs and 5 per cent of those audited by the ASTOs. The S.T.Os. in turn are required to overcheck 10 per cent of the files audited by ASTOs. The audit notes have to be prepared in three parts: Part A contains grave irregularities; Part B is ment for defects involving loss of revenue; Part C is confined to technical irregularities involving no revenue loss. The audit notes prepared by STOs and ASTOs are finalised by IACs. The notes are required to be sent to the Deputy Commissioner (Intelligence), Inspecting Assistant Commissioner (Audit) and the Inspecting Commissioner having territorial jurisdiction over the Sales Tax Officers whose offices are audited. Assistant Zonal Deputy Commissioners are expected to watch the rectification of Part A irregularities. Inspecting Assistant Commissioners (Audit) watch the rectification of Part B defects and territorial Inspecting Assistant Commissioners of Part C notes. It appears however that Inspecting Assistant Commissioners (Audit) do not have any staff to help them in this matter.

7.72 Internal audit is desirable in the interest of both revenue as well as the tax payers. Instructions issued by the Board on audit are quite detailed and if followed properly should achieve the objectives in view.

7.73 Past experience shows that 100 per cent audit of all assessments every year is neither feasible nor necessary. It is also not possible to follow up such audit. Therefore, the Committee recommends that the annual coverage of audit should be as follows:

Assessments with turnover of Rs. 1 lakh and above	100%
Assessments with turnover below Rs. 1 lakh	33⅓%

7.74 As of March 31, 1975, arrears of salestax amounted to Rs. 17.88 crores of which Rs. 8.77 crores related to demands raised in earlier years and Rs. 9.11 crores were out of demands raised during the current year. Out of the old arrears of Rs. 8.77 crores, about Rs. 4.20 crores were covered by stay orders leaving a collectable balance of about Rs. 4.57 crores. Similarly, out of arrears of demand raised in the current year (Rs. 9.11 crores), about Rs. 79 lakhs were covered by stay orders. The collectable demand was thus Rs. 8.32 crores. During the year 1974-75, collections made out of old arrears formed about 20.4 per cent of the total outstanding at the beginning of the year, while amounts collected out of current demand accounted for about 87 per cent of the demand raised. In the preceding year, the respective percentages were 14.37 and 88.69.

7.75 On the whole, the magnitude of arrears does not seem to be alarming. Even so, there is need for measures to reduce the arrears and speed up demands outstanding since long.

7.76 At present any tax assessed or any other demand raised under the Act has to be paid within the time specified in the notice of demand or on such other date as may be specified, as for example, date of instalment when instalments are granted. If the amount so demanded is not paid, a penalty is charged at 1 per cent of the amount for each month for the first three months of default and at the rate of 2 per cent per month thereafter. If the amount remains unpaid for more than 6 months, a certificate is sent to the Collector for its recovery as arrears of land revenue. Table 7.4 gives the position of the arrears of outstanding demand according to stages of collection taken for recovery as at the end of the year 1974-75.

TABLE 7.4

Position of Arrears of Demand outstanding as on 31-3-1975

Stages of Action	*Arrears of demand raised in earlier years* *Rs.*	*Amount of demand raised in year* 1974-75 *Rs.*	*Total* *Rs.*
(1)	(2)	(3)	(4)
1. Under stay orders	4,19,60,290 (47.83)	78,72,532 (8.65)	4,98,32,822 (27.87)
2. Under Revenue Recovery steps	3,82,37,015 (43.59)	3,57,08,852 (39.20)	7,39,45,867 (41.35)
3. Under Section 23 (2) (b)	31,16,181 (3.55)	13,52,007 (1.48)	44,68,188 (2.50)
4. Under Section 25	6,62,404 (0.76)	6,28,669 (0.69)	12,91,073 (0.72)
5. Under notice issued	36,05,358 (4.11)	2,12,50,095 (23.35)	2,48,55,453 (13.90)
6. Under prosecution steps	47,221 (0.03)	.. (—)	47,221 (0.03)
7. Under suit	58,402 (0.07)	25,200 (—)	83,602 (0.05)
8. Under correspondence	39,225 (0.04)	.. (—)	39,225 (0.02)
9. Under cheques pending	2,049 (0.00)	1,25,52,367 (13.78)	1,25,54,416 (7.02)
10. Not ripe for collection	(—)	1,17,03,036 (12.85)	1,17,03,036 (6.54)
Total	8,77,28,145	9,10,92,758	17,88,20,903

(Figures in brackets indicate percentages to the total)

7.77 It can be seen from the table that items 1 and 2 that is, "stay orders" and "revenue recovery steps" account for 91 per cent of the outstanding arrears of more than one year. Stay orders alone account for nearly 48 per cent. The Committee believes that the bulk of the arrears coming under this category is on account of stay orders issued by the Government. The Committee would urge that orders for stay should be issued sparingly by Government and even where they are issued, it should be for a brief period. In cases of genuine difficulty, stay orders can be obtained from the courts and appellate authorities.

7.78 The responsibility for collecting the demand under revenue recovery measures lies primarily with the officers of the Revenue Department. For sometime, limited power of revenue recovery was conferred on Sales Tax Officers but the power was later withdrawn. Even now, some Sales Tax Officers are designated as Sales Tax Officer (Recovery) but their function is to process proposals for write off in cases certified as irrecoverable by the District Collectors. The Committee notes that steps have been taken by the Government to expedite the recovery of arrears. Classified lists have been prepared of defaulters owing arrears of revenue in convenient slabs of above Rs. 20,000, Rs. 10,000-20,000, Rs. 5,000-10,000, Rs. 1000-5,000, Rs. 500-1,000 and below Rs. 500. Specific responsibilities have been cast on the Board of Revenue to watch the recovery of amounts exceeding Rs. 20,000 and on Deputy Collectors (R.R.) to watch recovery of amounts exceeding Rs. 5,000. In order to reduce old arrears the Committee recommends the following further measures:

1. List of defaulters should be published and those withholding payment without valid reasons penalised.

2. Information helping recovery of arrears should be rewarded. This practice is in vogue in Maharashtra.

3. Cases where the demand is stayed by Court order should be brought to the notice of the Courts and attempt should be made to get the stay order vacated.

7.79 As regards arrears of current demand, the analysis above shows that about 14 per cent were under "notices issued" and 6.5 per cent were not ripe for collection, while stay orders and revenue recovery steps covered about 70 per cent of the total. Until recently, the time allowed for payment in the first instalment extended to six months. This needs to be cut down. The Committee understands that instructions have been issued to reduce this period gradually to one month. Prompt service of notices is also needed in the interests of speedy recovery. Sometimes, there is a considerable time lag between the completion of an assessment and the service of notice of demand. Inspecting Assistant Commissioners should ensure that inordinate delay is avoided.

7.80 Effective action for recovery is sometimes inhibited by legal constraints. Some of the penal provisions for default in payment also seem to be too liberal. Suggestions for changes in the legal provision pertaining to recovery are put forward in the Chapter on Law and Procedure.

7.81 Where demand cannot be recovered, it has to be written off by the appropriate authority. Demands of more than Rs. 5,000 can be written off only by the Government. Demands upto Rs. 5000 can be written off by the Board of Revenue. Deputy Commissioners are empowered to write off demand upto Rs. 1000. The Committee recommends that the powers of write off should be as follows:

Board	upto Rs. 10,000
D. C.	upto Rs. 2,500
I. A. C.	upto Rs. 500

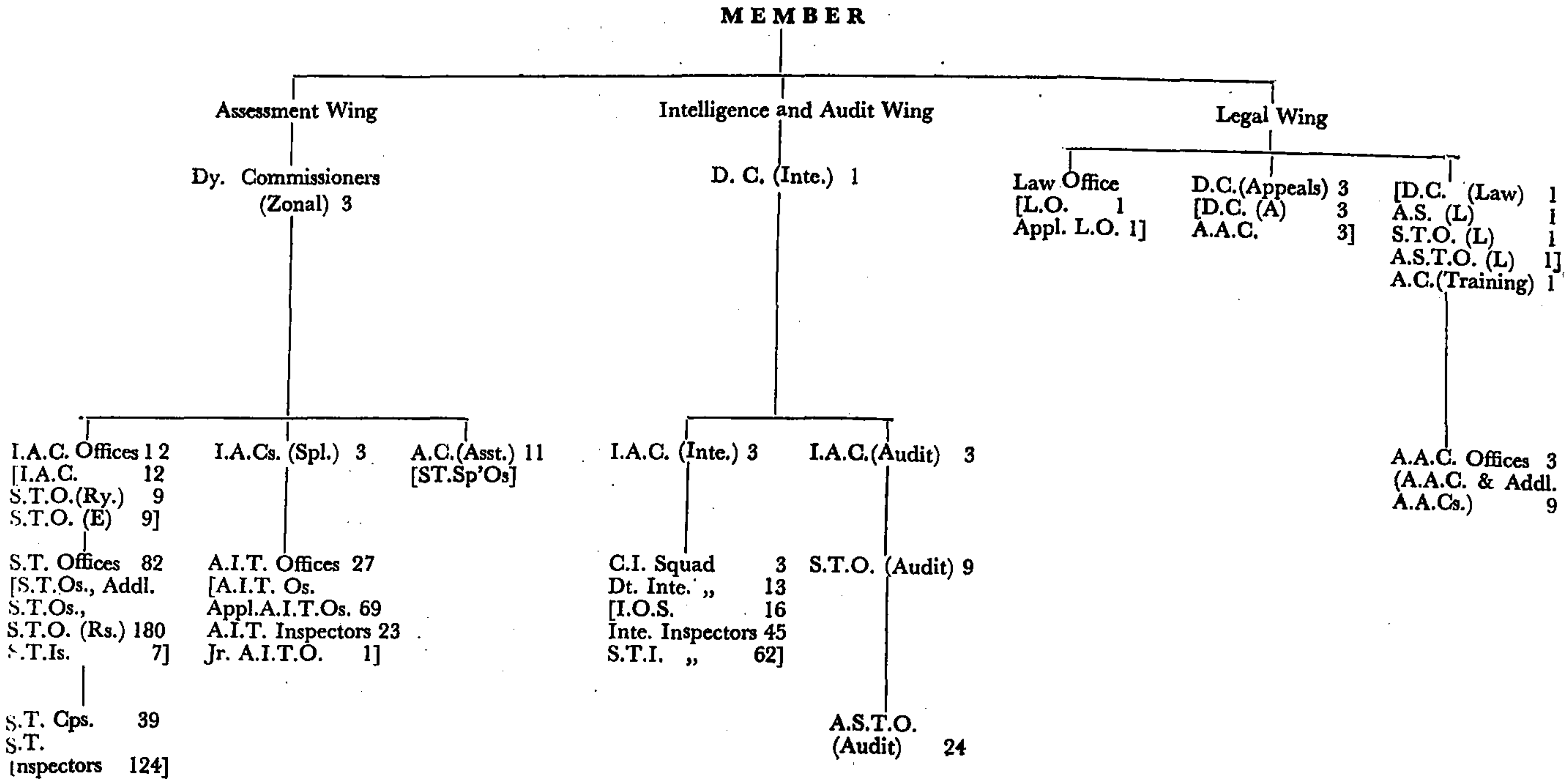
7.82 Vigorous efforts should be made to weed out demands of petty amounts of less than Rs. 100 which are outstanding for a long time. Review of such cases should, however, be made by Officers other than those who had raised the demand.

GOVERNMENT OF KERALA

AGRICULTURAL INCOMETAX AND SALESTAX DEPARTMENT

Organisation Chart—October 1975

BOARD OF REVENUE



CHAPTER—VIII

LAW AND PROCEDURE

An efficient structure of law and procedure is a necessary, though not sufficient,condition for successful administration of any tax. The law should be simple, but at the same time the administration should not be unduly burdened or handicapped. The K.G.S.T. Act now in force in Kerala was drawn up on the basis of the recommendations of the Nataraja Pillai Committee Report. Several deficiencies have, however, come to notice in the course of its working.

8.2 Provisions of the Act were looked into by the Kerala Law Commission in 1966-67 and recommendations were made by the Commission to bring the provisions in conformity with the Constitution, to remove anomalies and clarify and simplify the procedure. Extensive amendments in the Act have been carried out in recent years, especially through the Kerala General Sales Tax Amendment Ordinance, 1975 and the Kerala General Sales Tax (Second)Amendment Ordinance, 1975, since replaced by Acts. The thrust of the recent amendments has been to enhance the powers of the assessing authorities and to make the provisions relating to penalty more deterent. There are, however, certain areas where anomalies persist. Directions in which changes in law are needed for this purpose are briefly indicated in this Chapter.

8.3 Levy of sales tax would be impracticable if the tax was to be collected from all dealers trading in taxable goods. The number of tax payers has to be kept within manageable limits both in the interests of efficient administration and also to avoid harassment to the small dealers. The usual method of relieving the traders of small means from the liability to pay sales tax is to fix a threshold limit of turnover below which no tax is payable. Only dealers with turnover exceeding the prescribed minimum are required to file their returns and pay tax thereon. To help identify dealers who are liable or are likely to be liable to pay the tax, every sales tax system casts an obligation on dealers with turnover above a specified limit to register themselves with the sales tax authorities.

8.4 It is only the registered dealers who are authorised to collect sales tax. When the tax is single point (whether first stage or last stage) an intermediate seller can avoid taxation only if he can establish that the goods were purchased by him from a registered dealer liable to tax if the tax is on the first sale, and that the goods were sold by him to such a registered dealer if the tax is on the last purchase point. Thus, registration carries not only obligations but also certain privileges. For the same reason it is open to misuse. Hence, while taking care to see that all who are required to register themselves do so, it is necessary to ensure that the registration certificate is given only to genuine dealers but that the procedure of registration is reasonably simple. Experience shows that a good deal of evasion takes place through misuse of registration. The Committee considers it necessary to take steps to prevent misuse of registration by unscrupulous dealers.

8.5 As indicated already in Chapter III, under a single point levy, dealers who are liable to pay tax, sometimes try to pass off their purchase/sale as an intermediate one by showing purchase (or sale) as having been made from another registered dealer liable to pay tax, who may be a mere namelender or simply non-existent. For this, the method commonly adopted by evaders is to furnish a declaration from the namelender or bogus dealer as evidence of the fictitious purchase or sale. Even where declaration is required to be furnished in forms prescribed and supplied by the Department, it is found that spurious firms have sprung up who get registered merely to obtain these forms. Trading in such forms also is reported to have taken place on a wide scale in some States. In Kerala also, the scope for abuse of registration is not inconsiderable. For, firstly, a number of items are now subjected to a single point levy and fetch the bulk of the sales tax revenue. Secondly, certain sales are taxed at a concessional rate e.g., sale of component, parts used for manufacturing in the State provided both are subjected to single point taxation* but this concession is available only if the seller furnishes a declaration from the buyer to show that the goods purchased were meant for manufacturing the specified commodities within the State. An important piece of evidence to support the claim for such concession is the registration number of the buyer and the seller. Adequate steps must therefore be taken to prevent the misuse of registration

8.6 Measures usually adopted to guard against misuse of registration are: (1) requiring the dealer seeking registration to furnish relevant particulars of his place of business, nature of the commodities traded in, number and location of godowns and so on; (2) thorough pre-registration inquiry; (3) obtaining adequate security; (4) providing for cancellation in the event of misuse; (5) security printing of declaration forms and (6) provision for penalties for furnishing false declarations or inaccurate particulars while applying for registration.

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*Under Section 5(3) of the K.G.S.T. Act.

8.7 Elaborate procedures have been laid down for registration under the K.G.S.T. Act also. Forms for application as also of the certificate have been prescribed in the rules. There are provisions for obtaining security and for cancellation of registration in appropriate cases. But there are several gaps. In the light of the experience of other States, the Committee recommends the following measures to improve the system of registration and ancilliary procedures.

1. The certificate of registration should specify the goods or class of goods which are traded in by the dealer.
2. The declaration forms on the strength of which intermediate sales are exempted or are taxed at concessional rates should be security printed and supplied to the dealers only on specific request. Suitable forms should be prescribed for the purpose. At present, declaration forms are prescribed only for the purchase of component parts by manufacturers (Form 18). Declaration forms are also required to be obtained from purchasers in the case of commodities subjected to tax on last purchase in the prescribed form (Form 25). But the forms are not supplied at present by the Department.
3. Under the K.G.S.T. Act, the law should authorise the officers' granting registration to ask for security at the pre-registration stage, where they consider it necessary. There is no such provision at present. It may be noted that this provision has already been introduced in the C.S.T. Act from April, 1973.
4. Similarly, security should be insisted for the proper custody and use of declaration forms, where considered necessary. The Committee is not in favour of demanding security compulsorily in all cases.
5. At present the authority granting registration is empowered to cancel, modify or amend registration for good and sufficient reasons. Circumstances under which the certificate of registration may be amended should be specified e.g., change in the name of ownership or place of buisness, opening of a new place of business, addition or modification in the description of the goods etc. Where such amendment or cancellation is made at the instance of the dealer, he should furnish all relevant particulars in the prescribed form. When application is made for cancellation of registration on account of discontinuance of business, the dealer should be obliged to submit his application at least one month in advance. Circumstances under which cancellation may be ordered should also be spelt out. Specific reference needs to be made to discontinuance and transfer of business in this contest.
6. There should be stringent penalty for furnishing wrong particulars in the application for registration or cancellation and also for furnishing false declarations.

8.8 To simplify the assessment procedure, the Committee, in its Second Interim Report, recommended that the system of provisional assessment be done away with and a system of simplified assessment be introduced for dealers with turnover of less than Rs. 1 lakh. The Committee is happy that its recommendation for simple assessment has been accepted by Government. The number of dealers who would be benefited by this system is about 34,000 out of a total number of roughly 45,000 assessees. Out of this 34,000 about 25,000 are "provisional" assessees. The benefit, if any, of the retention of the provisional assessment will accrue to only about 2,000 dealers with a turnover of more than Rs. 1 lakh. It will enable them to retain the tax due from them over and above the tax provisionally determined until the final settlement of their accounts after the scrutiny of their annual return. In the circumstances, the Committee does not find any justification for continuing the system of provisional assessment. The Committee would like to reiterate is recommendation that the system of provisional assessment should be abolished, and all assessees other than those assessed by the system of easy assessment should file monthly return showing their total turnover and taxable turnover for the previous month and pay the tax accordingly.

8.9 At present the dead line for submitting annual returns is 1st of May following the expiry of the financial year. This may continue.

8.10 There is no time limit for completing a final assessment at present. The Committee feels that there should be a time limit. In the case of regular assessment, the time limit should be three years from the end of the year in respect of which the tax is assessable and two years in the case of assessment re-opened because of escapement. Here, the two-year period should be computed from the end of the year in which it is re-opened. Periods covered by any court injunction or order of stay of proceedings should be excluded in the computation of these limits as is provided already for commencing proceedings for assessing turnover which has escaped assessment or in the case of under-assessment.

8.11 Where there has been any escapement or under-assessment, proceedings for re-assessment can be started at present within four years from the expiry of the year to which the tax relates. This seems to be too short a period. In Income Tax, the time limit is ordinarily eight years, and where the income which has escaped assessment is Rs. 50,000 or more, the time limit is sixteen years. Re-opening beyond eight years, however, requires prior approval of the Central Board of Direct Taxes. In Delhi Sales Tax Act, 1975, the time limit proposed for re-opening and completing assessment is six years from the date of final order of assessment in a case where the dealer has concealed material facts and four years in other cases. In the opinion of the Committee, the time limit for re-opening assessments should be the same in sales tax as in income tax. In the case of concealment or non-disclosure of material particulars, the time limit ordinarily should be eight years and where the amount of tax involved is more than Rs. 25,000, the limit should be sixteen years. In other cases the time limit should be four years. It should be made clear in the law that production of account books or other evidence from which material evidence could, with due diligence, be discovered by the assessing officers will not necessarily amount to disclosure.

8.12 It should also be specified that when an assessment is made in pursuance of (that is, in consequence to or to give effect to) an appellate or revisional authority or of a court, the time limits for commencing or completing assessment or re-assessment will apply from the date of such order.

8.13 Where a return has been filed by the assessee, the assessing authority can complete the assessment on the basis of the return if he is satisfied that it is correct and complete. If, however, he is not so satisfied, the assessing authority can make a 'best judgment assessment' after making such enquiry as he may consider necessary and after taking into account all relevant materials gathered by it and after giving a reasonable opportunity to the assessee of being heard.

8.14 To enable the authorities to collect information necessary for an assessment, the law has vested them with powers to call for documents and summoning persons to give evidence. They are also empowered to raid business and other premises with appropriate authority and seize books of accounts and documents. There are, however, certain gaps and deficiencies in these provisions which sometimes impede effective action.

8.15 While the law allows the assessing (as well as appellate) authorities to summon and enforce the attendance of any person and examining him on oath or affirmation and compelling the production of any document, there is no provision authorising issue of commissions for examination of witnesses. Powers to issue commission are concomitant to the powers to issue summons and should be provided in the statute. Also, the authorities should have the power to impound books of accounts and other documents where considered necessary for any proceedings under the Act and retain them for a specified period preferably for sixty days, and also beyond sixty days with permission from next higher authority.

8.16 Under the current law, documents including registers and account books can be seized by officers with assessing powers. But these have to be returned within thirty days unless required for prosecution. The period of retention of such books can be extended to forty-five days with permission of higher authority. This time limit is indeed too short and should be extended to sixty days without permission of higher authorities and 180 days with permission. There should be no time limit where the documents are required for a prosecution.

8.17 There are elaborate provisions for penalty and prosecution in the K.G.S.T. Act which cover nearly all infringements of the law. They were reinforced by the amendments made through the K.G.S.T. (Amendment) Ordinance, 1975 and the K.G.S.T. (Second Amendment) Ordinance 1975. Some of these amendments empower the assessing authorities (as well as) Appellate Assistant Commissioners) to impose penalty for failure to get registered where registration is called for, for failure to keep true and complete accounts or to submit returns as required under the law, for failure to comply with notices and summons issued under the Act and Rules, for submitting untrue or incorrect returns, for making false declarations and generally for contravention of the provisions of the Act and Rules for which there is no separate provision for penalty or punishment. The scale of penalty is Rs. 500 or twice the amount of sales tax or other amount evaded or sought to be evaded. A notable feature of the new provisions is that the burden of providing that a person is not liable to penalty is cast on the person himself.

8.18 Apart from the above, the law also contains a provision whereby certain offences are punishable on conviction by a First Class Magistrate with fine upto Rs. 1,000. The offences are: submission of incorrect or untrue return; failure to submit a return or to keep true and complete accounts; failure to register as a dealer; wilful contravention of any of the provisions of the Act or the Rules framed thereunder for which no express provision for punishment is made in the Act. Certain offences like obstructing inspection, fraudulent evasion of tax or other amount due under the Act are also punishable on conviction by a First Class Magistrate with simple imprisonment which may extent to six months or to fine of not less than the tax but not exceeding Rs. 2,000 or both. Offences of evasion may be compounded on payment of fee up to Rs. 1,000 or double the amount of the tax recoverable whichever is greater. Other offences can be compounded for a sum not exceeding Rs. 1,000.

8.19 In very few cases however could the Department secure conviction by a Magistrate. There is, therefore, no point in raising the scale of penalty for cases presented in the courts.

8.20 Punishment for criminal offences should be rigorous imprisonment or fine or both, and in the case of a continuing offence fine of up to Rs. 100 per day should be imposed. The range of punishable offences should be widened and the offences should be spelt out in the relevant sections. Offences like false declaration, e. g., by transport operators and consignors, in delivery notes, in Form 18 (by a purchasing dealer) should also be made liable to rigorous imprisonment. Failure to comply with the requirement to submit their returns e. g., by banks and forwarding agencies should be included in the list of offences punishable with fine.

8.21 The minimum compounding fee should be Rs. 50 or equal to the tax sought to be evaded whichever is higher.

8.22 The K.G.S.T. Act contains a provision for levying penalty on a dealer furnishing a false declaration while buying component parts at a concessional rate of tax. No liability can be fixed on the seller where the buyer furnishes a false declaration. Courts have held that the seller cannot be penalised for misuse of the provisions by the buyer*. It has been suggested that the onus should be on the seller to prove that the component part was used as such. This is unlikely to be accepted by the Courts. The Committee recommends that where the declaration given by the buyer is found to be false, the buyer should be required to pay the tax and be subject to penalty. A suitable provision may be made in the law for the purpose.

8.23 There is a provision for charging interest on arrears of tax and such interest may be charged at the rate of 1% per month for each month of default for the first three months and at the rate of 2% per month thereafter. In addition there should be a provision for levy of penalty for default beyond one year without valid reasons which may extend to 100% of the tax or any other amount outstanding.

8.24 Under the law as it stands at present, there is provision which authorises the S.T.O. to require a third party owing any money to the defaulting dealer to pay the debt due to the dealer directly to the Government to the extent of the outstanding amount of tax due. Parties who can be so required to pay include any officer of the Government, or any local authority, company, firm, society or Association of persons. Corporations, courts and individuals are, however, not included. A provision should be made to include individuals, courts and corporations including banks within the scope of this section. It is not clear wherther officers of the Central Government come within the purview of this provision. If the Central Government officers are not so covered, the law should be amended to bring them also within the purview of the provision. It may be mentioned here that the Delhi Sales Tax Act, 1975 contains a provision to authorise the collection of outstanding taxes due from a dealer by requiring any person including a court to pay to Government any sum due to the dealer.

8.25 Difficulty is sometimes experienced in collecting arrears of taxes where a private company goes into liquidation. It is necessary to fix a personal liability on the directors of private companies so that they are made jointly and severally responsible for the payment of outstanding tax and penalty except where it is proved that the non-recovery is not due to any neglect, misfeasance or breach of duty on their part. There is a provision to this effect in the Central Sales Tax Act (Section 18) and a similar provision has been made in the Delhi Sales Tax Act also.

8.26 Transfer of assets often impedes the collection of taxes. To counter attempts to evade tax in this way, the law should provide that transfer to defraud revenue during pendency of any proceeding under the K.G.S.T. Act is void. Such a provision has been made in the Delhi Sales Tax Act, 1975.

8.27 Where a business is transferred, outstanding dues of sales tax or penalty can be recovered from the transferee. The present provision authorising such recovery does not seem to apply to partial transfers. An amendment in the law seems necessary. The Committee believes that names of persons guilty of offences involving *mens rea* and those withholding payment of tax above Rs. 20,000 should be published. The statutory provision for the purpose should contain sufficient safeguard against premature publicity.

8.28 The present system of appeal and revisions appears to be needlessly complicated. Ordinarily, appeal against the orders of S.T.O. lies before the A.A.C., but not all orders of S.T.O. are so appealable, for example against orders of compounding and for forfeiture of security. The procedure could be simplified by providing a right of appeal against all orders of S.T.Os or

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* Radhakrishna Chettyar, Asst. Commissioner of S.T. 34 STC. 370.

1. Section 46 of the K.G.S.T. Act.
2. Section 29A of the K.G.S.T. Act.

officers below the rank of S.T.O. before A. A. Cs. Orders passed by the A.A.Cs. or I.A.Cs. should be appealable before the Deputy Commissioner (Appeals). Second appeal should be provided to the Tribunal with a right of appeal to the Department. Thereafter, the present arrangement of taking matters involving questions of law in revision before the High Court may be continued. D. Cs powers of *suo motu* revision should be limited to orders passed by the S.T.Os. and below. No change is recommended as regards *suo motu* powers of the Boards.

8.29 A provision has recently been made in the law conferring on the Board powers of superintendence which have been interpreted to include powers to issue clarifications about disputed questions. This provision, however, does not provide any opportunity for the assessee to present his case. To this extent, it seems to the Committee to be inequitable. The Committee recommends the introduction of a section on the lines in vogue in Maharashtra and Delhi. The relevant Section of the Delhi Sales Tax Act is reproduced at Annexure IX.

8.30 Along with changes in the Act, certain changes are called for in the forms and the procedure for their use or submission. Changes required in the forms to be submitted at check posts by the transport operators have been indicated in Chapter VI. Many such forms are in use in the Sales Tax Department and each is meant to serve a specific purpose. There is, however, considerable scope for rationalisation of these forms. Moreover, with the establishment of a Research and Statistics cell it will be necessary to ensure smooth flow of basic information. This can be achieved without much difficulty with some planning and imagination while prescribing the various forms especially those required to be submitted by the assessees. The form of return of turnover prescribed in the rules, for instance, needs to be so designed as to help collect data on the turnover of various type of goods, their quantities and value as well as the rate of tax thereon. These data may thereafter, be collected and furnished by the S.T.Os., to the Research and Statistic Cell. It may be noted that in several States, appropriate changes have been made in the return forms to require the assessees to furnish commodity-wise information.

8.31 Similarly, the form of registration needs to be redesigned on the lines indicated earlier. Suitable codes should be used to facilitate tabulation.

8.32 At present, registration certificate numbers under General Salestax are given consecutively in each S.T. Office. Registration certificate number is given in alphabetical order assigning separate serial numbers for each alphabet as A1, A2, B.1, B.2 and so on. The alphabet prefixed to the number denotes the first alphabet of the name of the dealer.

8.33 The Committee feels that the tax accounts of the Department must eventually be computerised. As a first step to computerisation, code numbers for G. S. T. registration should be introduced. Under this system, a dealer's registration number for G. S. T. will be an eight-digited code number. It will help to identify the zone and S. T. office in which it is registered and also to check whether it is a bogus number. The first digit will indicate the zone. The next two digits will indicate the code number of the assessing officer. The code numbers will be grouped in such a way that assessing officers within a district will get consecutive numbers. Different districts will also get different code numbers.

8.34 Design of the registers prescribed for the S. T.O. also should be such as to help filling up the various returns required to be submitted by the officers to their higher authorities. This will enable the officers to fill in their returns quickly and correctly, and also help the supervising officers to check on their accuracy.

8.35 Changes are called for also in the statements furnished in the Annual Administration Reports. For instance, statement No. 1 should be amended to include a column to indicate the number of dealers who stopped business during the year. All the statements need revision. A sample set of forms for furnishing monthly statements by the I.A.Cs. is given at Annexure X. If the details furnished in these forms for 12 months of a year are added together, that will form the statement required for the Administration Report.

CHAPTER IX

SUMMARY OF MAIN RECOMMENDATIONS

1. For an effective administration of commodity taxation, it is absolutely essential for the Department to be in possession of commodity-wise information starting from production or importation. Commodity-wise studies should, therefore, be undertaken on a continuing basis. (Para 3.1)

2. To prevent tax leakage in respect of coconut and its products, and also to offer the much needed protection to the innumerable small growers from the ravages of middlemen, a broad-based approach on the following lines would be necessary:

(i) Coconut including copra should be notified for purposes of regulated marketing. To notify both coconut and copra should imply that one or the other *must* be dealt with in the regulated market but not necessarily both.

(ii) Appropriate steps should be taken to cover coconut growers by co-operative marketing societies, with membership restricted to those with holdings of 2 hectares and less. There should be atleast one such society for every regulated market. Pending the establishment of regulated market for coconut and copra, the Coconut Development Corporation should proceed to establish trade links within as well as without the State for the sale of copra and immediately, thereafter, engage in the buying and selling of coconut and copra. As soon as the regulated market scheme comes into being, the Corporation will naturally operate through the regulated market.

(iii) The Corporation should employ the marketing co-operatives as its agents in the regulated market.

(iv) Where the Corporation purchases coconut, the Corporation may get it converted into copra through the market co-operatives on payment of a fee;

(v) The Corporation may, in addition, buy copra in the regulated market;

(vi) The Corporation should try to dispose of coconut/copra at as remunerative a price as possible. For this purpose, the working of the Corporation could be modelled on the lines of the Central Arecanut Marketing and Processing Co-operative Society (CAMPCO for short)

(vii) The Corporation may, however, have all or part of the Coconut/Copra it procures converted into oil either through the private oil mills in the State or through its own mills.

(viii) The Corporation should also establish necessary trade links within, and without the State, for the sale of oil at as remunerative a price as possible.

(ix) The Corporation should set up storage facilities of its own and use other storage facilities so that it is under no pressure to unload its stocks when the prices are least remunerative. (Para 3.30)

3. In order to ensure that trade in arecanut passes through channels which can be easily located for purposes of sales taxation, the State Government should not only revive regulated market in arecanut but also establish a supporting net work of co-operative marketing societies on more or less the Karnataka pattern so as to enable the CAMPCO to extend its procurement and processing operations in Kerala very soon (Para 3.43).

4. Production estimates in respect of rubber should be made independently on a regular by the State Bureau of Economics and Statistics (Para 3.45).

5. All the 'N' Forms so far issued by the Rubber Board for trading in rubber should be invalidated, and new forms reissued in different colours for manufacturers, dealers and producers with proper accounting. This is for the Rubber Board to implement. (Para 3.50).

6. In the absence of a suitable modification in the Central Sales Tax Act to enable taxation of consignment sales, and transfers on growers accounts the State Government should consider seriously the canalisation of the entire rubber produced through a State agency modelled somewhat after the Coffee Board. This would naturally call for appropriate legislative action. (Para 3.53).

7. A complete census of the Cardamom holdings should be undertaken by the State Government, and this should be followed by an annual sample survey to determine fluctuations in area and output from year to year. (Para 3.67).

8. The State Government should conside bringing pepper within the fold of regulated market. The regulated markets could be built around important trading centres like Cochin and Alleppey in the Southern region and Calicut, Tellicherry and Baliapatam in the Northern region (Para 3.74).

9. The State Government should relinquish its legal right to tax imported raw cashew for a period of three years, and the position may be reviewed thereafter. (Para 3.84).

10. In view of the urgency the State Government attaches to the procurement of raw cashew, a beginning could be made with the notification of cashew under the regulated market scheme. Monopoly procurement should then be much less difficult to enforce. (Part 3.85).

11. There should be a separate tax on cashew kernel consumed within the State and kernel meant for despatch to other States, in addition to the last point purchase tax on raw cashew procured internally (Para 3.86).

12. The co-operative marketing structure should be built up to canalise processed prawns so that not only will the fishermen be assured of a fair and stable price, but also the tax collector will have no cause to fear any tax leakage whatsoever. (Para 3.92).

13. To prevent large scale consignment transfers of goods manufactured within the State and to enable the State to get its tax due, the appropriate modification of the C. S. T. Act to cover consignment transfers within the definition of 'sale' is urgently called for. This is, of course, for the Central Government to implement. (Para 4.15).

14. A comprehensive study should be conducted by the proposed Research and Statistics cell of the Sales Tax Department of the movements of major industrial commodities into the State. The study should bring out the magnitudes of goods moving into the State by various modes of transport, and relate them to the points at which sales tax is attracted, so that the extent of leakages if any, can be determined. One of the urgent tasks of the cell should be to organise collection of data in this regard in a systematic manner from the railways, port authorities and border check-posts. (Para 4.19).

15. On a balance of various considerations, while the Committee is in favour of bringing under single point taxation all those items of which trade channels can be identified and stage of taxation located without difficulty, it recommends retention of multipoint taxation for all the other commodities, even if their contribution to revenue is not significant (Para 5.22).

16. From the point of view of both effective administration and the convenience of tax payers, a last point purchase tax may be more efficient as well as convenient for commodities which involve a large number of producers but only a few dealers. All agricultural products, particularly those which are largely exported out of the State, should, by this token, be taxed at the point of last purchase within the State. In the case of commodities where the opposite situation obtains, a single point tax at the first stage of sale would have more to commend itself. Commodities manufactured in the organised sector would fall in this category. In the case of imported commodities, the point of taxation should be that of first sale within the State. (Para 5.23)

17. The question what the general level of sales tax rates should be has to be decided on the basis of a number of considerations such as revenue requirements, the level of other taxes and duties levied on a given commodity, tax rates in neighbouring States, nature of the commodity involved etc. High inter-state differentials could lead to unintended trade diversion. At the same time it cannot be overlooked that a State Government might, on valid economic considerations, deliberately maintain rate differentials *vis-a-vis* other States. In a vast country like India with wide inter-state disparities in the levels of income, employment and industrialisation, it would be extremely unrealistic to aim at uniformity in sales tax rates. Thus, the rates of tax on different commodities have to be fixed on a balance of these different considerations ensuring at the same time an economic rationale for the tax structure as a whole (Para 5.24).

18. To the extent possible, specific items which are to be granted general exemption should all be brought within the purview of section 9 of the KGST Act, while Section 10 should include, as far as possible, agencies and organisations whose purchases/sales are to be granted conditional tax exemptions (Para 5.27).

19. The present tax exemptions on items like green tea leaves, toddy, eggs and meat should, be removed while items like foodgrains sold through rationshops, atta, bread, country herbs note books, school and college textbooks, candle and clay products should be given total exemption (Para 5.29).

20. The concessional tax rate on raw materials and components should be granted only when the final product is taxable. For the concession to be effective in the promotion of industries, there should be complete exemption of raw materials including components used in manufacturing regardless of whether or not they are also subject to single point tax. (Para 5.34).

21. The classification of commodities for the purpose of fixing sales tax rates should be modified on the basis of the Revised Indian Trade Classification, which would also considerably reduce the scope for conflict in interpretation of the clarifications in this reagrd (Para 5.36).

22. The existing rate differentials should be narrowed and the rate structure should be built around four rates below 10 per cent and four rates between 10 per cent and 50 per cent, the latter being largely applicable to semi-luxuries and luxuries. The revised rate structure recommended by the Committee is given in Table 5.2 (Para 5.37).

23. The existing separate enactment on surcharge on sales tax should be repealed and incorporated in the KGST Act itself (Para 5.37).

24. The entire approach to intelligence work should undergo a radical change. The emphasis should be on intensive investigation on a selective basis rather than routine check so that concrete results are obtained in atleast a few cases. Impediments, if any, in the collection of information or the smooth operation of raids and associated actions whether from lack of co-ordination with other authorities or legal constraints, should be removed. There should also be better arrangement for follow up in cases where incriminating materials is found. In order that intelligence work is not reduced to a routine, it would be desirable for the Intelligence Wing to give up inspection work and concentrate more on areas calling for prompt and vigorous action. (Para 6.21).

25. For better results from inspection and raids, performance of the officers engaged in detection and intelligence work should be judged more by quality than mere numbers. Some remission from the quota may be allowed wherever an Officer detects substantial evasion. (Para 6.22)

26. For effective action, raids by the central and local squads should be better planned and carried out with adequate preparation. Payment of rewards to informers should be permitted· (Para 6.23).

27. The Intelligence Wing should undertake special investigations on its own initiative. It should select areas and commodities for intensive investigation and locate the offending dealers with the help of data collected from banks, railways, clearing and forwarding agents, etc. (Para 6.25).

28. Since economic offences are often interrelated, proper co-ordination of the tax authorities under the Central and State Government is desirable. (Para 6.26).

29. Assessment of cases where substantial evasion is involved should be handled in special circles by special officers of appropriate rank. (Para 6.28).

30. So far as prosecution work is concerned, Sales Tax Officers should be specially trained for the purposes and one S. T. O. (Law) may be posted in each district to look after prosecution as well as other work requiring specialised knowledge of Civil and Criminal laws. (Para 6.29).

31. To remove deficiencies in the working of checkposts, the following measures should be implemented:

(i) Checkposts should be adequately equipped with proper lighting including a search light, metallic gate (preferably of the see-saw type), storage facilities, weigh bridges and telephones. Wireless transmitters may be provided at important check posts.

(ii) Every major checkpost should be in charge of an Inspecting Assistant Commissioner. Besides, there should be one Officer, one Inspector and one Clerk to man these check posts round the clock on eight hour shifts. Minor check posts should be placed in charge of Sales Tax Officer assisted by one Inspector and one clerk on similar shifts. There should be one Inspector and one clerk at each checkpost as reserves. No one should be required to serve at check posts for more than a year at a stretch.

(iii) Proper accommodation facilities should be provided at the check posts. Suits and dormitories should be constructed for the accommodation of officers and their staff.

(iv) Registers at the check posts should be simplified and reduced in number. There should be one basic movement register: in two separate parts, one for incoming vehicles, the for outgoing ones.

(v) Forms prescribed for vehicles transporting goods should also be revised. Form 27-B should be so drawn up as to require use of separate forms for each consignor/consignee in order that they can be easily sorted out and despatched. Delivery notes (Form 26) and way bills should be prescribed in duplicate so that one copy may be surrendered at the check post. The original and the duplicate copies of the delivery notes should be printed in different colours as is practiced in some States. Duplicates should invariably be carbon copies of the original. Way bills and other allied certificates should also be security-printed.

(vi) It would be useful to have common checkposts for Sales Tax, Motor Vehicles, Excise and Civil Supplies Departments.

(vii) The working of the checkposts should be properly supervised. (Para 6.31).

32. Considering the volume of goods moving through railways, an effective method urgently needs to be devised for ensuring that the true particulars of the consignors and consignees are recorded in the Station registers and no one can despatch goods in fictitious names. If it is not possible for the railways to undertake the task of checking permits etc., before booking or delivery of goods, there will be no alternative but to set up checkposts at or near important railway stations. But since this might give rise to many inconveniences, the Railways should be requested to co-operate and help in evolving a mutually convenient arrangement with the sales tax authorities of the States whereby malpractices can be effectively checked. (Para 6.33)

33. The Collation Branch should be reactivated and expanded. Information gathered at checkposts and by other agencies should be collected at this branch of the Intelligence Wing. It would be more convenient to get the declaration forms sent over to the Collation Branch who would sort them out and send them on to the concerned officers, with an intimation to the Inspecting Assistant Commissioners in charge who would in turn check whether the information had been made use of. Other sources of information like the customs manifestos and returns forwarded by the clearing and forwarding agencies should be similarly collected. (Para 6.34).

34. There should be a separate Research and Statistics Cell to undertake collection of data bearing on sales tax yield such as production and turnover of commodities, price trends, channels of trade and so on. It should be the function of this cell to gather material from all possible sources and organise collection of data where there are gaps in knowledge. It should also undertake analysis of such data with a view to arriving at independent estimates of turnover of various commodities. The cell should function in close co-operation with the Intelligence Wing and should bring out periodic bulletins for use of assessing officers. The cell should be able to help in the formulation of policy changes. In view of the importance of the work, the proposed cell should be headed by a qualified officer of a senior rank, preferably of the rank of Additional Director. (Para 6.35).

35. The area in which computerisation will be most useful is the indexing of information on major assessees whereby all relevant information relating to each major assessee can be collected on one card and drawn upon as and when necessary. It would also be useful to put the checkpost data on the computer so that information regarding movement of goods can be related to individual dealers and also subjected to various classifications such as commodity-wise and destination-wise that may be needed for cross verification. (Para 6.37).

36. While an efficient information system will help improve the quality of assessments, to produce the much needed deterrent effects, effort must be directed to concentrate on cases involving evasion or fraud and frame the orders in such a way that the taxes and penalties levied are fully sustained on appeal. One successful heavy assessment or penalty is obviously more valuable as a deterrent than a hundred cases of petty additions. To achieve this, firstly, infructuous and unproductive work must be cut down, and secondly, due regard must be paid to quality of assessments in the valuation of an officers' performance (Para 6.38).

37. The burden on the Member, Board of Revenue, in charge of sales tax appears to be heavy considering that in addition he has also to administer Agricultural Income Tax and the Money Lenders' Act. The powers under these two Acts may be delegated to the Additional Secretary (Taxes) who should still continue under the control of the Member in charge (Para 7.10).

38. Since the Secretary (Taxes) has to issue direction to subordinate officers of the Sales Tax Department including Deputy Commissioners, the rank of the Secretary (Taxes) should be raised to that of a Joint Commissioner (Para 7.10).

39. The set up and distribution of work in the Board's office may be reorganised on the following lines:

(i) Audit work should be taken out of the responsibility of the Deputy Commissioner (Intelligence).

(ii) There should be a separate section to look after Audit and Public Accounts Committee matters. There should be a Deputy Commissioner (Audit) to head this section. The post of a Superintendent should also be created for this section. Control over the Inspecting Assistant Commissioners (Audit) should be transferred to the Deputy Commissioner (Audit).

(iii) The Law Section in the Board's office should be headed by a separate Assistant Secretary (Law). At present this section is looked after by a Superintendent while the Deputy Commissioner (Law) functions from Ernakulam. Office of the Deputy Commissioner (Law) appears to be understaffed. The burden on the Deputy Commissioner (Law) can be somewhat lightened if field officers are asked to refer law points to the Deputy Commissioners (Zonal) through their respective Inspecting Assistant Commissioners, and only when the former require clarification, the points may be referred to the Deputy Commissioner (Law).

(iv) Monitoring of changes in law and procedure in other States should be the responsibility of the Law section of the Board of Revenue which should, therefore, be strengthened by the appointment of an Assistant Secretary.

(v) To assist the Additional Director (Research and Statistics) adequate staff should be provided. There should be adequate staff for statistical work in the field. Each Sales Tax Office should have a Compiler (Para 7.11).

40. It would be desirable to train up, from an earlier stage, suitable officers of the IAS to hold the post of the Sales Tax Commissioner, considering the technical nature of the work involved. For this purpose, one post in the rank of Deputy Commissioner and two in that of Assistant Commissioner should be encadred (Para 7.13).

41. For effective control of field staff, the chain of command should be clearly laid down and the controlling officers should have adequate powers to enforce their authority. Duties of officers at various levels should be specified. For effective supervision work norms should be decided on a rational basis, and there should be a well-planned periodic review of work done at all levels (Para 7.19).

42. As far as possible, reporting on an officer by more than one superior authority of equivalent level should be avoided (Para 7.22).

43. The form of reporting should be carefully devised so that all important aspects of an officer's work are adequately reflected. In order to reduce the subjective element in the confidential reports, it would be useful to specify norms for evaluating each item of work such as assessment and recovery (Para 7.23).

44. To improve the quality of assessement, first, the quota should be related to turnover and secondly, quality should find an explicit place in the evaluation of an officer's performance. Quotas for assessment work should be laid down in terms of units should be fixed on the following lines:

	Unit
for cases with turnover of not more than Rs. 1 lakh	1/2
for cases with turnover between Rs. 1—2.5 lakhs	2/3
for cases with turnover of more than Rs. 2.5 lakhs	1

The quota of assessment for S. T. O.s should be fixed at 300 units per year. Cases above Rs. 5 lakh turnover should continue to be dealt with by Assistant Commissioners. The quota for them should be reduced from 275 to 250 per year to enable them to devote greater att ention to each case. To encourage officers to turn out assessments of better quality, attention should be paid to the number of cases where evasion is detected and penalty imposed in rating an officer (Para 7.29).

45. Arrangements for inspection, and review of inspections should be streamlined. (Para 7.35).

46. To enable the Inspecting Assistant Commissioners to provide more effective guidance to the S. T. Os. in the matter of assessment and investigation, there should not be more than 8 to 10 Sales Tax Officers under one Inspecting Assistant Commissioner (Para 7.36).

47. The practice of the departmental member on the Appellate Tribunal reverting to the Department should be discontinued. The rank of the Departmental member should be raised to that of Joint Commissioner (Para 7.41).

48. The Committee endorses the present quota of 25 per cent for direct recruitment to vacancies of S. T. Os. In order that this does not affect the promotion prospects of officers in subordinate ranks, direct recruitment at the level of A. S. T.Os./S. T. Is. may be discontinued (Para 7.57).

49. The following modifications may be made in the present scheme of training:

(i) There should be refresher courses for officers who are in the field for more than 5 years at a stretch. The course should be of a duration of 3 to 4 weeks. The number of trainees in each batch should be so fixed as to ensure that all officers in the Department would have undergone such a course within the next three to four years.

(ii) There should be arrangement for specialised courses at the training institute such as for appellate work, recovery and prosecution.

(iii) Both in the case of officers who go in for foundational training as well as refresher trainees, there should be a compulsory test at the end of the course. To encourage officers to take active interest in the training, some incentive should be given in the form of an advance increment to those who secure more than, say, 60 per cent marks.

(iv) Some training should be given also to officers below the level of ASTO/STI through a condensed course. For these trainees too, suitable rewards for good performance in the tests may be offered.

(v) To improve the quality of teaching, it would be useful to invite guest speakers from the Bar as also practising accountants.

(vi) To assist the Deputy Commissioner (Law) in the training matter, there should be separate section in his offices headed by a Sales Tax Officer. Full time services of one Assistant Commissioner and two Sales Tax Officers may be made available (Para 7.67).

50. The annual coverage of audit should be 100 per cent for assessments with turnover of Rs. 1 lakh and above and 33 1/3 per cent for cases with turnover of less than Rs. 1 lakh (Para 7.72 & 7.73).

51. In order to reduce old arrears, the following further measures should be taken:

(i) List of defaulters should be published and those withholding payment without valid reasons penalised.

(ii) Information helping recovery of arrears should be rewarded. This practice is in vogue in Maharashtra.

(iii) Cases where the demand is stayed by Court order should be brought to the notice of the Courts and attempt should be made to get the stay order vacated.

Powers to write off tax arrears should be modified, in such a way that the Board should be competent to write off amount upto Rs. 10,000 the D.C. upto Rs. 2,500 and the I. A. C. upto Rs. 500 (Para 7.79 to 7.81).

52. Adequate steps must be taken to prevent misuse of registration on the following lines:

(i) The certificate of registration should specify the goods or class of goods which are traded in by the dealer.

(ii) The declaration form on the strength of which intermediate sales are exempted or are taxed at concessional rates should be security printed and supplied to the dealers only on specific request. Suitable forms should be prescribed for the purpose.

(iii) Under the K. G. S. T. Act, the law should authorise the officers, granting registration to ask for security at the pre-registration stage, where they consider it necessary.

(iv) Similarly, security should be insisted for the proper custody and use of declaration forms, where considered necessary.

(v) Circumstances under which the certificate of registration may be amended should be specified, e.g., change in the name of ownership or place of business, opening of a new place of business, addition or modification in the description of the goods, etc. Where such amendment or cancellation is made at the instance of the dealer, he should furnish all relevant particulars in the prescribed form. When application is made for cancellation of registration on account of discontinuance of business, the dealer should be obliged to submit his application at least one month in advance. Circumstances under which cancellation may be ordered should also be spelt out. Specific reference needs to be made to discontinuance and transfer of business in this context.

(vi) There should be stringent penalty for furnishing wrong particulars in the application for registration or cancellation and also for furnishing false declarations (Para 8.7).

53. The system of provisional assessment should be abolished, and all assessees other than those assessed by the system of easy assessment should file monthly return showing their total turnover and taxable turnover for the previous month and pay the tax accordingly. (Para 8.8).

54. There should be a time limit for completing a final assessment. In the case of regular assessment, the time limit should be three years from the end of the year in respect of which the tax is assessable, and two years in the case of assessment reopened becasuse of escapement. (Para 8.10).

55. While the law allows the assessing (as well as appellate) authorities to summon and enforce the attendance of any person and examining him on oath or affirmation and compelling the production of any document, there is no provision authorising issue of commissions for examination of witnesses. Powers to issue commission are concomitant to the powers to issue summons and should be provided in the statute. Also, the authorities should have the power to impound books of accounts and other documents where considered necessary for any proceedings under the Act and retain them for a period preferably for sixty days, and also beyond sixty days with permission from next higher authority. (Para 8.15).

56. Punishment for criminal offences should be imprisonment or fine or both, and in the case of a continuing offence fine of upto Rs.100 per day should be imposed. The range of punishable offence should also be widened. (Para 8.20).

57. The minimum compounding fee should be Rs. 50 or equal to the tax sought to be evaded, whichever is higher. (Para 8.21).

58. Where a declaration given by the buyer while buying component parts at a concessional rate is found to be false, he should be required to pay the tax and be subject to penalty. (Para 8.22).

59. In regard to default of tax payment, there should be an additional provision for levy of penalty beyond one year without valid reasons which may extend to 100 per cent of the tax or any other amount outstanding. (Para 8.23).

60. The provision in the law authorising the S.T.O. to require a third party owing any money to the defaulting dealer to pay the debt due to the dealer directly to the Government should cover individuals, courts, corporations and banks. (Para 8.24).

61. Transfer of assets often impedes the collection of taxes. To counter attempt to evade tax in this way, the law should provide that transfer to defraud revenue during pendency of any proceeding under the K. G. S. T. Act is void. (Para 8.26).

62. Names of persons guilty of offences involving *mens rea* and those withholding payment of tax above Rs.20,000 should be published. The statutory provision for the purpose should contain suffient safeguard against premature publicity (Para 8.27).

63. The existing provision in the law conferring on the Board powers of superintendence have been interpreted to include powers to issue clarifications about disputed questions only. They do not provide any opportunity for the assessee to present his case. A provision should be introduced to this effect on the lines in vogue in Maharashtra and Delhi. (Para 8.29).

64. The tax accounts of the Department must be computerised. As a first step to eventual computerisation, of tax accounts code numbers for G. S. T. registration should be introduced. (Para 8.33).

65. Changes are also called for in the Statements furnished in the Annual Administration Report (para 8.35).

I. S. Gulati

K. Ramunni Menon

V. Venkitanarayanan

A. Bagchi

T. K. Bhagaval Das

K. V. Nambiar

ANNEXURES

ANNEXURE I

List of Organisations which met the Committee and/or which submitted written memoranda

1. The Ernakulam Chamber of Commerce, Cochin.
2. The Coir Board, Ernakulam.
3. The Malabar Produce Merchants' Association, Calicut.
4. All Kerala Merchants' Association, Quilon.
5. The Kerala State Coir Corporation Ltd., Alleppey.
6. The Kerala State Hosiery Manufacturers' Association, Calicut.
7. The Pioneer Weaving Mills, Calicut.
8. The Malabar Coir Rope Manufacturers Association, Calicut.
9. The Kozhikode Retail Merchants' Association, Kozhikode.
10. The Calicut Foodgrains & Provisions Merchants' Association, Calicut.
11. The Central Arecanut Marketing & Processing Co-operative Ltd., Mangalore.
12. The Small Industries Association, Calicut.
13. The Yarn Merchants' Association, Cannanore.
14. The Tea Board, Calcutta.
15. The Tea Trade Association, Cochin.
16. The Kerala Cashew Development Corporation, Quilon.
17. The Rubber Board, Kottayam.
18. The Cardamom Board, Ernakulam.
19. The Kerala State Co-operative Marketing Federation, Ernakulam.
20. The Marine Products Export Development Authority, Cochin.
21. The Directorate of Coconut Development, Ernakulam.
22. The Malabar Market Committee, Calicut
23. The Directorate of Spices Development, Calicut.
24. The Coffee Board, Bangalore.
25. Hill Produce Dealers' Association, Alleppey.
26. Oil Millers' Association, Alleppey.
27. Commercial Corporation of Coir Dealers, Alleppey
28. Rubber Dealers' Association, Kottayam.
29. Hotel Owners' Association, Kottayam.
30. Kottayam Chamber of Commerce, Kottayam.
31. Merchants, Association, Kottayam.
32. Oil Millers' Association, Kottayam
33. Central Crops Research Institute, Kasargode Plantation.

ANNEXURE II

Growth in Sales Tax Revenue

Year	*Total Revenue from sales-tax (Rs. in crores)*	*Revenue at 1968-69 rate of taxation (Rs. in crores)*	*Annual percentage increase (as per col. 3)*	
(1)	(2)	(3)	(4)	
1968-69	29.0	29.0	..	Average annual Compound growth rate (9.6%)
1969-70	32.5	31.8	9.7	
1970-71	37.6	35.9	12.9	
1971-72	42.4	37.8	5.3	
1972-73	46.0	39.2	3.7	
1973-74	53.4	45.9	17.1	

ANNEXURE III

Percentage of Sales Tax Revenue to State income in selected States

State	1968-69	1969-70	1970-71	1971-72	1972-73
(1)	(2)	(3)	(4)	(5)	(6)
Andhra Pradesh	2.06	1.99	1.79	1.89	2.01
Karnataka	2.45	2.76	3.11	3.16	3.19
Kerala	2.51	2.42	3.00	3.39	3.03
Maharashtra	1.64	1.75	1.81	1.84	4.02
Tamil Nadu	2.72	0.02	2.09	N.A.	3.82
West Bengal	1.88	2.89	2.95	N.A.	3.31
Gujarat	3.23	3.10	3.00	N.A.	N.A.
All India	2.03	2.11	2.22	2.34	2.27

ANNEXURE IV

Per capita incidence of Sales Tax Revenue in different States

States	*Per capita incidence of Sales-tax (in rupees)*		
	1971-72	1972-73	1973-74
(1)	(2)	(3)	(4)
Andhra Pradesh	11.5	13.01	16.98
Assam	9.5	9.86	10.82
Bihar	7.1	8.72	9.30
Gujarat	27.6	32.74	35.19
Haryana	21.5	25.10	30.93
Himachal Pradesh	6.5	7.92	8.38
Jammu & Kashmir	5.6	7.97	7.55
Karnataka	17.6	19.80	23.28
Kerala	19.8	21.61	25.26
Madhya Pradesh	10.6	12.64	14.17
Maharashtra	32.2	36.17	45.85
Manipur	2.5	3.63	4.66
Meghalaya	0.4	5.43	7.71
Nagaland	5.4	8.72	9.88
Orissa	8.0	9.66	10.24
Punjab	27.8	34.01	38.75
Rajasthan	12.8	14.38	17.42
Tamil Nadu	24.0	27.67	32.10
Tripura	N.A.	N.A.	N.A.
Uttar Pradesh	8.0	9.83	11.45
West Bengal	15.5	20.59	22.95
Total	15.4	18.08	21.16

ANNEXURE V

Movements in price indices of Commodities

As has been explained in the main body of the Report, it was decided by the Committee to construct a price index of its own which would be more relevant to estimate the potential revenue from sales-taxes. A list of commodities was drawn up in order of their importance from the point of view of sales-tax revenue. The top 30 commodities contributed as much as two-thirds of the sales-tax revenue accruing to the State. It was decided to construct the index on the basis of these 30 commodities.

Usually a fixed-weighted index number is used to measure the price changes of a collection of goods over a period of time. In choosing the weights, the proportionate contribution to tax revenue of each commodity in a particular year is the appropriate indicator. As the price changes during the years 1968-69 to 1973-74 are covered by the analysis, only the base-year contribution to revenue of each of these commodities has been considered for fixing the weighting diagram.

The percentage price changes in the case of each of the 30 commodities during the years 1968-69 to 1973-74 are worked out on the basis of their reported prices. For each year, the weighted average of the price changes for the 30 commodities applying their respective weights, has been computed. With 1968-69 as base, the indices of price changes are worked out and presented in the attached statement.

In order to allow for the price changes in commodities other than those listed in the statement, it was decided to introduce a 31st item of miscellaneous commodities. With respect to this item, the price changes on the basis of the consumer price Index of India were taken to be representative. As for weightage, the weight assigned to this item was 34 per cent.

Movements in price indices of Selected Commodities

Items	*Percentage increase in price indices over the preceding year*						
	1968-69	1969-70	1970-71	1971-72	1972-73	1973-74	1974-75
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1. Rice	−12.0	+3.6	+2.4	+1.5	+13.1	+22.2	+29.7
2. Arecanut	..	+3.1	−7.2	−23.6	−14.7	+27.2	+28.0*
3. Pepper	+10.1	+40.3	+21.8	−8.8	−3.0	+31.5	+49.7
4. Rubber	+20.3	+7.4	−9.2	..	+3.2	+12.1	+54.1
5. Tea	−5.5	+3.6	+7.0	+18.6	+0.5	+26.5	+49.2
6. Coffee	+17.4	−4.1	+28.8	−25.4	+6.4	+7.8	+26.0
7. Cardamom	+2.7	+17.0	−25.4	−26.8	+20.0	+23.2	+66.3
8. Cashewnuts	+6.2	+18.2	+4.4	+13.0	+38.4	+50.0	+10.0*
9. Dry Ginger	+49.5	+87.4	+22.6	−42.8	+12.0	+44.4	+46.8
10. Coconut oil	−13.4	+28.3	+13.7	−23.5	+20.1	+82.0	+9.0
11. Copra	−9.5	+14.7	+29.0	−23.8	+3.9	+80.8	+11.1
12. Jaggery	−5.2	−51.3	+1.0	+50.2	+31.2	+2.3	+1.8
13. Oil Cake	..	+11.8	..	−11.7	+39.8	+29.3	+10.0
14. Provisions	+7.4	+62.5	−13.0	+3.0	+14.0	+43.5	+62.0
15. Rubber products	+3.0	+3.7	−0.5	+0.8	+1.4	+2.2	+29.4
16. Cement	+1.3	+6.4	+4.2	+5.4	+3.9	+2.8	+31.4
17. Furniture, Iron and Steel	+5.8	+4.3	+8.2	+6.7	+13.2	+15.1	+22.2
18. Hardware goods	+5.4	+4.5	+8.7	+6.7	+12.6	+14.9	+22.1
19. Gunnies	+25.3	+15.9	+10.5	+13.6	−2.6	+7.3	+32.2
20. Motor spare parts	+0.5	+2.2	+2.3	+5.6	+2.7	+4.5	+29.9
21. Petrol	+2.8	+7.7	+9.7	+16.5	+4.3	+47.3	+82.0
22. Mineral oil	+2.2	+6.5	+4.8	+9.0	+4.8	+31.4	+65.4
23. Liquors	+26.6	+1.3	+5.2	+5.4	+19.6	+7.8	+21.6
24. Coir & Coir products	+5.6	+2.1	+3.8	+4.0	+4.2	+5.3	+36.1
25. Bricks & tiles	+1.3	+6.4	+4.2	+5.4	+3.9	+2.8	+31.4
26. Chemical Fertilizers	+1.4	+5.7	+2.0	..	+5.5	+5.9	+81.6
27. Allopathic medicines	+1.6	+5.3	+9.6	+4.3	..	..	+11.4
28. Paper products	+4.5	+7.6	+1.7	+6.2	+5.9	+7.9	+52.6
29. Kerosine	+1.9	+9.1	+2.6	+5.3	+9.1	+15.9	−41.0
30. Electrical goods	−1.2	−0.1	+9.4	+8.0	+7.6	+6.9	+31.1
(a) Weighted Average using 1968-69 GST levied as weights	+2.7	+17.5	+3.6	+4.0	+6.7	+34.4	+40.1
(b) Other miscellaneous items (Based on the changes in the consumer price Indices of India)	−0.5	+1.7	+5.1	+3.2	+7.8	+20.8	+26.8
(c) Percentage change in the prices of all commodities [(weighted average of (a) & (b) with weights being 66% for (a) & 34% for (b)]	+1.6	+12.1	+4.1	+3.7	+7.1	+29.8	+35.6
(d) Index with 1968-69 as 100	100	112	117	121	130	169	229

*Provisional

ANNEXURE VI

Comparative rates of Sales Tax on certain specific commodities in selected States during the year 1973-74

Sl. No.	*Commodity*	*Rate of Tax %*									
		UP	*Delhi*	*Punjab*	*Hariyana*	*Rajastan*	*Himachal pradesh*	*Karna-taka*	*Kerala*	*Andhra pradesh*	*Mahara-shtra*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1	Aluminium wares	7	5	6	6	7	7	6	*3.5	NA	NA
2	Brass wares	4	*5	6	6	7	7	6	5	NA	NA
3	Bullion	*1	0.5	0.5	0.5	1	0.5	2	1	2	0.25
4	Ornaments of gold & silver	4	2	2	2	5	2	NA	3.5	1	0.25
5	Cosmetics & toilet goods	12	8	10	10	10	10	12	*3.5	5	12
6	Cotton thread	2	exempt	1	6	3	7	NA	1	NA	NA
7	Cotton Yarn	2	1	1	1	2	3	1.50	1	3	3
8	Cycles, Tricycles, etc.	7	5	6	7	7	7	6	5	3	7
9	Dyes & colours	7	5	6	6	12	7	8	7	NA	NA
10	Dry fruits	*4	5	6	6	10	7	NA	*3.5	NA	NA
11	Electrical goods	12	9	10	10	10	10	8	7	7	10
12	Foodgrains	4	exempt	3	3	1 to 3	1.5	exempt	1	5	exempt
13	Footwear	*4	5	6	6	7	7	4	5	NA	5
14	Ghee	3	3	6	6	3	7	NA	*3.5	4	NA
15	Glass wares	12	7	8	8	10	8	8	*3.5	NA	3
16	Glass Bangles	7	5	8	7	7	8	exempt	*3.5	NA	exempt
17	Hides & skins	2	1	1	3	3	3	2	3	3	3
18	Hardwares, Machinery	7	5	6	6	7	7	8	*3.5	NA	NA
19	Iron & steel furniture	12	9	10	10	12	10	NA	12	10	15
20	Kerosene oil	7	exempt	6	7	7	7	4	4	3	3
21	Knitting wool	7	5	6	6	7	7	NA	NA	NA	NA
22	Leather goods excluding footwears	7	7	8	8	10	8	6	5	NA	NA
24	Motor vehicles & Motor cycles	12	10	10	10	10	10	15	13	10	12
25	Medicine	5	5	6	7	7	7	8	*3.5	4	3
26	Matches	7	exempt	6	7	7	7	NA	2	NA	2
27	Molasses	12	exempt	6	7	7	7	14	3.5	25	NA
28	Oil seeds	3	2	3	3	3	3	3	3	3	3
29	Plastic goods	7	5	10	10	7	10	8	*3.5	6	8
30	Paints & Varnishes	7	5	6	6	12	7	NA	7	5	12
31	Paper	5	4	6	7	7	7	6	*3.5	NA	5
32	Paraffin wax	*4	5	6	6	7	7	NA	*3.5	NA	NA
33	Readymade garments	*4	1 1 for less than Rs. 30 per purchase 5 others	1	2 upto Rs. 30 per purchase 7 others	exempt upto Rs. 15 other 10	2	2	*3.5	NA	NA
34	Raxin	7	5	6	2	7	2	NA	*3.5	NA	NA
35	Stainless steel articles	7	5	10	10	12	10	8	7	8	8
36	Sanitary goods	10	7	8	8	NA	8	10	7	NA	NA
37	Sports goods	4	*5	6	6	7	7	NA	*3.5	NA	NA
38	Timber	12	5	6	6	7	7	NA	*3.5	NA	NA
39	Vegetable ghee	7	5	6	7	10	7	NA	*3.5	3	5
40	General rates unclassified items	7	5	6	6	7	7	6	*3.5	5	7

* Multipoint.

ANNEXURE—VII

Norm prescribed for Assessments under Sales Tax in various States of India

States	*Category of Officers*	*Norm prescribed*
1. KERALA	Assistant Commission (Assessment)	275 per year
	Sales Tax Officer	325 „
2. TAMIL NADU	Commercial Tax Officer	35 to 40 per month
	Assistant Commercial Tax Officer	200 per year (subject to variation).
3. KARNATAKA	Assistant Commissioner (subject to tax exceeding Rs. 50,000)	20 per month
	Commercial Tax Officer (Subject to turnover exceeding Rs. 75,000 but tax liability not exceeding Rs. 50,000	45 „
	Assistant Commercial Tax Officer (subject to turnover limit being less than Rs. 75,000).	75 „
4. WEST BENGAL	Charge Officers in urban areas	250 to 300 per year
	„ mofusil areas	475 „
	Senior Additional C.T.Os (Urban)	420 to 475 „
	Junior „ „	475 to 525 „
	Senior Additional C.T.Os. (Mofusil areas)	600 „
	Junior „ „	650 „
5. DELHI	Sales Tax Officers	70 per month
	Assistant Sales Tax Officers	85 per month in addition to other miscellaneous work.
6. MAHARASHTRA	Each Officer has to assess 120 'P's in a month, where 'P' stands for an average Retailer with a turnover below Rs. 50 lakhs. 'P' equivalents of various categories of traders are given below:	

Category of traders	*Below Rs. 50 lakhs*	*Rs. 50 lakhs to Rs. 1 crore*	*Rs. 1 crore and above*
Retailer	1 P	2 P	3 P
Manufacturer	1½ P	3 P	4½ P
Document Holder	3 P	6 P	9 P

For example if an officer completes assessment of 13 document holders of turnover Rs. 1 crore and above and one of turnover Rs. 50 lakhs in a month he had achieved his target of 120 Ps. for that month.

ANNEXURE—VIII

Pay Scale of Officer of Sales Tax/Commercial Taxes Department in Maharashtra, Karnataka and Tamil Nadu

State		*Grades of Officers*	*Salary*	*Method of Recruitment*	*Time taken ordinarily for promotion to next grade (Approximately)*
I. Maharashtra	1.	Inspector	190-450	50:50 (Direct promotion)	16 years
	2.	Do. (Selection Grade)	275-590		
	3.	S.T.O.	350-800	Direct recruitment made through P.S.C. also	10 years
	4.	Do. (Selection Grade)	410-1010		
	5.	Assistant Commissioner	785-1100	Promotion	7-8 years
	6.	Deputy Commissioner	1100-1600	One from I.A.S.	
	7.	Additional Commissioner/ Tribunal Member	1600-2000	Promotion	
	8.	Commissioner of S.T.	Super time scale of I.A.S.		
II. Karnataka	1.	ACTO	275-550		
	2.	CTO	400-950		
	3.	ACCT	700-1100		
	4.	DCCT	1000-1500		
	5.	Officer on Special duty	I.A.S. senior scale		
	6.	Commissioner of S.T.	Super time scale of I.A.S.		
III. Tamil Nadu	1.	ACTO	350-600	40% direct recruitment	5 years
	2.	DCTO	425-700	Promotion	5 „
	3.	JCTO	550-950	33 1/3% Direct recruitment	
	4.	CTO	575-1000	Promotion	
	5.	AC	800-1250	Promotion	
	6.	DC	1100-1500	Promotion	
	7.	Dy. Commr. (Selection Grade)	1300-1600	Promotion	
	8.	Addl. Secretary	900-1600+ (Special pay Rs. 100) I.A.S.		
	9.	Secretary	900-1800+ (Spl.Pay Rs. 250) I.A.S.		
	10.	Commissioner	2500-2750 I.A.S.		

ANNEXURE IX

Section 49 of the Delhi Sales Tax Act, 1975 regarding determination of disputed questions

(1) If any question arises, otherwise than in proceedings before a Court, or before the Commissioner has commenced assessment or reassessment of a dealer under section 23 or section 24, whether for the purposes of this Act,—

(a) any person, society, club or association or any firm or any branch or department of any firm is a dealer; or

(b) any particular thing done to any goods amounts to or results in the manufacture of goods within the meaning of that term as given in clause (h) of section 2; or

(c) any transaction is a sale, and if so, the sale price therefor; or

(d) any particular dealer is required to be registered; or

(e) any tax is payable in respect of any particular sale, or if the tax is payable, the rate thereof,

the Commissioner shall, within such period as may be prescribed, make an order determining such question.

Explanation.—For the purposes of this sub-section, the Commissioner shall be deemed to have commenced assessment or reassessment of a dealer under section 23 of section 24, when the dealer is served with any notice by the Commissioner under section 23 of section 24, as the case may be.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act as respects any sale effected prior to the determination.

(3) If any such question arises from any order already passed under this Act or under the Bengal Finance (Sales Tax) Act, 1941, as then in force in Delhi, no such question shall be entertained for determination under this section; but such question may be raised in appeal against or by way of provision of, such order.

ANNEXURE X

FORMS

Details of arrears under S.T, (G.S.T., S.C. and C.S.T) advised for Revenue Recovery during the month of........

Office	*Amount of Arrears pending under R.R. at the beginning of the month*		*Amount advised for R.R. during the month*		*Total amount under R.R. during the month*		*Requisition returned, withdrawn, etc., during the month*		*Amount under stay after advising for R.R.*		*Collectable demand under R.R. during the month*		*Collection made during the month*		*Balance pending under R.R. at the end of the month*	
	Ar.	*Cr.*	*Ar.*	*Cr.*	*Ar.*	*Cr.*	*Ar.*	*Cr.*	*Ar.*	*Cr.*	*Ar.*	*Cr.*	*Ar.*	*Cr.*	*Ar.*	*Cr.*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)

Details of Stay Orders under S. T. (G.S.T. S.C. & C.S.T.) by competent authorities during the month..............

Old arrears/Current

Office	*Supreme Court*		*High Court*		*Government*		*Board of Revenue*	
	Before advising for R.R.	*After advising for R.R.*	*Before advising for R.R.*	*After advising for R.R.*	*Before advising for R.R.*	*After advising for R.R.*	*Before advising for R.R.*	*After advising for R.R.*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Appellate Tribunal		*D.C. (Alps.)*		*A.A.C.*		*Others (to be specified)*		*Total*	
Before advising for R.R.	*After advising for R.R.*	*Before advising for R.R.*	*After advising for R.R.*	*Before advising for R.R.*	*After advising for R.R.*	*Before advising for R.R.*	*After advising for R.R.*	*Before advising for R.R.*	*After advising for R.R.*
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)

Details of Defaulters in various slabs of arrears under G.S.T./S.C./C.S.T. during the month........

Slab of arrears	*No. of defaulters*	*Total amount pending as arrears in each slab at the beginning of the month*	*Total amount collected during the month*	*Balance pending at the end of the month*
Below 1000				
1000 to 5000				
5000 to 10000				
10000 to 50000				
50000 to 1 lakh				
Above 1 lakh				

Statement showing the details of the disposal of Appeals under G.S.T. and C.S.T. in the Office of the A.A. Cs. during the month............

[Separately for disposal of Appeals by D.C. (Appeals), Revision by D.C. (A), Revision by Zonal D.Cs.]

Office	No. pending at the beginning of the month					No. filed during the month	Total No. of files for disposal (Col. 6+7)
	Less than one year	One Year to two years	Two to three years	Over three years	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

No. disposed during the month out of						Nature of disposal			
Col. 2	Col. 3	Col. 4	Col. 5	Col. 7	Total	Allowed		Remanded	
						No.	Fin. effect	No.	Fin. effect
(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

Nature of disposal					Balance pending at the end of the month out of					
Modified		Rejected	Dismissed	Struck off	Col. 2	Col. 3	Col. 4	Col. 5	Col. 7	Total
No.	Fin. effect									
(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)

Details of Vehicle checked in the Sales Tax Check Posts during the month of........

Sl. No.	Name of Check Post	No. of Vehicles checked						Others			
		Lorries	Buses	Bullock Carts	Cars	Vans	Cycles	Hand Carts	Trolly or Truck	Others	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Particulars of inspection of vehicles at Sales tax Check Posts and action taken during the month of..............

Sl. No.	Name of Check Post	No. of vehicles checked	No. of cases of evasion (not covered by proper documents)	Vehicles released without collection of security		Vehicles released after collecting security		
				No. of cases	Turnover involved	No. of cases	Turnover involved	Amount of security collected
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Details of Commodities brought in and sent out of the State through the border Sales Tax Check Posts during the month of........

Sl. No.	Name of Commodity	Commodity brought into the State		Commodity sent out of the State	
		Quantity	Value	Quantity	Value
(1)	(2)	(3)	(4)	(5)	(6)

Details relating to Oil Mills and Cashew Factories assessed under S. T. for the month of..........

Office	Oil Mills					Cashew Factories					
	No. of Mills	Value of Coconuts procured for making Copra	Value of Copra procured to produce oil	Value of Coconut oil produced	Value of Coconut oil cake produced	No. of Factories	Value of raw procured			Value of cashew kernel produced	Value of Cashew shell liquid produced
							Produced in the State	Brought from outside the State			
								From Africa	From other countries		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Dealers registered under K.G.S.T. Act during the month of............

Office	No. of trading establishments according to 1971 census	No. of registered dealers at the beginning of the month	No. of dealers whose registration has been cancelled during the month	No. of dealers who renewed registration during the month	No. of dealers who did not renew registration during the month		No. of dealers newly registered during the month	Total No. of registered dealers at the end of the month
					Pending enquiry	Others		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Details of Applications for registration under K. G. S. T. Act & C. S. T. Act received during the month of.............

Office	*No. of applications pending at the beginning of the month*		*No. of applications for the registration received during the month*		*No. of applications disposed of during the month*				*Balance pending at the end of the month*	
					No. issued		*No. rejected*			
	KGST	*CST*	*KGST*	*CST*	*KGST*	*CST*	*KGST*	*CST*	*KGST*	*CST*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Renewal of Registration by the Assessees under K.G.S.T. Act during the month of.....................

Office	*Total No. of assessees among the registered dealers at the beginning of the month*		*No. of assessees who renewed their registration during the month*		*No. of assessees who have not renewed their registration*					
					Pending equity		*Others*		*Total*	
	Under compounded slabs	*Other cases*	*Under compounded slabs*	*Other cases*	*Under compounded slabs*	*Other cases*	*Under compounded slabs*	*Other cases*	*Under compounded slabs*	*Other cases*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Office	*No. of assessees whose registration has been cancelled during the month*		*No. of assessees newly added during the month*		*No. of assessees at the end of the month*		*Net increase/decrease in the number of assessees*	
	Under compounded slabs	*Other cases*	*Under compounded slabs*	*Other cases*	*Under Compounded slabs*	*Other cases*	*Under compounded slabs*	*Other cases*
(1)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)

Casual Traders Registered under the K. G. S. T. Act during the month of........

No. of fairs and festivals	*No. of casual traders holding licence of the Panchayat / Municipality / Corporation*	*No. of casual traders registered*	*Total turnover*	*Exempted turnover if any*	*Taxable turnover*	*Tax levied*	*Tax collected*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Statement showing the details of branch certificates and permits issued under K. G. S. T. Act during the month

	No. of registered dealers having branches			*Number of branches owned by the Registered dealers shown in Col. 4 in the State*					
Office	*With principal place of business inside the State*	*With principal place of business outside the State*	*Total*	*In Corporation area*	*In Municipal area*	*In Panchayat area*	*Total*	*Outside the State*	*Grand Total*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Total									

	Permits				
Office	*Number of branch certificates issued and renewed during the month*	*Amount of registration fee realised from branch certificates*	*Number of dealers who applied for salesman permits*	*Number of permits issued & renewed during the month*	*Amount of fee realised*
(1)	(11)	(12)	(13)	(14)	(15)
Total					

Provisional Assessees and Provisional Assessments under the K. G. S T. Rules 13, 14 and 15 during the month..........

Office	Provisional Assessees					Number of Provisional assessments made during the month	Demand created by provisional assistants of Col.7
	Number at the beginning of the month	Number removed or cancelled during the month	No newly added during the month	Number at the end of the month	Net increase or decrease		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Total							

Assessees Final Assessments under Rule 21 Similar Statement (Rule 13, 14 & 15) of the K. G. S. T. Rules during the month........................

Office	Monthly assessees				
	Number at the beginning of the month	Number transferred or cancelled during the month	Number newly added during the month	Number at the end of the month	Net increase or decrease
(1)	(2)	(3)	(4)	(5)	(6)
Total					

Office	Assessments											
	Number pending at the beginning of the month			Number finalised in the month			Number cancelled or transferred in the month			Balance pending at the end of the month		
	Arrear *	Current	Total	Arrear *	Current	Total	Arrear *	Current	Total	Arrear *	Current	Total
(1)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)
Total												

* Above 3 years, 2 to 3 years, 1 to 2 years·

Non-assessees under K. G. S. T. Act during the month.....................

Office	No. of Total non-assessees	No. of non-assessees who collected tax	Amount of total turnover detected	Amount of taxable turnover detected	Tax collected & demanded	Tax realised during the month	Balance if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Total							

Classification of Assessees under K. G. S. T. Act according to the grade of taxable turnover during the month of.......................

Grade of turnover	*Assessees paying tax at compounded rate*			*Assessees paying tax on provisional Assessment basis Under rules 13,14 and 15 (excluding compounded levy)*		
	Number of assessees	*Annual Taxable T/O for 1976-77 (provisional)*	*Annual Tax assessed (provl.)*	*Number of assessees*	*Annual taxable T/O for 1976-77 (provisional)*	*Annual Tax assessed (provl.)*
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Upto Rs. 20000						
20001 to 25000						
25001 to 30000						
30001 to 35000						
35001 to 40000						
40001 tp 50000						
50001 to 60000						
60001 to 70000						
70001 to 80000						
80001 to 90000						
90001 to 1 lakh						
Above 1 lakh to 2 lakhs						
,, 2 ,, 3 ,,						
,, 3 ,, 4 ,,						
,, 4 ,, 5 ,,						
,, 5 ,, 6 ,,						
,, 6 ,, 7 ,,						
,, 7 ,, 8 ,,						
,, 8 ,, 9 ,,						
,, 9 ,, 10 ,,						
Above 10 lakhs						
Total						

Grade of turnover	*Assessees paying tax on monthly basis (under Rule 21)**			*Casual traders*		
	Number of assessees	*Monthly taxable T/O returned for the previous month*	*Momthly Tax returned for the previous month*	*Number of traders*	*Taxable T/O returned*	*Tax assessed*
(1)	(8)	(9)	(10)	(11)	(12)	(13)
Upto Rs. 20000						
20001 to 25000						
25001 to 30000						
30001 to 35000						
35001 to 40000						
40001 to 50000						
50001 to 60000						
60001 to 70000						
70001 to 80000						
80001 to 90000						
90001 to lakhs						
Above 1 lakh to 2 lakhs.						
,, 2 ,, 3 ,,						
,, 3 ,, 4 ,,						
,, 4 ,, 5 ,,						
,, 5 ,, 6 ,,						
,, 6 ,, 7 ,,						
,, 7 ,, 8 ,,						
,, 8 ,, 9 ,,						
,, 9 ,, 10 ,,						
Above 10 lakhs						
Total						

* Previous month means, the t. o. as per the return due on the 20th of the previous month.

Details of Tax finally assessed at compounded rates under Section 7 of the K. G. S. T. Act, during the month of....................

Office	Section 7 (Small dealers)			Under Section 7					
	With turnover between 20000 and Rs. 25000			With turnover Rs. 35000 to 40000			With turnover Rs. 40000 to 50000		
	No. of assessees	Tax assessed at compounded rate	Probable tax at general	No. of assessees	Tax assessed at compounded rate	Probable tax at general	No. of assessees	Tax assessed at compounded rate	Probable tax at general
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Total									

Office	(Hotel Keepers)					
	With turnover Rs. 50000 to 75000			With turnover Rs. 75000 to 1 lakh.		
	No. of assessees	Tax assessed at compounded rate	Probable tax at general rate	No. of assessees	Tax assessed at compounded rate	Probable tax at general rate.
(1)	(11)	(12)	(13)	(14)	(15)	(16)
Total						

Demand created on finalisation of assessments under Rules 13, 14 and 15 of the K. G. S. T. Rules during the month of.................

Office	Number of assessments completed during the month	Total tax assessed		Total tax already demanded under rules 13, 14 and 15		Net demand created	
		G.S.T.	S. C.	G.S.T.	S.C.	G.S.T.	S.C.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Demand created on finalisation of assessments under Rule 21 of the K. G. S. T. Rules during the month of.............

Office	*No. of assessments completed during the month*	*Total tax assessed*		*Total tax already paid under rule 21*		*Net demand created*	
		G.S.T.	*S.C.*	*G.S.T.*	*S.C.*	*G.S.T.*	*S.C.*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Details of Dealers registered under C.S.T. Act during the month of...........

Office	*No. of dealers registered at the beginning of the month*				*No. of dealers whose registration has been cancelled during the month*			
	Under Section 7 (i) only	*Under Section 7 (ii) only*	*Both Under Section 7(i) & (ii)*	*Total*	7(*i*)	7(*ii*)	7 (*i*) & (*ii*)	*Total*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

No. of new dealers registered during the month				*Total No. of registered dealers at the end of the month*				*Total turnover returned and amount of C.S.T. paid as for the return on 20th of the previous month.*	
7(*i*)	7(*ii*)	7(*i*) & (*ii*)	*Total*	7(*i*)	7(*ii*)	7(*i*) & (*ii*)	*Total*	1.0	*C.S.T. Paid*
(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)

Demand, Collection and Balance under G. S. T. /S. C./ C. S. T./Separate Statement for G.S.T., S.C. & C.S.T. for the month of...............

Office	*Total demand*			*Remission*			*Write off*		
	Arrear	*Current*	*Total*	*Arrear*	*Current*	*Total*	*Arrear*	*Current*	*Total*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Total									

Collectable			*Collection*			*Balance*		
Arrear	*Current*	*Total*	*Arrear*	*Current*	*Total*	*Arrear*	*Current*	*Total*
(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)

Details of Assessments under CST Act U/S 7 (i) during the month for...............

Office	*No. of assessments at the beginning of the month*					*No. of assts. transferred or cancelled during the month*	*No. of assts. newly added during the month*
	Arrear Assts.			*Current assts.*	*Total*		
	Above 3 Years	*2 to 3 Years*	*1 to 2 Years*				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Total No. of assts. for disposal during the month					*No. of assessments made during the month*					*Balance at the end of the month*				
Above 3 years	*2 to 3 years*	*1 to 2 years*	*Current*	*Total*	*Above 3 years*	*2 to 3 years*	*1 to 2 years*	*Current*	*Total*	*Above 3 years*	*2 to 3 years*	*1 to 2 years*	*Current*	*Total*
(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)

Stage of pendency of arrears under Salestax (G. S. T., S. C., & C. S. T.) Separate Statements to be furnished as at the end of the month of..............

Old Arrears/Current (To be furnished separately).

Office	*Amount to be written off*	*Amount stayed by Competent authorities*		*Amount pending under R. R. steps (excluding the amount stayed after advising for R. R.)*	*Amount under application before the Magistrate*	*Amount under protective Asst.*	*Amount under other actions (to be specified)*	*Amount under Notices issued (not advised for R.R. as the time limit has not expired)*	*Amount not ripe for colln.*	*Total*
		before advising for R.R.	*after advising for R.R.*							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Year-wise break-up of arrears under Salestax (G.S.T., S.C., & C.S.T.) Separate statements for G.S.T., S.C., C. S. T. pending

Office	*Prior to* 50-51	50-51	51-52	52-53	53-54	54-55	55-56	56-57	57-58	58-59	59-60	60-61	61-62	62-63
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
Total														

63-64	64-65	65-66	66-67	67-68	68-69	69-70	70-71	71-72	72-73	73-74	74-75	75-76	*Total*
(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)
Total													

ANNEXURE XI

First Interim Report

The Committee on Commodity Taxation has been requested by the Secretary to the Government (Taxes) for an interim report in as much as it relates to arecanut to enable the Government to take an early decision on the request of the *Central Arecanut Marketing and Processing Co-operative*, Mangalore (CAMPCO, for short) "to review the percentage of sales tax now collected on arecanut so that they could buy on a par with the market in Karnataka State". This report is submitted in response to the above request.

2. Arecanut is a major commercial crop of Kerala State. Some 90 thousand hectares (i.e. about 3% of the total cropped area in the State) are estimated to be under arecanut. In terms of production, Kerala accounts for about 38% of the total arecanut produced within the country; Karnataka accounts for another 38 to 40%. It is estimated that not more than 10% of arecanut grown is consumed inside the State; the rest moves to other States. Sales tax is payable at the point of last purchase within the State at the rate of 6 per cent plus a surcharge of 5 per cent, and sales outside the State are liable also to a further tax at the rate of 4 per cent under the Central Sales Tax Act.

3. Arecanut is plucked at both the tender as well as ripe stages. The former is converted into *Kalipak* and the latter into *Kottapak*. In terms of numbers, some two-thirds of the arecanut output in Kerala is accounted for by kottapak, i.e. the ripe variety. Since the tender nut loses some two-thirds of its original weight in the process of curing and drying, its price is usually fixed at one-third of the price of the ripe nut. Table 1 at the end gives the output of arecanut in the State from 1968-69 to 1973-74 and its value calculated on the basis of the prices prevailing during the period.

4. It can be seen from Annexure I that while the output of arecanut in the State has been gradually increasing, its value has been declining because of the decline in prices particularly during 1971-72 and 1972-73. In fact, the establishment of CAMPCO—an agency jointly sponsored by the State Governments of Kerala and Karnataka and with equal financial participation—was the direct consequence of the steep decline in arecanut prices. The objective was that through the intermediation of this agency in the purchase and marketing of arecanuts it will be possible not only to stabilise but also to improve the arecanut prices. CAMPCO was formally set up in July 1973 and it started its operations in November 1973.

5. In 1973-74 (i. e. the first year of its operations) CAMPCO purchased arecanut worth Rs. 3.67 crores, representing some 6% of the value of arecanut output in the two States. In 1974-75 CAMPCO's purchases amounted to Rs. 4.08 crores. Whatever other factors may have contributed to the improvement in arecanut prices in 1973-74 and subsequently, there can be no two opinions on that, the entry of CAMPCO in the market in such a substantial way should have had its positive impact.

6. Unfortunately, however, CAMPCO's purchase have been largely concentrated in Karnataka. In 1973-74, less than 2% of its purchases were made in Kerala. In 1974-75, the corresponding proportion was, no doubt, higher a little over 5% but it was still quite low. It must be added, however, that it is not unlikely that a good proportion of the purchases made by CAMPCO inside Karnataka may have been of arecanuts grown in Kerala, because it is well known that a substantial part of Kerala's output of arecanut grown in the Northern districts, particularly Cannanore, (which alone accounts for about 20% of the State's output) moves to, and gets sold in the Mangalore Market. Therefore, it is perhaps true that CAMPCO's purchase of Kerala's output is not so low as suggested by the figures given above. The fact remains, however, that the direct benefit of CAMPCO's purchase operations in the form of lower incidence of trade margins has been denied to Kerala farmers. As the recent Report of the Regulated Market Committee (Sankaranarayanan Committee), has pointed out, innumerable deductions are currently being made both in kind and in cash by the traders from the prices they pay to growers of arecanut in Kerala. One would expect quite justifiably, in the view of this present Committee, that if CAMPCO made direct purchases in Kerala on a large scale, it would result in considerable benefit to the growers in the State.

7. Another aspect of the purchase operations of CAMPCO needs being highlighted, particularly in the context of this interim report. Not only are the purchases effected by CAMPCO within Kerala extremely limited, but also they are made on a basis that enables it to move the quantities

to Mangolore by way of transfers on behalf of the growers (on consignment basis). Evidently, this method of purchase was resorted to by CAMPCO with a view to avoiding payment of Kerala's G.S.T. payable at the rate of 6.3% (including 5% surcharge) at the point of last purchase. It must be added immediately that this practice of sending arecanut to the Mangolore and other markets on consignment appears to be quite wide-spread. Thus, as can be seen from Annexure II while only about 38% of the quantity of arecanut marketed in the State got recorded in the check-post registers during 1973-74, hardly 1/3rd was assessed to central sales tax which shows that more than 2/3rd of the recorded export of arecanut moved on consignment basis.

8. During the course of its own meetings with the representatives of trade, as well as CAMPCO, it has been represented to this Committee that the wide-spread use of consignment as the mode of transfer is to be blamed on the wide disparity between the rate of sales tax in Kerala and Karnataka. At present, the Kerala rate is 6.3% (including 5% surcharge) as against Karnataka's rate of 3.5% (both single point). Until recently, Kerala's rate was 5.25% as against Karnataka's 3%. When it was put to the CAMPCO representatives why an official agency like itself felt compelled to resort to a patently tax avoidance device, the explanation offered was that given the ruling market price, it would otherwise be placed at servere disadvantage *vis-a-vis* private trade in effecting its purchases inside Kerala. This, it was pointed out, was particularly so since, given the marketing mechanism in Kerala, CAMPCO cannot rely on net work of co-operative marketing societies as it does in Karnataka where, in addition, marketing itself of arecanut is effectively regulated.

9. In this context, the Committee would like to point out that the proportion of arecanut output escaping sales taxation altogether does not appear to be uniformly high in all the districts. As will be seen from Annexure III at the end, on the basis of the data relating to value of taxable turnover for the year 1972-73, it would appear the leakages were relatively larger in the northern districts as compared with the southern and central districts. However, the data available for the subsequent year present a different picture. In terms of the over all position, the leakage seems to have occurred on a substantial scale, with value of taxable turnover representing only 19 per cent of the estimated value of production in that year as compared with the corresponding percentage of 60 per cent in the previous year. Regionwise, the leakage was the highest in the Cannanore district with the value of taxable turnover constituting only 2.4 per cent of the estimated value of production in that district in 1973-74. In regard to the other regions the performance in the southern and central districts was worse than in the remaining northern districts as the data in table 3 would indicate.

10. On the whole, it would appear that tax avoidance is much more wide-spread in districts closer to the markets in Karnataka than other districts and this may well be due to some extent, if not entirely, to the disparity in sales tax rates between the two States. Taking the State as a whole, while the proportion of arecanut output escaping G.S.T. may be anything between one-third to one-half that escaping C.S.T. appears to be considerably larger.

11. In the light of the above, it should be clear that (a) a sizeable proportion of arecanut output in Kerala is now escaping sales taxation altogether; (b) the disparity in the sales tax rates of Kerala and Karnataka may have had some role in inducing the spread of tax avoidance practices, particularly in the northern districts; (c) though Kerala is an equal partner with Karnataka on CAMPCO the former has not benefited as much from its operations so far as the latter; (d) if CAMPCO's purchase operations were to expand in Kerala on the present basis, (i.e. procurement on consignment basis for sales to be formally effected outside the State) the State would stand deprived of any Sales Tax revenue whatsoever on its operations however extensive they may become; and (e) nevertheless there is a strong case to promote the purchase operations of an agency like CAMPCO within the State not only to assure a fair price to the growers of arecanut but also to ensure thereby that as large a proportion as possible of the transactions in arecanut get correctly recorded.

12. In the circumstances, the request of CAMPCO for a review by the Government of the present rate of sales tax on arecanut, which is substantially higher than that in Karnataka, appears to this Committee to be quite justified. It remains to ask, however, whether in reviewing this matter, the government should consider offering tax relief only to CAMPCO or to entire trade including CAMPCO. Here, it must be stated that the practice of extending differential tax treatment to certain co-operative bodies (under section 10 K.G.S.T. Act) is being followed already. So confining tax relief to only CAMPCO will entail no new principle.

13. As for the substantive question regarding whether tax relief should be offered only to CAMPCO or to entire trade, it is iniortant to bear in mind that from the point of view of the growers, particularly the small growers, who indeed preponderate in the cultivation of arecanut in Kerala, extention of CAMPCO's purchase operations is likely to be exceedingly beneficial. At the same time it cannot be overlooked that on the basis of available information, it appears that maximum leakage in sales tax on arecanut takes place in the districts with proximity to the arecanut markets in Karnataka in the form of consignment movements across the border. Therefore, if the rate of sales tax on arecanut remains at the present level for the rest

of the trade (i.e. excluding CAMPCO), the prospect of consignment movements taking place from these districts will remain in so far as private trade is concerned. On the other hand, in the districts where the practice of consignment transfers of arecanuts across the State border is now less pervasive, the reduction in the rate of sales tax for the entire trade will entail a decline in revenue. If, however, the rate of sales tax is brought down only for CAMPCO and if, additionally, CAMPCO were to concentrate its purchase operations largely in Cannanore and other Northern districts of the State, the Government will have taken a major step to improve the lot of arecanut growers without facing the prospect of likely decline in revenue. This Committee is, therefore, inclined to recommend to the Government that, to start with, it should consider giving relief only to CAMPCO.

14. As to the form in which tax relief should be extended to CAMPCO, it is appropriate to quote from the representation made by CAMPCO to this Committee.

> "The CAMPCO has already requested the Government of Kerala and the Gulati Committee to reduce the sales tax on arecanut from 6% to 3% and collect from the CAMPCO either the local tax or the G.S.T."

15. This Committee suggests that tax relief should be given by completely exempting CAMPCO's purchases of arecanut from the payment of G.S.T. or purchase tax on the condition that (1) all such exempted purchases will subsequently undergo taxable sale (sales liable to C.S.T.) and (2) CAMPCO will no longer make any purchases within Kerala State to be sent outside the State on consignment basis. In effect, this would mean that all CAMPCO's purchases in Kerala will thereafter suffer Central sales tax at the rate of 4%. The procedural details regarding the maintenance of accounts and submission of return etc., would have to be worked out by the Department in consultation with the CAMPCO.

16. The Committee would like to add in conclusion that it would not be sufficient to rely entirely, or even largely, on the recommended tax relief for CAMPCO's purchase operation to expand substantially in the State. Tax relief, if granted, should be regarded as a first step only. It appears to this Committee that it will be necessary to follow it up with a number of supporting steps such as the strengthening of the co-operative base and the effective coverage of arecanut by a regulated market machanism. It may be possible at that stage to consider a reduction in general rate of tax.

ANNEXURE—I

Estimated arecanut output and its value in Kerala State from 1968-69 to 1973-74

Year	*Number of nuts in million*	*Value of average price for 100 ripe-nuts*	*Value of total output (in Rs. crores)* *
(1)	(2)	(3)	(4)
1968-69	12259	3.83	37.00
1969-70	12661	4.31	42.05
1970-71	12738	3.81	38.08
1971-72	12832	3.05	31.03
1972-73	13136	2.53	26.28
1973-74	13459	3.09	32.16

*The value of total output has been worked out on the assumption that (a) only one-third of the number of arecanuts grown in Kerala is of the tender nut variety and (b) the price of tender nut is approximately one-third of the price of the ripe nut.

ANNEXURE II

Value of Arecanut sent out of Kerala through Border Checkposts

	District	1972-73 *Rs.*	1973-74 *Rs.*
	(1)	(2)	(3)
1.	Trivandrum	4,03,710	5,61,206
2.	Quilon	29,57,552	41,17,240
3.	Alleppey	..	..
4.	Kottayam	55,71,765	91,19,261
5.	Ernakulam	..	...
6.	Mattancherry	..	..
7.	Trichur	..	..
8.	Palghat	..	5,50,49,577
9.	Malappuram	..	..
10.	Kozhikode	40,88,678	2,34,811
11.	Cannanore	1,30,80,897	2,50,74,744
	Total	2,61,02,602*	9,41,56,839

*The data for 1972-73 are not complete because of the non-availability of information from Palghat.

ANNEXURE III

Percentage of value of taxable turnover to value of production

District	1972-73 *Estimated value of production (Rs. lakhs)*	1972-73 *Value of taxable turnover determined (Rs. lakhs)*	1972-73 *Percentage of Col. (3) to Col. (2)*	1973-74 *Estimated value of production (Rs. lakhs)*	1973-74 *Value of taxable turnover determined (Rs. lakhs)*	1973-74 *Percentage of Col. (6) to Col. (5)*
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Trivandrum	143.75	6.96		164.66	7.01	
Quilon	349.52	313.60		442.52	44.05	
Alleppey	154.53	28.10		190.07	3.32	
Kottayam	102.49	119.80		123.49	89.13	
Idikki	41.26	..	72.97	49.53	..	12.46
Ernakulam*	185.01	241.53		223.51	5.25	
Trichur	420.22	513.31		521.64	53.31	
Palghat	91.72	174.86		110.31	164.23	
Malappuram	457.01	56.45	67.37	557.01	77.02	28.99
Kozhikode	297.23	108.41		358.91	154.23	
Cannanore	385.53	..	..	474.36	11.52	2.43
Total	2628.27	1562.23	59.5	3216.01	603.84	18.8

* Including Mattancherry.

Note:—The percentages in Columns 4 and 7 have been worked out on a group basis except for Cannanore, because of the inter-district flows for movement out of the State.

ANNEXURE XII

Second Interim Report

This is the Second interim report that the Committee is submitting in advance of its final report. This report is being submitted in response to the request of the Minister of Finance for recommendations which would afford relief to the small traders without substantial reduction in the State's potential for the collection of sales tax.

It is appropriate to start with a review of the overall position. Taxation of sales and purchases of Commodities has played an increasingly important role in the mobilisation of resources by the State Government. When the reorganised State of Kerala came into being in 1956, annual sales tax collections in the State amounted to only Rs. 4.92 crores, (1957-58) comprising 37% of the tax revenue of the State Government. By 1970-71, sales tax collections had increased to Rs. 37.59 crores representing 55 per cent of the State's tax revenues. The sales tax collections for 1974-75 reached the level of Rs. 76 crores which, as a proportion of State's tax revenues, would work out to more than 60 per cent. (*See* Annexure I for the figures for 1957-58 to 1974-75). It is evident that sales taxation which was already a major source of revenue for the State Government some two decades back has become even more important with the passage of years. The Committee believes that the sales tax collections of the State could have been even higher if the potential had been adequately exploited, but this is a matter which will be dealt with in detail in the final report.

While sales tax on transactions within the State is levied under the State's own legislation that on inter-State sales is levied under a Central Act. The administration of the latter is left to the State Governments and the proceeds of the tax accrue to the State from where the goods are exported.

While inter-State sales are subject to tax at a uniform rate of 4% at present, several different rates apply to transactions within the State. The present system of sales taxation in Kerala is a combination of singlepoint and multipoint levies, the former being levied at varying rates ranging from 1 per cent in the case of foodgrains to 50 per cent in the case of liquors and the latter being uniformly leviable at the rate of 4 per cent. Goods subject to single point levy are taxed either at the point of first sale in the State or at the point of last purchase within the State. Broadly speaking the point at which the tax becomes leviable is decided on administrative considerations taking into account the pattern of trade of the commodity.

At present, there are **102** items subject to single-point taxation. All other items come under the multipoint levy unless they are specifically exempt. During the five year period, 1968-69 to 1973-74, the revenues realised from single point levy accounted for between 66 and 70 per cent of the total sales tax collections. Annexure II sets out the broad picture of the relative importance of single point and multipoint levies from the point of view of revenue.

For both the singlepoint and multipoint levies the liability to pay rests on the dealer. But not all dealers are liable. The different categories of dealers liable to pay sales tax are the following:

1. All casual traders and agents of nonresident dealers are liable to pay tax at specified rates on their taxable turnover irrespective of their total turnover. There is thus no exemption limit in their case.
2. For other categories of traders, those dealing in multipoint goods are liable to pay tax if their gross annual turnover exceeds Rs. 20,000.
3. In the case of traders dealing only in single-point goods (i.e. goods enumerated in the First and Second Schedules to the Act) the assessment limit is Rs. 2,500.
4. If a trader deals in both singlepoint and multipoint goods and if his total turnover falls below Rs. 20,000 a year, of which his turnover in the single point goods happens to be below Rs. 2,500 he is not liable to pay any sales tax. The dealers will however be liable to pay tax on the single point goods if his turnover thereof exceeds Rs. 2,500.
5. An importer using 'C' forms, i.e. who purchases goods inter-State after furnishing a declaration under the Central Sales Tax Act, has to pay tax irrespective of the quantum of his annual turnover.
6. A hotelier is subject to sales tax if his turnover is not less than Rs. 35,000 in a year.

It is important to note however that under the scheme of sales taxation obtaining in Kerala, while the liability to pay sales tax arises as soon as a dealer's turnover exceeds the prescribed exemption limit, the actual tax liability depends on the goods he is dealing in. The obligation to register with the department, however, arises only on the basis of the size of turnover. Dealers in goods placed under single point levy have to register if their turnover is not less than Rs. 2,500 a year; dealers in other goods have to register if their turnover is not less than Rs. 12,500 in a year (this latter limit was Rs. 7,500 until 1-12-1973). In addition, some categories of dealers, such as casual dealers and dealers residing outside the State but carrying on business within Kerala State, registration is required irrespective of the level of turnover. Thus, it is not always the case that those who are registered with the Department are also assessable to tax.

The number of registered dealers in the State during 1973-74 was 59,413; of this 44,653 represented the number of assessees. The difference between the two figures (i. e. 14,760) would represent the number of registered dealers who were not liable to pay tax. The growth rate of the number of registrations and assessments over the past few years is given in Annexure III.

It will be seen that during the decade, 1964-65 to 1973-74, while the number of assessees increased by 9,646 the increase in the number of registrations was only 2,153. The difference between the number registered and that assessed was thus considerably narrowed by 1973-74.

It is also worth noting that according to the 1971 Census, there were as many as 3.17 lakh trading establishments in the State. A classification of the trade establishments is given in Annexure IV. The number of registered dealers being around 60,000 and that of assessees being around 45,000, it means that roughly one out of every five trading establishments is registered with the Department and of those registered three out of four are paying sales tax.

An analysis of the number of assessees according to the size of annual turnover would show that out of the 44,653 dealers assessed to tax in 1973-74, those with annual turnover of Rs. 1,00,000 or more numbered 7,766 (i. e. less than 18%). Those with turnover of Rs. 5,00,000 or more numbered only 2,507 (i. e. 5.5%). At the other end, the number with turnover between Rs. 20,000 and Rs. 25,000 amounted to 11,535 (i. e. about 25%). Details are given in Annexure V. So far as collections are concerned, from available evidence it would appear that assessees with turnover of Rs, 1,00,000 and more account for over 75% of the total revenue from sales tax.

From the foregoing review, it should be evident that while in number the small dealers registered and assessed to sales tax dominate the scene the over whelming bulk of the revenue accrues to the State from establishments with turnover of Rs. 1 lakh and above. It is in this background that the question of relief to small traders is dealt with in the following paragraphs. The matters considered in this Report come under the following broad heads:

1. Limits for registration and assessment—
   (a) for dealers other than hoteliers
   (b) for hotels.
2. Surcharge on sales tax.
3. System of compounded tax payment.
4. Simplification of assessment procedure.

Registration and Assessment Limits

Broadly speaking, if those dealers who are obliged to register and/or be assessed irrespective of their turnover are excluded, the position with regard to all other dealers is that those dealing in goods subject to multi-point levy have to register if their turnover is not less than, Rs. 12,500 in a year but become assessable only when their turnover is not less than Rs. 20,000 whereas those dealing in goods subject to single point levy have to register and also become assessable if their turnover is not less than Rs. 2,500 a year. Thus while the registration and assessment limits are the same for those dealing in goods subject to single point levy, the registration limit is lower than the assessment limit for those dealing in goods subject to multi-point levy. As far as a hotelier is concerned, he has to register if his turnover is Rs. 12,500 or more but he becomes assessable only when his turnover is Rs. 35,000 or more.

Questions which arise for consideration in this context are: (1) whether the registration limit and assessment limit should remain at different levels, and (2) what should be the appropriate levels for both.

To start with the first question, the main purpose of having a limit for registration lower than for assessment would seem to be to enable the Department to have on its rolls a record of prospective assessees, while the Government also gets a small revenue by way of registration fees (in 1973-74 receipts on this account amounted to approximately Rs. 1.50 lakh). It should be added that this practice of fixing the registrable limit at a level lower than the assessable limit for those dealing in goods subject to multi-point levy, including hotels is confined to the States of Tamil Nadu and Karnataka. Among the States in the North such a distinction does not generally exist.

As has been noted already, the increase in the number of registrations from year to year has not kept pace with the increase in the number of assessees. This fact could be interpreted to mean that the Department has concentrated more on ensuring that those newly assessable to tax are brought within the tax net than on keeping up-to-date the list of prospective assessees. Of course, whether or not even the effort of the Department to bring within its tax net all those newly assessable to tax has been adequate in itself judged by the increase in domestic output and prices is a question to which the Committee proposes to devote itself at some length in its final report.

However, given the levels of departmental effort in the matter of securing registrations on the one hand and raising the number of assessees on the other, it has to be noted that a somewhat different interpretation could be put on the same facts. It could be argued that the Department was in a better position to bring the newly assessable dealers within the tax net precisely because the prospective assessees could easily be located, being already on the Departments' rolls, whereas to locate new registrants is a much more difficult job. Unfortunately, on the basis of the available data it has not been possible to verify conclusively the relationship suggested above between registrations and assessments. As stated earlier, assessment and registration limits are not identical only in the case of those dealing in multi-point goods and for hotels. The question that could be raised on the present context is whether the increase in the number of assessees in recent years pertained to assessees subject to multi-point levies and hotels or to assessees of other categories. At the same time, it cannot be overlooked that, revenue-wise, it is the latter group of assessees which has become more and more important. They now account for almost 70 per cent of the revenue raised under State's own Sales Tax Act. Unless this question can be answered satisfactorily, it is difficult to establish the second interpretation mentioned above. It has also to be remembered that registration as such confers some significant benefits on dealers particularly those subject to single point levy. The most important among them is the benefit of exemption on the basis of a certificate which registration entitles a dealer to give to the effect that his sale or purchase is not at the taxable stage. Since Kerala State is also tending to rely more and more on single point levy, this aspect has to be borne in mind.

All in all, it would appear that in the circumstances now prevailing, the case for having a lower limit for registration than for assessment is not very persuasive.

Assuming that the registration and assessment limits are hereafter the same, the question still remains about the level at which the limits should be set. To recapitulate the existing position, the present assessment limit is Rs. 35,000 for hotels, Rs. 20,000 for dealers in multi-point goods, Rs. 2,500 for dealers in single point goods. Then there are some categories of dealers who are assessable regardless of the level of turnover.

The question now to consider is whether there is any scope for raising any or all of the existing assessment limit with a view to affording some relief to the small trader. The Committee quite appreciates the need for affording relief to genuine small dealers with a view both to improving their competitive position *vis-a-vis* the more resourceful dealers and also for concentrating the administration's attention on cases yielding substantial revenue.

To take the assessment limit for dealers in single point goods, since the tax is levied at one point only, the argument is usually advanced that the exemption limit in their case should be either nil or very small because otherwise if the tax is evaded at one point, it will escape the tax net altogether. On the other hand, in multi-point taxation fixing a somewhat higher limit only reduces the number of stages at which the tax is levied. The Committee believes that there is much substance in the above argument.

As for the actual limits, the Committee is constrained to say that its recommendation is influenced by the fact that despite a sharp rise in prices since 1970-71 the number of assessments has remained virtually the same. (During this period cancellations of registration have more or less equalled the fresh registrations). Going by the rate of price rise the argument could be made for a substantial upward revision of the assessment limit but evidently many of those who ought to have been assessed at the lower end of the scale, have managed to remain outside the tax net. In the circumstances, the Committee is in a position to recommend only a marginal increase in the assessment limit for only the multi-point levy from the present Rs. 20,000 to Rs. 25,000. It has to be kept in mind that the multi-point levy is still contributing substantially to the State's revenue, accounting for about one-third of the State's collections from its own sales tax.

The number of assessees with turnover in the range of Rs. 20,000-25,000 is at present around 11,000. With the merging of the limit of registration and assessment and the upward revision of the assessment limit to Rs. 25,000, the number of dealers who will be relieved of the obligation to register and/or to file returns would thus seem to be not less than 25,000. There is on the other hand no reason to think that with the upward revision of the assessment limit there would be any decline in the number of assessees. This is because, firstly, as a result of the price rise in recent years many of the assessees, who in 1970-71 were in the turnover range of Rs. 20,000-25,000, should really have moved into the upper ranges. Besides, with the improvement in the information system and tightening of administration, the number of new assessees in all turnover ranges, including the turnover ranges of 25,000-30,000, should register a substantial increase.

Exemption limit for Hotels

Hotels with turnover of Rs. 35,000 or more per annum are, at present, liable to pay sales tax. Total revenue from the taxation of hotels amounted to Rs. 20 lakhs in 1973-74. While hotels are liable to sales taxation on the cooked food they dispose, they are exempt from payment of tax on purchase of goods used in the preparation of food sold by them, where such purchases are made from unregistered dealers or which are taxable at the last purchase point. A system of compounding obtains for hotels with turnover of between Rs. 35,000 and Rs. 1,00,000. For those with turnover between Rs. 1,00,000 and Rs. 2,00,000 the rate of tax is 4% and for those with turnover exceeding Rs. 2,00,000 the rate is 5%. The total number of hotels assessed to tax is a little over 1,100 although the 1971 Census recorded as many as 93,303 hotels and restaurants in the State. At the same time, some of the big hotels avoid paying sales tax altogether through a system of composite billing. The Committee feels that the taxation of hotels on cooked food they sell should be replaced by taxation on the basis of accommodation they offer with the rates rising with the scale of tariff charged for the accommodation, this will provide relief not only to the smaller categories of the tax paying hotels but also to the vast number of persons buying cooked food from hotels. Since no cooked food will be liable to tax, exemption enjoyed at present by hotels on their purchases which otherwise attract liability to tax should be withdrawn.

Surcharge on Sales Tax

Related to the assessment limit is the limit for the surcharge on sales tax. At present, a surcharge is levied on all dealers having turnover of Rs. 30,000 or more. The total revenue accruing to the State on account of the surcharge was Rs. 2.12 crores in 1973-74. Of this, about 20-25%, i.e. less than Rs. 50 lakhs should have been contributed by dealers with turnover of less than Rs. 1,00,000. It may also be pointed out in this context that the surcharge, being an impost which formally atleast, cannot ordinarily be shifted to the consumers, really cuts into the trade margin of the small dealers. So exemption from its payment should mean some relief to the small dealers particularly when the bigger dealers are not so exempt. The Committee, therefore, recommends abolition of surcharge in the case of dealers whose turnover is below Rs. 1 lakh.

However, for dealers with turnover of Rs. 1 lakh or more, the Committee would favour introduction of a degree of progression with respect to the rate of surcharge. Accordingly, the Committee recommends that while for dealers with turnover of Rs. 1,00,000 to Rs. 10,00,000 the rate of surcharge may be retained at 5 per cent, the rate may be raised to 10 per cent, for dealers with turnover of Rs. 10 lakhs and more. If this recommendation is accepted it should, in 1975-76 result in an additional annual revenue of atleast Rs. 1.5 crores, which would more than makeup, for whatever loss in revenue, which the other recommendations made in this interim report, including the recommendation for the abolition of surcharge on dealers with turnover of less than Rs. 1,00,000 might entail.

Compounded rates of Tax

The object of compounded rates is to give relief to small dealers, including hoteliers. This relief is not available to casual traders, agents of non-resident dealers and dealers in goods placed under the single point scheme of taxation. Under the scheme of compounded rates dealers having a turnover in the range of Rs. 20,000 to Rs. 25,000 need pay the tax only at a rate of 1.5 per cent. In the case of hoteliers with turnover of not more than Rs. 1,00,000, as can be seen from the following table, tax has to be paid in compounded amounts depending upon the slab of turnover:

Turnover Slab *Rs.*	*Compounded Tax*
Upto 35,000	Nil
35,000—40,000	540
40,000—50,000	720
50,000—75,000	1,500
75,000—1,00,000	2,250

The Committee has earlier recommended the raising of the assessment limit for multi-point levy from the present figure of Rs. 20,000 to Rs. 25,000. Thus the dealers now availing themselves of the facility of compounded rates i. e., those with turnover ranging between Rs. 20,000 and

Rs. 25,000 and applying for this concession within the prescribed time would now have to pay no tax at all. It may be noted that the scheme of compounded tax payment is not obligatory. This is optional. If an eligible dealer wants to avail himself of this facility, he has to submit an application in a prescribed form (Form 21) and obtain from the assessing authority the permission to pay tax in advance at the compounded rates. It is seen that in 1973-74 out of a total number of 8,648 with turnover between Rs. 20,000 and Rs. 25,000 only 3928 actually availed themselves of it. Of course, the former figure includes dealers in goods subject to single point levy. Still, it is the Committee's understanding that a good proportion of the eligible dealers do not avail themselves of the compounded system of tax payment.

The Committee feels that in view of (a) that not all eligible dealers avail themselves of the facility of compounding and (b) that those now enjoying the concession will be out of the tax net once the exemption limit is raised to Rs. 25,000, for dealers in multi-point goods, the system of compounded tax rates should be discontinued in their case. It may also be recalled that the Committee has already recommended the abolition of the 5 per cent tax surcharge for dealers with turnover ranging between Rs. 25,000 and Rs. 1,00,000.

As for hotels, the Committee has recommended earlier that the taxation on the sale of cooked food should be abandoned altogether. Therefore, the question of continuing the system of compounding in this case of hotels does not arise.

Simplification of Assessment procedure

Under the system obtaining at present every dealer liable to pay tax is required to file a return of his turnover in respect of a given year before the 1st May following the expiry of that year. An assessment is made thereafter by the STO who is expected to scrutinise the return and examine the accounts. This procedure has to be followed in very case for each year. To facilitate prompt collection there is also a system of provisional assessment. Every dealer liable to pay sales tax has to file a return showing his estimated total turnover and taxable turnover within thirty days of commencing business and thereafter a similar return for the subsequent years before 1st of May. An assessment is made provisionally on this basis and the tax determined thereby has to be paid in monthly instalments. There is also an option for the assessee to file a monthly return on or before the 20th of every month showing the turnover of the previous month. Tax is required to be paid along with monthly returns. The assessing authorities are however empowered to reject the monthly return and make a provisional assessment if they think fit and require the assessee to pay the tax accordingly. The law allows a right of appeal to the assessee against provisional assessments. This system of a regular assessment with its attendant formalities every year in all cases and a provisional assessment in many cases seems to us to be a source of needless harassment to assessees belonging to the smaller categories. It also throws a lot of infructuous work on the Department. The Committee therefore proposes a two-fold measure to simplify the assessment procedure which will lighten the burden of compliance and also administration without any undue risk to revenue.

First, the practice of requiring every assessee to produce accounts before the STO and subjecting him to the process of a detailed examination every year should be discontinued. There should be a system whereby assessment in the case of dealers with turnover of not more than Rs. 1 lakh should be made on the basis of their return with only adjustments for any obvious error. These assessees should not ordinarily be required to produce their account books before the assessing officer. Cases falling in this category should be taken up for detailed scrutiny in a phased manner so as to ensure that every case undergoes full scrutiny atleast once in every three years. It may be noted in this connection that a system of easy assessment is already in operation in the States of Maharashtra and Gujarat (See Annexures VI and VII). A move in this direction is essential if more attention is to be paid to the relatively bigger cases.

The second measue the Committee suggests for streamlining the assessment procedure is the abolition of the system of provisional assessment. All assessees should be required to file a return every month (before the 20th, as at present) showing their total turnover and taxable turnover for the previous month and pay the tax accordingly. It should however be laid down that any variation in the turnover figure in respect of a year as determined on final assessment from the figure indicated in the monthly returns should be liable to penalty if the difference exceeds 15% of the returned figure. The penalty in such cases should be double the amount of the short fall in the tax caused by the lower estimate in the monthly returns. Besides, assessing authorities s hould have the power to make a provisional assessment if they think fit.

There is no reason to apprehend any adverse effect on revenue from the abolition of provisional assessment. As may be seen from Annexure VIII even at present the bulk of the revenue comes from assessees who pay the tax against monthly returns. In 1974-75, the demand raised on provisional assessment was to the tune of Rs. 13 crores as against Rs. 49 crores paid by assessees who pay the tax against monthly returns. It will be noticed that the demand raised on final assessment in the case subjected to a provisional assessment was not in considerable; in fact in some years it was almost as high as the provisional demand. Therefore, it is reasonable to hope that the collections will show an improvement with the abolition of provisional assessment.

SUMMARY OF RECOMMENDATIONS

1. The registration limit should be raised from Rs. 12,500 to Rs. 25,000 in the case of dealers in multipoint goods.
2. The assessment limit may also be raised to Rs. 25,000 from the present limit of Rs. 20,000 in the case of dealers in multipoint goods.
3. The taxation of cooked foods by hotels should be abandoned altogether and instead a somewhat progressive tax levied on accommodation offered by hotels. Since no cooked food will be liable to tax, the exemption enjoyed at present by hotels on their purchases which otherwise attract liability to tax should be withdrawn.
4. Dealers with turnover of less than Rs. 1,00,000 should be exempted from surcharge and a degree of progression should be introduced in the rate of surcharge. While dealers in the turnover range of Rs. 1,00,000 and Rs. 10,00,000 should continue to pay surcharge at the rate of 5% those with turn over of Rs. 10,00,000 and more should be liable to surcharge at the rate of 10%.
5. The system of compounded tax payments should be abolished.
6. For dealers with turnover of less than Rs. 1 lakh, a simple assessment procedure may be followed by accepting their returns and subjecting their books of accounts to full scrutiny atleast once in every three years. At the same time, the system of provisional assessment should be abolished and all dealers should be required to submit monthly returns. If the actual assessment is found to be higher than the monthly self-assessed returns by 15 per cent of the returned amount, a penalty in the form of double the amount of tax due should be provided for.

ANNEXURE I

Trends in Sales tax Collections in Kerala from 1957-58 to 1974-75

(*Rs. in crores*)

Year	*Sales tax collections*	*Total States' own tax collections*	*Percentage of col. 2 to col. 3*
(1)	(2)	(3)	(4)
1957-58	4.92	13.29	37.02
1961-62	10.58	23.03	45.94
1965-66	18.49	38.56	47.95
1970-71	37.59	67.98	55.30
1971-72	42.43	74.40	57.03
1972-73	46.04	82.90	55.54
1973-74	53.80	95.46	56.36
1974-75	76.00	123.57	60.95

ANNEXURE II

Relative Importance of Single point and Multi point Taxes

(*Rs. in lakhs*)

Year	*Tax collected*		*Ratio of single point to multi point*
	Single point	*Multi point*	
(1)	(2)	(3)	(4)
1966-67	9,27,11,898	3,95,99,382	70:30
1967-68	11,08,12,639	5,74,91,807	66:34
1968-69	10,27,54,186	4,93,15,936	68:32
1969-70	15,76,98,541	6,48,44,542	71:29
1970-71	19,93,67,550	9,20,78,149	68:32
1971-72	25,18,64,903	9,22,34,483	73:27
1972-73	20,73,47,756	10,82,30,662	66:34

ANNEXURE III

Growth of Registrations and Assessments under K.G.S.T. Act during the years 1956-57 to 1973-74

Year	*No. of registered dealers*	*Annual increase (%)*	*No. of assessments*	*Annual increases (%)*
(1)	(2)	(3)	(4)	(5)
1956-57	26,054	..	11,876	..
1957-58	35,552	36.5	17,110	44.1
1958-59	36,272	2.0	17,512	2.4
1959-60	39,103	7.8	19,610	12.0
1960-61	42,737	9.3	22,544	15.0
1961-62	45,448	6.3	23,767	5.4
1962-63	46,769	2.9	24,736	4.1
1963-64	52,957	13.2	28,811	16.5
1964-65	57,260	8.1	35,007	21.5
1965-66	57,343	0.1	37,179	6.2
1966-67	57,030	—0.5	39,513	6.3
1967-68	57,705	1.2	42,617	7.9
1968-69	58,426	1.3	43,518	2.1
1969-70	57,948	—0.8	43,841	0.7
1970-71	57,483	—0.8	44,826	2.3
1971-72	57,929	0.8	45,784	2.1
1972-73	58,383	0.8	43,498	—5.0
1973-74	59,413	1.8	44,653	2.7

ANNEXURE IV

Distribution of Trading Establishments by Major Groups According to 1971—Census

	No. of establishments	*Persons employed*
(1)	(2)	(3)
1. Wholesale trade in food, textiles, live animals, beverages, intoxicants	2,952	10,609
2. Wholesale trade in fuel, light, chemicals, perfumery ceramics, glass	285	1,197
3. Wholesale trade in wood, paper, other fabrics, hides & skins and edible oils	449	1,803
4. Wholesale trade in all types of machinery equipments including transport and electrical equipments	28	96
5. Wholesale trade in food and miscellaneous manufacturing	1,495	4,815
6. Retail trade in food and food articles, beverages, tobacco and intoxicants	141,685	184,993
7. Retail trade in textiles	13,072	22,624
8. Retail trade in fuel and other household utilities and durables	8,346	13,082
9. Retail trade in others	43,020	60,388
10. Restaurants and Hotels	93,303	153,627
11. Banking and similar type of financial institutions	5,426	25,991
12. Providents and insurance	133	1,907
13. Real estate and business service	3,975	12,967
14. Legal Service	2,340	5,766
Total	316,509	499,865

ANNEXURE V

Classification of Assessees According to Grades of Turnover under General Sales Tax during 1973-74

Grade of turnover	*No. of assessees paying tax at compound rates*	*No. of assessees paying tax on provisional assessment basis*	*No. of assessees paying tax on actual monthly turnover*	*Total*
(1)	(2)	(3)	(4)	(5)
Below Rs. 20,000	..	2568	319	2887
Between Rs. 20,000 and 25,000	3928	3956	764	8648
„ Rs. 25,000 „ 30,000	..	3673	727	4400
„ Rs. 30,000 „ 35,000	..	2793	879	3672
„ Rs. 35,000 „ 40,000	295	1645	666	2606
„ Rs. 40,000 „ 50,000	208	2254	898	3360
„ Rs. 50,000 „ 60,000	97	1835	877	2809
„ Rs. 60,000 „ 70,000	129	1495	887	2511
„ Rs. 70,000 „ 80,000	46	1345	743	2134
„ Rs. 80,000 „ 90,000	43	1207	731	1981
„ Rs. 90,000 „ 1 lakh	32	1191	656	1879
„ Rs. 1 lakh „ 2 lakhs	..	1429	1155	2584
„ Rs. 2 lakhs „ 3 „	..	573	716	1289
„ Rs. 3 „ „ 4 „	..	288	460	748
„ Rs. 4 „ „ 5 „	..	155	483	638
„ Rs. 5 „ „ 6 „	..	128	337	465
„ Rs. 6 „ „ 7 „	..	74	253	327
„ Rs. 7 „ „ 8 „	..	39	238	277
„ Rs. 8 „ „ 9 „	..	39	184	223
„ Rs. 9 „ „ 10 „	..	42	205	247
„ Rs. 10 „ „ above	..	142	826	968
Total	4778	26871	13004	44653

ANNEXURE VI

Simple Assessment Scheme in Maharashtra*

Though Section 33(2) of the Bombay Sales Tax Act, 1959 provides that if the Commissioner is satisfied that the returns furnished by a registered dealer in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns, no use has been made of this provision for completing the assessment of any dealer under this provision, but the dealers are being invariably called to the Sales Tax Officers with the books of accounts and the assessment is completed after the verification of the books of accounts. It is observed that there is a large number of dealers mostly resellers who purchase the goods in this State on payment of tax from other registered dealers and in whose case the amount of tax payable is quite small. The tax payable is mostly on sales of goods purchased from unregistered dealers and the retail sales tax payable on sales of goods covered by Schedule 'E' to the Bombay Sales Tax Act, 1959.

2. It has been represented that this procedure of calling every dealer for assessment with account books every year irrespective of the nature of his business and the amount of tax payable by him causes avoidable inconvenience to the dealers who are mostly resellers as stated earlier. Such dealers have to attend the Sales Tax Offices with the books of accounts which involve engagement of Sales Tax Consultant, transport from the dealer's place to the office and back and detention of the dealer in the Sales Tax Office. The Sales Tax Officers who take up assessment of such dealers have also to spend some time in verification of account books which is really

*This is an extract taken from a circular issued by the Maharashtra Sales Tax Department.

not warranted by the circumstances of the case since the extra tax which may at all be found due is quite small and not commensurate with the time taken by the Sales Tax Officer and the expenditure and inconvenience caused to the dealer. It is felt that the Sales Tax Officers instead of spending their time in assessment of such dealers not involving any substantial revenue could straightway accept the returns and finalise the assessment under Section 33 (2) and utilise the time so saved in making detailed verification of the dealers with a large turnover and in whose case the amount of tax involved is quite substantial. It is this class of dealers with a large turnover and substantial liability to pay tax such as manufactures, importers and document holders who require special attention in the matter of assessment by the Sales Tax Officer so that the sales tax revenue due to the State is realised instead of paying undue attention to the assessment of resellers. Further there is heavy pendency of arrears in assessment and effective steps are considered necessary to reduce the pendency of assessment without detriment to the revenue.

3. Taking all the above facts into consideration, it has been decided to make use of the provision of Section 33 (2) of the Bombay Sales Tax Act, 1959 for completing the pending assessment of resellers upto the financial year 1974-75 and the corresponding other accounting years. To achieve this object, the Sales Tax Officers are hereby instructed to pass the assessment order by accepting the returns under Section 33 (2) in the cases of following class of resellers without calling the dealer with account books to the Sales Tax Offices subject to the conditions mentioned below being fulfilled by such resellers;

I. Class of dealers:	All resellers other than dealers in liquor who are registered under the Bombay Sales Tax Act, 1959 and who are not manufactures or importers and who are not registered under the Central Sales Tax Act, 1956.
II. Conditions to be fulfilled by the dealer for being eligible for assessment under Section 33 (2)	1. The dealer was not holder of licence/authorisation or permit during the period of assessment. 2. The dealer's case is not under investigation in Enforcement Branch at the time of assessment. 3. The dealer should have furnished all returns and paid the tax due according to returns for the year of assessment. The dealers furnishing returns or making payment of tax after 31-7-1975 for any period upto 31-3-1975 will not be covered by this scheme.

4. Limits of turnover: The turnover of sales has not exceeded Rs. 3 lakhs during the years 1972-73, 1973-74 or 1974-75.

5. Procedure to be followed for assessment by accepting returns.

This Scheme of acceptance of returns is to be applied in respect of the assessments still to be completed for the year 1972-73, 1973-74 or 1974-75. Where the assessment of any of the resellers referred to above has not been completed for any period upto 1971-72 his assessment should first be completed upto 1971-72 in the usual manner. Where the assessment for the year 1972-73, 1973-74 and 1974-75 is not yet completed, the assessment made for 1971-72 should be taken as the basis for deciding the eligibility for assessment by acceptance of returns for the year 1972-73, 1973-74 and 1974-75. In such cases if the turnover of sales has not exceeded Rs. 3 lakhs for any of the above 3 years, the returns should be accepted subject to the following conditions being fulfilled in respect of the payment of tax.

(i) The total tax paid for the year of assessment is not less than the tax assessed for the last previous year for which assessment is done under Section 33 (3).

AND

(ii) Where there is increase in turnover during any of the above 3 years the increase in the tax should also be in proportion to the increase in turnover or more. However, if the amount falls short of what the proportionate increase in turnover indicates as the tax expected to be paid, as long as the deficit does not exceed Rs. 50, such cases can also be considered under section 33 (2).

6. If the assessment of such dealer has already been completed upto 1972-73, then the benefit of the above scheme should be given in respect of the assessment for the year 1973-74 and 1974-75 by taking the assessment made for the year 1972-73 as the basis, and if the assessment has already been completed upto 1973-74, then the benefit of this scheme should be given in respect of the assessment for the year 1974-75 by taking the assessment for the year 1973-74 as the basis.

Illustration No. 1: According to the assessment made for the base year 1971-72, the turnover of the registered dealer was Rs. 50,000 and the tax assessed was Rs. 100. The dealer's turnover of sale and tax paid with the returns for the year 1972-73, 1973-74 and 1974-75 are as follows:—

Year	*Turnover*	*Minimum tax in proportion to the increase in the turnover*	*Tax actually paid*
	Rs.	Rs.	Rs.
1972-73	75,000	150.00	160.00
1973-74	1,00,000	200.00	170.00
1974-75	90,000	180.00	135.00

In this case the turnover of the dealer has not exceeded Rs. 3 lakhs in any year. Further, the tax paid for 1972-73 actually exceeds the minimum tax in proportion to the increase in turnover; so his returns for the year 1972-73 should be accepted. For 1973-74, the minimum tax in proportion to the increase in turnover comes to Rs. 200 but the dealer has actually paid Rs. 170. Since the difference is not exceeding Rs. 50 in this case also the returns should be accepted. For the year 1974-75 the minimum tax in proportion to the increase in turnover over the base year 1971-72 is Rs. 180. The tax paid is Rs. 135.00. Since the difference is Rs. 45 which is not exceeding Rs. 50 in this case also the returns should be accepted.

Illustration No. 2: Assessment upto 1972-73 completed. The turnover of sales was Rs. 1,00,000 and the tax assessed was Rs. 150.

The turnover and tax paid for the year 1973-74 and 1974-75 are as follows:—

Year	*Turnover*	*Minimum tax in proportion to increase in turnover*	*Tax actually paid*
	Rs.	Rs.	Rs.
1973-74	2,00,000	300.00	250
1974-75	1,75,000	262.50	300

The turnover has not exceeded Rs. 3 lakhs in any of the 2 years. For 1973-74 the difference in tax does not exceed Rs. 50. The returns should be accepted. For 1974-75 the tax paid exceeds the minimum tax in proportion to the increase in turnover, so the returns should be accepted.

Illustration No. 3: Assessment already completed upto 1973-74. The turnover is Rs. 2,50,000 and the tax assessed is Rs. 500. For 1974-75 the position is as follows:—

Turnover	*Minimum Tax in proportion to increase in turnover*	*Tax actually paid*
Rs.	Rs.	Rs.
3,00,000	600	555

The turnover has not exceeded Rs. 3 lakhs and though the tax paid is less than Rs. 600 the difference is Rs. 45 which is below Rs. 50. The returns should be accepted. Supposing further that the turnover for 1974-75 is less than the T. O. for the base year, but if the tax paid with returns is not less than the tax assessed for the base year, such dealer can be assessed under Section 33 (2).

7. The Sales Tax Officers should start with the assessment under Section 33 (2) of the Act on the above lines with immediate effect and should show in their monthly diaries the number of Ps. of resellers assessed under Section 33 (2) separately. For the purpose of monthly quota of disposal fixed for the Sales Tax Officers, 4 Ps. assessed u/s 33 (2) are to be counted to equal to 1 p., of reseller assessed after verification of books of accounts.

ANNEXURE VII

Simple Assessment Scheme in Gujarat*

In para 8.18 of Chapter 8 of their Report of 1967, the Gujarat Sales Tax Inquiry Committee has, after an extensive discussion, recommended that if simplified method of assessment is adopted, the cases of small dealers can be completed easily and speedily and as a result the assessing authorities can devote more time to the assessment of bigger and complicated cases. Besides, in para 8.17 while mentioning the reasons for the failure of the simplified system which was adopted by the Department for the assessments of the small dealers under the Act of 1959 it is stated that unless and until the structure of the simplified assessment scheme is changed, the purpose for which it is implemented will not be achieved. After detailed consideration of these suggestions of the Committee, it is decided to supersede the instructions issued under Circular No. Gujarat—10/S.A.P.B. 1264 dated 16-12-1966 for simplification of the assessments under the Act of 1959 and to put into practice the following type of simple scheme of assessment in its place.

Simple method of assessment for carrying out the assessment under the Sales Tax Act, 1952

(A) This simple method of assessment applies to the assessments of following types of dealers:—

(1) Dealers filing annual returns under Rule 22 of the Sales Tax Rules, 1959.

(2) Dealers whose turnover of sales or purchases does not exceed Rs. 1 lakh and who do not held Authorisation or Licence.

(B) The period of assessment to which this simplified method of assessment is to be applied.

This simplified method of assessment will apply to all remaining assessments of the above types of dealers (excepting those cases in which stay orders are issued).

(C) Simple method of assessment will not apply in the following circumstances.

(1) Simple method of assessment will not apply to the procedure of assessments under the C.S.T. Act.

(2) Simple method of assessment does not apply to the assessment of the unregistered period in the cases of unregistered dealers who are liable to pay the tax.

(3) The benefit of simple method of assessment is not to be given to the dealers who have not filed all the returns and paid the tax due for the period to which the simple method of assessment applies.

(4) This method does not apply to the cases of dealers whose books of account are seized because of evasion of tax.

(5) For the time being, the simple method of assessment is not to be applied to the cases of importers. If it is found necessary, separate instructions will be issued in future.

The Sales Tax Officers should prepare a separate list serially according to the serial R.C. No. of the dealers showing the Names and R.C. Nos. of the dealers who are eligible for assessment according to the above method of assessment and who fulfil the requisite conditions mentioned above. The scheme is to be implemented in such a way that the assessment of each dealer coming under the simple method of assessments is to be made by examining the books of account once in every three years and for the remaining two years by accepting the returns filed by the dealer without examining his books of account hence, each officer will have to separate the cases of dealers coming under simple method of assessment in three categories and plan in such a manner that the above mentioned purpose is served. For example, a Sales Tax Officer has got say 300 cases of dealers who come under this method. These 300 cases should be separated in three categories and in each category 100 cases should be included. These three categories should be called as A, B and C as under.

A. If there are 100 cases of A category, their assessments should be completed in regular manner for S. Y. 2033 after examining their books of account, while the assessments of these dealers for S.Y. 2024 and 2025 should be made by accepting the returns and passing the A.O.S. under Section 33 (2).

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* This is an extract taken from a circular issued by the Gujarat Sales tax Department.

B. Assessments for S. Y. 2024 of dealers on this category should be made after examining the books of account and for S. Y. 2023 and S.Y. 2025 by accepting the returns under Section 33 (2).

C. Assessments of S. Y. 2025 of the dealers of this category should be made after examining the books of account and of S. Y. 2023 and 2024 should be made by accepting the returns u/s. 33 (2).

Details of simplified method of assessment

The following two types of dealers will be most likely the dealers comprised in the simple method of assessment:—

1. Local dealers purchasing goods from Gujarat State and reselling the same.
2. Manufacturer or processor.

Dealers purchasing goods locally and reselling

In the cases of dealers purchasing goods from Gujarat State and reselling (who are not in the category of manufacturers or importers), the tax paid by the dealer with the returns for the year for which, he is to be assessed according to the simplified method of assessment by accepting the returns should be compared with the tax payable determined after examining the books of account in the last assessment order and on a comparison of the two amounts, if the amount of tax due as per the returns for the year for which he is to be assessed is found to be not less than the tax assessed for previous year and if it is less, the difference between the two amounts does not exceed the percentages mentioned below, then the assessment order should be passed by accepting the returns under Section 33 (2) of the Act.

Amount of tax assessed in previous year	*Limits of Acceptable Difference*
Rs. 200 and below	upto 25%
Between Rs. 200 and Rs. 500	„ 20%
Above Rs. 500	„ 10%

As the returns are to be accepted in the cases covered by the limits of tax mentioned above, special attention should be paid to see that the dealers are not called with the books of account or other information. The Assessment orders passed under Section 33 (2) in such cases should be sent to dealers concerned by local hand delivery and their receipt obtained or should be sent by post by R. P. A. D.

In the case of manufacturers also, for assessing them for the particular year according to the simplified method of assessment by accepting the returns, the amount of tax paid with the returns for that year should be compared with the amount of tax assessed in the last assessment order after examining the books of account and if the amount is not less than the amount assessed for previous year and if it is less, if the difference between the two assessments does not exceed the limits of the percentage mentioned above, then the assessment order should be passed by accepting the returns u/s 33 (2) of the Act.

In the cases of both the above types of dealers viz., resellers as well as manufacturers, if the difference exceeds the limits of percentage stated above, then for each such year, the assessments should be made after examining the books of account and other necessary evidence.

Accordingly while assessing any such dealer after examining the books of account, if the difference in the amount of tax as per returns and as determined after verifying the books of accounts exceeds the limits of percentage mentioned in the foregoing paragraph and consequently if there is also reason to believe that the position is the same in the year for which the assessment is already completed under the simplified system of assessment, then in such circumstances the S. T. O. should in the cases of such dealers take necessary action to ascertain whether there was under-assessment in that year for which the assessment was completed by accepting the returns and if he finds that there was under-assessment, he should, in consultation with the Administrative Assistant Commissioner, take necessary action for re-assessment or revision in such cases.

In connection with the assessments to be made under the Gujarat Sales Tax Act, 1969.

In above simplified system of assessment will, subject to the conditions stipulated therein, also apply to the assessments to be made under the Gujarat Sales Tax Act, 1969 which is in force from 6-5-1970 in the case of the dealers entitled to file annual returns under Rule 25 (3) of the Gujarat Sales Tax Rules, 1970.

ANNEXURE VIII

Tax paid under provisional assessment and against monthly returns and demand raised on final assessment

Year	*Provisional Assessees*		*Monthly Assessees*	
	Tax paid as per provisional assessment Rs.	*Net demand on finalisation of assessments* Rs.	*Tax paid along with returns* Rs.	*Net demand on final assessments* Rs.
1969-70	4,45,67,486	1,95,82,029	21,77,84,888	5,67,93,940
1970-71	6,55,85,493	4,75,75,010	23,15,29,363	4,51,66,542
1971-72	8,34,97,234	1,77,46,323	25,46,45,969	2,19,64,190
1972-73	8,13,85,718	10,26,86,900	29,83,46,898	10,38,83,845
1973-74	10,51,27,758	10,10,00,709	32,89,89,676	12,57,58,276
1974-75	13,00,80,211	4,44,68,234	48,84,99,904	10,44,60,920

ANNEXURE XIII

THIRD INTERIM REPORT

This is the third in the series of interim reports that the Committee is submitting in advance of its final report. This report is being submitted in response to the request of the Minister of Finance for recommendations in regard to: (1) the structure and rates of sales taxation in respect of certain commodities that have been notified as essential by the State Government vide their Order No. 8113/C1/75/Fd. D., dated the 24th July, 1975; and (2) the sales taxation of Coffee.

Essential Commodities:

Annexure I gives the names of commodities notified as essential, the rates of sales tax payable thereon, (including the stage at which the tax becomes payable) and the estimates of revenue which accrued to the State from the taxation of each of these commodities since 1969-70 for selected years.

It will be noted that 4 out of the 25 commodities are exempt from sales tax; cloth and sugar because they are covered by the Scheme of Additional Union Excise Duties and onion and potato, because they have been exempted from payment of tax under Section 10 of the KGST Act. Out of the remaining 21 commodities, the following nine commodities are at present subject to a uniform multipoint rate of 4 per cent;

1. Products of rice and paddy
2. Wheat products
3. Green gram
4. Red gram
5. Dhall
6. Black gram
7. Bengal gram
8. Chillies
9. Corriander

It is to be noted that while foodgrains, i.e., rice and wheat are taxable at the rate of 1% single point, rice and wheat products are taxable at 4% multipoint. It would be noted also that the prevailing single point rates on the notified commodities show significant variations from 1 per cent on foodgrains to 20 per cent on diesel. This may be quite justified in as much as all the commodities notified as essential do not obviously represent the needs of the common man. Some of these commodities are economically very important, as for example, petrol and diesel, tyres and tubes and cement. The objective of bringing such commodities on the notified list appears to have been to ensure control over their distribution and consumption. The dealers are, therefore, required to display their stocks and prices of these commodities. Of the notified commodities essential from the point of view of the common man, the following are subject to single point taxation.

(1)	Coconut oil	5%
(2)	Tapioca	2%
(3)	Kerosene	4%

As far as tapioca is concerned, tax is not payable if a dealer's turnover of the purchase of tapioca within the State is less than Rs. 35,000 and such tapioca is sold for domestic consumption and for use as food material. It is the Committee's understanding that this provision virtually exempts from sales-tax all tapioca used for domestic consumption within the State. In regard to coconut oil and kerosene, the question of revision of rate has to be viewed in the background of the Committee's recommendation in this report on other items of essential consumption now subject to multipoint levy of 4%. As regards notified items, other than coconut oil, tapioca and kerosene, which are subject to various single point rates, the Committee wishes to withhold its comments because it has still to finalise its recommendations on the overall structure of sales-tax rates. They would be dealt with in the Committee's final report.

Effectively, therefore, the scope of the Committee's enquiry for the purpose of the first part of this iterim report is limited to the 9 commodities on the notified list which are at present subject to the multipoint tax rate of 4 per cent.

On the basis of a 4 per cent multipoint tax, the sales-tax revenue realized from these commodities during 1974-75 has been estimated as follows:

	Items	*Estimated Sales Tax revenue during 1974-75*
		(Rs. lakhs)
1.	Products of rice and paddy	1.69
2.	Products of wheat	13.64
3.	Green gram	22.20
4.	Red gram	9.23
5.	Black gram	10.18
6.	Bengal gram	0.82
7.	Dhall	24.66
8.	Chillies	35.68
9.	Corriander	10.21
	Total	128.31

As a proportion of the total sales-tax realisation of Rs. 76 crores during 1974-75, the revenue from the above nine items would work out to about 1.8 per cent.

Many representatives of different trade organizations who met the Committee, and gave their evidence, have pleaded for conversion of the existing multipoint tax on these commodities into single point tax. Their main argument has been that apart from the harassment involved to the small retailers, the multipoint taxation has a cascade effect on the prices of these essential commodities. Since items like grams and dhalls, corriander and chillies are imported into the State, they have argued that it would not be difficult to operate a single point scheme of taxation in respect of such commodities. As far as rice and wheat products are concerned, the State has effective control over the rice and wheat mills to be in a position to effect single point taxation thereon at the point they sell their products.

The Committee's enquiries with other States have revealed that in States where these items are taxed at present, the sytem is essentially based on the single point scheme.

In view of the fact that these are essential items of consumption and also because most of them are imported into this State to meet local requirements, the Committee would recommend a switchover from the present multipoint scheme of taxing these commodities to a single point scheme at the point of first sale in the State.

As regards the appropriate tax rates for the different commodities, it may be pointed out that in several States, e.g., Assam, West Bengal, Gujarat, Maharashtra and Jammu & Kashmir, all varieties of pulses and dhall are statutorily exempt from any sales taxation. On the basis of information collected by the Planning Commission, it is noticed that the maximum single point tax on items of this category does not exceed 4 per cent. In States like Madhya Pradesh and Orissa, the rate of single point tax varies between 2 and 3 per cent. Viewed against this background, a multipoint tax rate of 4 per cent in Kerala would seem to be on the high side. The trade channel in respect of most of these commodities is such that the wholesaler or the importer generally makes the sale to a chain of retailers who make most of the sales to the final consumers. In a few cases the intermediate seller also sells to a second retailer. Assuming that the tax is thus paid at each sale the effective rate of tax may be taken as between 2 and 2.5 times the multipoint rate, which would mean a cumulative tax insidence of between 8 and 10 per cent on the final consumer. Strictly speaking, therefore, if the conversion from the multipoint rate to single point rate is not to give rise to any loss of sales-tax revenue, the tax rate would have to be fixed at a level of between 8 and 10 per cent. Such a high tax rate on these essential items of consumption would not stand the test of equity in tax burden.

If, as stated earlier, one goes by the comparative rates in many other States, the maximum tax rate that the Committee could recommend is 4 per cent single point. Since at the rate of 10 per cent the sales-tax revenue would amount to Rs. 113 lakhs, applying the arithmetical ratio, 4 per cent single point tax would give sales-tax revenue of Rs. 45 lakhs which would imply a revenue loss of about Rs. 70 lakhs.

However, the Committee has reason to believe that substantial evasion of sales-tax is taking place with respect to these commodities. According to rough calculations made at the State Planning Board, on the basis of family budget surveys, the value of consumption of these commodities inside the State is of the order of Rs. 54 crores at current price levels. Even if one assumes only a two-stage transaction between the importer and the consumer the tax revenue should be over Rs. 4 crores. As against this, the actual realisation is estimated at Rs. 1.13 crores in 1974-75 i.e., about 25 per cent of the estimated tax potential. This would imply that even at the point of first sale, full tax is not being collected.

In the circumstances, while the substitution of 4% multipoint by 4% single point will certainly lead to a sizeable decline in revenue if the Department redoubles its efforts to track the entire quantities dealt with in the State, there should be no revenue loss. However, to be on the safe side, a much more cautious approach might be to replace the present 4% multipoint levy with a 6% single point levy on all items other than wheat and rice products.

Regarding rice and wheat products, the Committee recommends a single point tax of 4 per cent at the first point of sale.

As regards kerosene and coconut oil, while the present single point rate of 4% on kerosene would be in line with the Committee's recommendation with respect to the consumption goods essential from the point of view of the common man, the present rate of 5% on coconut oil sold within the State would appear to be somewhat high and may call for slight downward revision.

Coffee:

The main coffee producing States in India are Karnataka, Kerala and Tamilnadu. The State of Andhra Pradesh also produces coffee on a small scale. State-wise figures of coffee production and the sales-tax revenues during the years 1970-73 are given in Annexure II.

It would be noted that coffee production has been showing wide fluctuations. Taking the average production during the three years 1970-73, Karnataka State accounted for as much as 76 per cent of the total production, followed by Kerala (15.4 per cent) and Tamilnadu (8.3 per cent). The two main varieties of Coffee produced are Robusta and Arabica. A major part of Kerala's production (almost 90%) is the Robusta variety.

It would also be noted from Annexure II that sales-tax collection on coffee in the four producing States have not been proportionate to their contribution to the total coffee production in the country. While in the case of Karnataka the sales-tax realisations represented 61 per cent of the total sales-tax realised by the four producing States, Kerala's share of sales-tax was only about 7 per cent as compared with its output share of 15 per cent. As can be seen from Annexure III, Kerala's share went down to 4.4% in 1973-74 but picked up in 1974-75 and got back to around 7%.

Under the Coffee Act of 1942, the coffee growers have to deliver their output to the Coffee Board on the basis of notifications issued by the Coffee Board from time to time. The quantity allowed to be retained by the producers is a very small proportion of their total production. Generally, coffee is collected by curing agents appointed by the Coffee Board. In some areas, the Coffee Board undertake procurement directly through their own depots. But this would account for about 5 per cent of their total procurement. When the coffee is procured by the agents on behalf of the Coffee Board an initial payment is made to the producers. Such payment is generally 75 percent of the floor price which takes into account factors such as cost of production etc. The final price is settled within a period of eighteen months.

Coffee is cured by the agents on behalf of the Coffee Board and stored in warehouses. The disposal of coffee to buyers and consumers is made on directives from the Coffee Board. There are four channels for the disposal of coffee. As far as exports are concerned, disposal of coffee takes place either through open auctions at Bangalore or through contractual agreements directly between the Coffee Board and the foreign buyers. The internal sale of coffee is made mostly through auctions held at Bangalore, Coimbatore and Vijayawada. A part of the coffee is also disposed of directly by the Coffee Board to the buyers without going through the procedure of auction. In 1974-75 of the total quantity of 91000 tonnes pooled by the Coffee Board, as much as 55000 tonnes were exported. Of this, 25 to 30 thousand tonnes represented direct sale by the Coffee Board.

One important feature of coffee auction is that the quantities do not physically move to the auction centre. Only samples are shown. When auctions are completed the successful bidders go to the particular storage depots to take delivery of particular lot. Sales tax is attracted at the stage of delivery of coffee by the Coffee Board or by the agents on behalf of the Coffee Board. Thus, the amount of sales-tax realised by each State would seem to depend on the quantity delivered from the depots in each State. Under this system of disposal it becomes somewhat difficult to identify the coffee exported or sold within a State. Inter-State movements of coffee take place among the producing States depending on the delivery points and the places of final sales. Under this system part of coffee produced in Kerala might be paying sales tax either to Tamil Nadu or Karnataka or Andhra Pradesh. Similarly a part of the coffee produced in Karnataka might be paying sales-tax either to Tamilnadu or Kerala or Andhra Pradesh. However from the relative shares of production and of the sales tax revenue of the producing States, it would appear that a good part of the coffee produced in Kerala, and to some extent in Karnataka is paying sales-tax in Tamilnadu.

The Committee had detailed discussion on this aspect with the officer of the Coffee Board. It was learnt that due to unfavourable climatic conditions, specially during the heavy monsoons on the West Coast belt, coffee cured at the centres situated in this belt, namely, Mangalore, Tellicherry, Calicut and Wynad, has to be transferred to the Board's depots at Mettupalayam and Coimbatore in Tamilnadu. Final delivery of this coffee thus takes place in Tamilnadu which also gets the benefit of sales-tax, This would explain the higher ratio of sales-tax collected by that State.

Under the existing system of first point sales-tax on coffee in all the producing States including Kerala the Coffee Board is paying the sales-tax at the point of deliveries made to buyers who successfully bid in the auctions. The delivery of coffee seeds by the producers to the Coffee Board or its agents is not being treated as a sale. According to the Coffee Board, the transfer of the coffee to it or to its agents by the producers is by a process of law which does not partake the characteristics of a transfer of property by way of sale or purchase.

Under the Coffee Act, when the Board takes possession of the coffee, the producers actually lose their rights on the property in the coffee. They are only entitled to receive payments. Section 25, Clause (6) of the Coffee Act clearly states: "When coffee has been delivered or is treated as having been delivered for inclusion in the surplus pool, the registered owner whose coffee has been so delivered or is treated as having been so delivered shall retain no rights in respect of such coffee except his right to receive payments."

The important points to be noted in this connection are:

(i) The grower's right to his produce is extinguished only by a notification; even then it is not extinguished completey since he is allowed to retain a small percentage of his produce.

(ii) The grower is however entitled to receive payment and also to enforce his right to receive payment.

(iii) The raw seeds delivered by him undergo a manufacturing process under the Boards auspices before disposal. Above all, the limitation on the producer to deliver coffee to one statutory buyers does not take away from the transaction between him and the Coffee Board the characteristics of a sale and purchase. Intrepreted in this manner, the transactions between the producer and the Coffee Board do partake the nature of a sale and purchase.

Under the present single point scheme of taxation of coffee in Kerala, sales-tax is paid at the first point of sale by the Coffee Board at the rate of 6 per cent (plus a surcharge of 5 per cent). Under the KGST Act, the producers of coffee are included in the category of dealers. If the Committee's interpretation of the transaction between the producer and the Coffee Board as a sale and purchase were to hold good, it is the producer who are bound to pay the sales-tax. If the Committee's interpretation of the transaction between the grower and the Coffee Board as a sale and purchase stands valid, Kerala should be able to realise tax on the entire quantity of coffee produced within the State and pooled by the Coffee Board.

The next question to consider is the rate of tax. At present, the tax rate in Kerala for all coffee, irrespective of the type or variety, is 6 per cent single point plus a surcharge of 5 per cent on the tax. In Karnataka, the major producing State, the rate is 10 per cent. The rates prevailing now in the different producing States may be seen from Annexure IV. As explained above, under the present marketing system it is not possible to trace the incidence of tax on coffee separately for the produce of each State as coffee from Kerala moves into Karnataka for sale and also vice-versa and also coffee is exported out of the country in large quantities. In the circumstances, a lower rate of tax in Kerala does not necessarily mean that the coffee consumed in the State bears a lower tax incidence compared with Karnataka where the tax rate is higher. It is likely that a major part of the coffee consumed in Kerala might be paying the higher tax rate of Karnataka. The Committee would, therefore recommend uniformity of tax by raising the present tax rate from 6 per cent to 10 per cent.

There is, however, the question of avoiding double taxation of coffee within the State. The present entry of coffee in Schedule I to the K. G. S. T. Act does not cover this risk as the entry is only of 'coffee' unlike in many other State Acts where a distinction is drawn between pure coffee and blended coffee (i.e. french or instant coffee blended with chicory). The Committee would therefore recommend the following changes in the entry relating to coffee in the First Schedule of the K. G. S. T. Act.

Entry	*Rate*
1. Coffee, either sold as seeds or powder, but excluding blended coffee	10 per cent
2. (a) Blended coffee, made of or with coffee seeds or powder which have suffered tax within the State under the Act	exempted
(b) Blended coffee made out of or with seeds or powder which have not suffered the tax under the Act	10 per cent

Explanation.—Chicory used for blending under 2 (a) will not attract any tax.

Enhancement of the tax to 10 per cent would however mean a higher price on the coffee mentioned at item 2 (b) above but the exemption will offer preferential treatment for coffee blending in the State. Thus the taxation scheme will fetch additional revenue and at the same time work as an incentive to the domestic blending of coffee.

ANNEXURE I

Commodities Notified as Essential

(*Rs. in lakhs.*)

	Rate of G.S.T.	*Stage*	*Revenue from G.S.T. including Surcharge*		
			1969-70	1971-72	1973-74
(1)	(2)	(3)	(4)	(5)	(6)
1. Rice, Paddy and their products*	1	FS	60.48	124.60	104.32
2. Wheat and Wheat products*	1	FS			
3. Greengram	4	MP			
4. Redgram	4	MP			
5. Dhall	4	MP			
6. Blackgram	4	MP			
7. Bengalgram	4	MP			
8. Coconut Oil	5	FS	45.86	214.90	67.76
9. Chillies	4	MP			
10. Tapioca	2	LP			
11. Controlled cloth	Exempted				
12. Kerosene	4	FS	29.86	48.91	N.A.
13. Sugar	Exempted				
14. Vanaspathi	9	FS			

*For Rice products and Wheat products the tax rate is 4% MP.

(1)	(2)	(3)	(4)	(5)	(6)
15. Baby Food.					
(i) Glaxo (ii) Ostermilk (iii) Amul Baby Food (iv) Amul Spray (v) Lactogen (vi) Lactodex (vii) Gurco Baby Food (viii) Camac Baby Food (ix) Levers Baby Food (x) Milkose Baby Food (xi) Nestogen	9	FS			
16. Petrol	15	FS	118.60	178.27	492.97
17. Diesel	20	FS	219.11	335.42	N.A.
18. Dry Cells	7	FS			
19. Cycle Tyres and tubes	6	FS			
20. Automobile Tyres and Tubes	15	FS			
21. Corriander	4	MP			
22. Onion	Exempted				
23. Potato	do.				
24. Soaps	5	FS	39.51	40.30	69.93
(a) *Toilet Soaps*: Hamam, Lux, Jai, Rexona, Chandrika, Saral, Janatha, Ajanta, Kerala Coltar, Life Buoy					
(b) *Washing Soaps*: Sunlight (cake and bar), 501 Bar, Chavi Bar, 777 Bar, Nirala (cake and bar), Washwell (cake and bar), Mysore Bar					
(c) *Washing Soap Powder*: Taj, Magic, Surf, Det, Sway, Dip, Ramia, Clean					
25. Cement	7	FS	15.04	39.50	40.87

FS denotes First Sale.
LP denotes Last Purchase.
MP denotes Multi-point.

ANNEXURE II

Production of Coffee and Sales Tax Realised by Producing States

	Production in M. Tonnes			*Percentage production (average of 3 years)*	*Sales Tax (Rs. lakhs)*			*Percentage of Sales Tax (average for 3 years)*
	1970-71	1971-72	1972-73		1970-71	1971-72	1972-73	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Karnataka	81621	51479	72905	76.09	155	137	164	60.8
Kerala	12570	14110	14920	15.36	27	15	11	7.1
Tamil Nadu	7819	7801	6780	8.27	56	62	70	25.0
Andhra Pradesh	268	86	395	0.28	24	18	11	7.1
Total	102278	73476	95000	100.00	262	232	256	100.0

ANNEXURE III

Share of Sales Tax on Coffee Accruing to the Producing States (1973-75)

States	1973-74 *Sales-tax realisation (Rs. Crores)*	*Percentage*	1974-75 *Sales-tax realisation (Rs. Crores)*	*Percentage*
(1)	(2)	(3)	(4)	(5)
1. Karnataka	2.21	64.4	2.15	57.2
2. Kerala	0.15	4.4	0.28	7.4
3. Tamil Nadu	0.90	26.2	1.07	28.5
4. Andhra Pradesh	0.17	5.0	0.26	6.9
Total	3.43	100.0	3.76	100.0

Source: Coffee Board.

ANNEXURE IV

Sales Tax Rates on Coffee in Producing States

	At the point of first sale in the State	*Rate of Tax*
TAMIL NADU		
(1) Chicory		5½%
(2) Coffee: that is to say any one of the forms of Coffee such as Coffee beans, Coffee Seeds (raw or roasted), Coffee powder but not including Coffee drink	do.	5½%
KARNATAKA		
(1) Chicory	do.	10%
(2) Coffee: that is to say any one of the forms of coffee such as Coffee seeds (raw or roasted) Coffee powder including French Coffee but not including Coffee drink	do.	10%
ANDHRA PRADESH		
(1) Coffee: including Coffee Seeds, roasted seeds and coffee powder excluding blended coffee powder	do.	6%
(2) *Blended Coffee*:		
(a) If the coffee seeds have met with tax under this Act	do.	3%
(b) If the coffee seeds have not met with tax under this Act	do.	6%
KERALA		
(1) Chicory	do.	5%
(2) Coffee	do.	6%

Note:

Surcharges: In Tamil Nadu, there is a surcharge of 5% on the Sales Tax in declared places and an additional surcharge of 10 per cent on S. T. in other places.

In Andhra Pradesh, there is surcharge of ½ per cent on turnover and in Kerala there is a surcharge of 5 per cent on Sales Tax. In Karnataka, there is no surcharge.

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