Report of the
Comptroller and Auditor General of India
on
Revenue Sector

for the year ended March 2012

Government of Odisha

Report No.1 of the year 2013

TABLE OF CONTENTS

ANNEXURES

PREFACE

This Report for the year ended 31 March 2012 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising Orissa Value Added Tax/Central Sales Tax /Entry Tax, Motor Vehicles Tax, Land Revenue, Stamp Duty and Registration Fee, State Excise Duty and Fees, Forest Receipts, Mining Receipts and other Departmental Receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during 2011-12 as well as those noticed in earlier years; but could not be included in the previous years' Reports.

OVERVIEW

I General

This Report contains 60 paragraphs, a Performance Audit (PA) Report and a Thematic Study(TS) Report highlighting non-levy or short-levy of tax, interest, penalty, revenue foregone, etc., involving ₹ 981.10 crore. Some of the major findings are mentioned below:

(Paragraph 1.5.2)

The total revenue receipts of the Government for the year 2011-12 amounted to ₹ 40,267.02 crore against ₹ 33,276.15 crore in the previous year. Of this, 49.38 *per cent* was raised by the State through tax revenue (₹ 13,442.74 crore) and non-tax revenue (₹ 6,442.96 crore). The balance 50.62 *per cent* was received from the Government of India in the form of State's share of divisible Union taxes (₹ 12,229.12 crore) and Grants-in-aid (₹ 8,152.20 crore).

(Paragraph 1.1.1)

As on 30 June 2012, 3,597 Inspection Reports, issued up to 31 December 2011 containing 10,270 audit observations involving ₹ 7,454.18 crore, were outstanding for want of comments/final action by the concerned Departments.

(Paragraph 1.2.1)

Test check of the records of assessment/collection of Value Added Tax including Sales Tax, Entry Tax, Profession Tax etc., Motor Vehicles Tax, Land Revenue, Stamp Duty and Registration Fees, State Excise Duty, Forest Receipts, Mining Receipts and Other Departmental Receipts, conducting a PA on Working of Excise Department and a TS on High Value Certificate- Pending Cases during the year 2011-12 revealed under assessment/short-levy/loss of revenue, etc., amounting to ₹ 5,005.13 crore in 2,16,945 cases. During the year 2011-12, the concerned Departments accepted under assessment and other deficiencies of ₹ 1,409.90 crore involved in 37,885 cases, which were pointed out in that year and earlier years. In 1,770 cases, the Departments also recovered ₹ 12.73 crore.

(Paragraph 1.5.1)

II Value Added Tax, Central Sales Tax, Entry Tax and Profession Tax

A Thematic Study on "**High Value Certificate- Pending Cases"** revealed the following:

- In 47 cases, Tax Recovery (TR) proceedings were initiated in six Circles against 44 dealers during 1999-2011 for recovery of ₹ 12.17 crore; but the notices in form 2 could not be served due to closure of business.

(Paragraph 2.2.7.1)

- In 29 cases, for realisation of tax of ₹ 1.16 crore from 27 dealers under the repealed Orissa Sales Tax (OST) Act relating to 1983-2005, the Tax Recovery Officers (TROs) of three Circles did not initiate TR proceedings in form 2 although they received requisition in form I from the Assessing Authorities (AAs).

(Paragraph 2.2.7.2)

- In 185 cases relating to 176 dealers, TR proceedings were initiated by the TROs of eight Circles between 1988-2012 for realisation of ST/OVAT dues of ₹ 25.35 crore; but no further action was taken.

(Paragraph 2.2.7.3)

- In four Circles demand notices were issued against 38 dealers for realisation of tax due of ₹ 3.04 crore from the year 1981-99 in 43 cases; but the TROs initiated TR proceedings for ₹ 0.24 crore only when the cases were barred by limitation of the time and no TR proceedings were initiated for ₹ 2.80 crore although the recovery was barred by limitation of time as on the date of audit.

(Paragraph 2.2.7.4)

- In 12 Circles tax due of ₹ 120.53 crore for the period 1982-2010 were outstanding against 733 dealers in 939 cases; but certificate requisitions were not issued by the Assessing Authorities (AAs) to the TROs for recovery of arrears.

(Paragraphs 2.2.8.1 to 2.2.8.3)

Tax and penalty of ₹ 5.22 crore was not levied in audit assessments due to underassessment of taxable turnover of three dealers.

(Paragraph 2.4.1)

Tax, penalty and interest of ₹ 4.96 crore was not levied in audit assessments on Duty Entitlement Pass Book of three dealers.

(Paragraph 2.4.2)

Inadmissible Input Tax Credit (ITC) of ₹ 3.43 crore was allowed in the self assessment of a Large Tax Payer Unit and ₹ 2.37 crore was allowed in audit assessment of three dealers including penalty.

(Paragraph 2.4.3 and 2.4.4)

Penalty of ₹ 19.87 crore for non-submission of the certified report on the audited accounts of 5,883 dealers (whose gross turnover exceeded ₹ 40 lakh during the preceding financial year) within the prescribed period was not levied.

(Paragraph 2.4.6)

Penalty of ₹ 2.90 crore, being twice the tax assessed, was not levied in audit assessments in respect of five dealers.

(Paragraph 2.4.8)

Interest of ₹ 0.88 crore towards delayed payment of tax was not levied against 1,211 dealers besides penalty of ₹ 1.81 crore.

(Paragraph 2.4.9)

Penalty of ₹ 14.18 crore was not imposed in audit assessments for misutilisation of declaration in form C of a dealer.

(Paragraph 2.5.1)

Tax and penalty of ₹ 2.01 crore was short-levied in three Ranges and three Circles against eight dealers due to allowance of concessional rate of tax against defective/invalid declarations in form 'C'.

(Paragraph 2.5.2)

Tax and penalty of ₹ 13.02 crore was short-levied in audit assessments due to allowance of inadmissible exemption/concession of tax in respect of 16 dealers of five Ranges and six Circles.

(Paragraph 2.5.3, 2.5.4, 2.5.5, 2.5.6 and 2.5.8)

Penalty of ₹ 3.90 crore being twice the tax assessed was not levied in audit assessments in respect of six dealers of two ranges and one circle.

(Paragraph 2.5.7)

Tax and penalty of ₹ 0.30 crore was short-levied due to excess allowance of set off.

(Paragraph 2.6.3)

III Motor Vehicles Tax

Motor Vehicles tax and additional tax of ₹ 81.07 crore including penalty was either not realised or short-realised in respect of 37,313 vehicles under different categories.

(Paragraph 3.3.1.1 and 3.3.1.2)

Motor Vehicles tax of ₹ 0.56 crore including penalty was non/ short-realised from 252 Private Service vehicles.

(Paragraph 3.3.2)

Compounding fee of ₹ 0.57 crore was not realised from 1,125 goods vehicles carrying extra load.

(Paragraph 3.3.3)

Penalty of ₹ 0.28 crore was non/short realised in 94 cases for belated payment of tax and additional tax.

(Paragraph 3.3.4)

Process Fee of ₹ 1.29 crore in respect of 1.29 lakh cases was not realised from the vehicle owners.

(Paragraph 3.4.1)

IV Land Revenue, Stamp Duty and Registration Fee

In four cases, 31.743 acres of Government land was in advance possession without revenue receipts of ₹ 59.97 crore by the Department.

(Paragraph 4.3.1.1)

Revenue of ₹ 9.78 crore could not be realised due to non-finalisation of lease cases of 12.14 acres of Government land in four cases.

(Paragraph 4.3.1.2)

In one case ₹ 0.46 crore towards royalty, fine and cost of mineral was short-levied for unauthorised removal of minor minerals.

(Paragraph 4.3. 2)

Government sustained loss of Stamp Duty and Registration Fees of ₹ 0.93 crore due to belated revision of Bench Mark Valuation by two District Sub Registrars and two Sub Registrars.

(Paragraph 4.4.1.1)

V State Excise Duty and Fees

A Performance Audit on "**Working of Excise Department"** revealed the following:

- Molasses is being manufactured, stored and sold by the sugar factories without the necessary licence.

{Paragraph 5.2.7.1(i)}

- Allowance of excess wastage than the norm prescribed under the Excise Technical Manual in manufacture of Beer led to loss of revenue of ₹ 2.80 crore.

{Paragraph 5.2.7.3(i)}

- Delay in supply of Country Spirit (CS) in bottles led to revenue loss of ₹ 4.80 crore.

(Paragraph 5.2.8.2)

- Revenue of ₹246.16 crore could not be earned due to non provision for levy of transport fee on IMFL, Beer and CS in the AEPs.

(Paragraph 5.2.8.5 (ii))

- Renewal of excise shops without enhancement of Consideration Money (C.Money) led to revenue loss of ₹ 85.08 crore, incorrect fixation of C.Money led to revenue loss of ₹ 80.76 crore

(Paragraphs 5.2.9.1 & 5.2.9.3)

- Prescription for levy of State Excise Duty at lower rate on Canned Beer led to revenue loss of ₹ 13.88 crore.

(Paragraph 5.2.9.7)

- Seized hemp plants with large revenue potential were not disposed off through auction.

(Paragraph 5.2.9.12)

- Monitoring and control measures in recording complaints, periodical inspection of Excise shops, sugar factories and manufacturing units, enforcement activities was weak. Low rates of conviction in the excise offence cases were also noticed.

(Paragraph 5.2.10)

- Internal Control Mechanism is poor and Internal Audit is in arrears in respect of 232 units as on 31 march 2011 Manpower deployment for regulatory and enforcement activities including internal audit was inadequate.

(Paragraphs 5.2.10 and 5.2.10.6)

Bottling fees of ₹ 5.59 crore was not realised from a Brewery.

(Paragraph 5.4.1)

State Excise Duty of ₹ 68.88 lakh including fine was not realised from 20 licensees for non-lifting of the Minimum Guaranteed Quantity (MGQ) of liquor.

(Paragraph 5.4.2)

Transport fee of ₹ 34.20 lakh was not levied and realised from 189 outstill shops for short-fall in lifting and utilisation of Mohua flower.

(Paragraph 5.4.3)

VI Forest Receipts

Government revenue of ₹ 2.08 crore was blocked due to non-disposal of sandal wood seized in forest offence cases.

(Paragraph 6.3.1)

Interest of ₹ 2.60 crore for delayed payment of royalty was not levied against the Orissa Forest Development Corporation Limited (OFDC).

(Paragraph 6.3.3)

VII Mining Receipts

Extraction of 290.99 LMT of coal in excess of approved limit without prior Environment Clearance (EC) led to raising of demand of ₹1295.85 crore towards cost price thereof. Unlawful Extraction of Iron and Manganese Ores in excess of approved limit without prior EC led to non realisation of ₹145 crore towards price of such minerals.

(Paragraph 7.3.1.1 & 7.3.1.2)

Government revenue of ₹ 1.83 crore was lost due to non-seizure of minerals procured without any lawful Authority.

(Paragraph 7.3.4)

VIII Other Departmental Receipts

Electricity Duty of ₹ 2.43 crore including interest was not levied on auxiliary consumption of energy by M/s Bhusan Steel Ltd.

(Paragraph 8.3.3)

Electricity duty of ₹ 128.06 crore including interest was not levied on consumption of electricity by M/s Vedanta Aluminium Limited.

(Paragraph 8.3.4)

CHAPTER-I: GENERAL

1.1 Trend of revenue

1.1.1 Tax and non-tax revenue raised by the Government of Odisha during the year 2011-12, State's share of net proceeds of divisible Union taxes and duties assigned to the State and grants-in-aid received from the Government of India (GoI) during the year and the corresponding figures for the preceding four years are mentioned in the table below:

(₹ in crore)

		2007-08	2008-09	2009-10	2010-11	2011-12
1.	**Revenue raised by the State Government**					
	• Tax revenue	6,856.09	7,995.20	8,982.34	11,192.67	13,442.74
	• Non-tax revenue	2,653.58	3,176.15	3,212.20	4,780.37	6,442.96
	Total	**9,509.67**	**11,171.35**	**12,194.54**	**15,973.04**	**19,885.70**
2.	**Receipts from the Government of India**					
	• State's share of net proceeds of divisible Union taxes and duties	7,846.50	8,279.96	8,518.65	10,496.86	12,229.12[1]
	• Grants-in-aid	4,611.02	5,158.70	5,717.02	6,806.25	8,152.20
	Total	**12,457.52**	**13,438.66**	**14,235.67**	**17,303.11**	**20,381.32**
3.	Total revenue receipts of the State Government (1+2)	21,967.19	24,610.01	26,430.21	33,276.15	40,267.02
4.	**Percentage of 1 to 3**	**43.29**	**45.39**	**46.14**	**48.00**	**49.38**

During the year 2011-12, the revenue raised by the State Government (₹ 19,885.70 crore) was 49.38 *per cent* of the total revenue receipts against 48 *per cent* in the preceding year. The balance 50.62 *per cent* of receipts during 2011-12 was from the GoI.

[1] For details, please see Statement No. 11- Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Odisha for the year 2011-12. Figures under the minor head 901-Share of net proceeds assigned to the States under the major heads 0020 – Corporation tax; 0021 - Taxes on income other than corporation tax; 0028 - Other taxes on income and expenditure; 0032 - Taxes on wealth; 0037 - Customs; 0038 - Union excise duties; 0044 - Service tax and 0045 - Other taxes and duties on commodities and services booked in the Finance Accounts under A-Tax revenue have been excluded from the revenue raised by the State and exhibited as State's share of divisible Union taxes.

1.1.2 The following table presents the details of tax revenue raised during the period from 2007-08 to 2011-12:

(₹ in crore)

Sl. No.	Heads of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+)/ decrease (-) in 2011-12 over 2010-11
1.	OVAT including Orissa Sales Tax (OST)	3,567.16	4,268.72	4,914.99	6,221.28	7,463.39	(+) 19.96
	Central Sales Tax (CST)	551.27	534.61	493.77	585.52	733.45	(+) 25.26
2.	Taxes and Duties on Electricity	327.46	365.03	459.96	458.06	551.65	(+) 20.43
3.	Land Revenue	276.16	348.79	292.18	390.66[2]	521.47	(+) 33.48
4.	Taxes on Vehicles	459.42	524.43	611.23	727.58	787.99	(+) 8.30
5.	Taxes on Goods and Passengers	626.90	638.32	815.25	1,111.37	1,312.36	(+) 18.08
6.	State Excise	524.93	660.07	849.05	1,094.26	1,379.00	(+) 26.02
7.	Stamp Duty and Registration Fee	404.76	495.66	359.96	415.82[2]	498.14	(+) 19.80
8.	Other Taxes and Duties on Commodities and Services	31.59	47.39	50.40	54.84	68.39	(+) 24.71
9.	Other Taxes on Income and Expenditure-Tax on Professions, Trades, Callings and Employments	86.44	112.18	135.55	133.28	126.90	(-) 4.79
Total		**6,856.09**	**7,995.20**	**8,982.34**	**11,192.67**	**13,442.74**	

The reasons for variations as reported by the concerned Departments are as follows:

Orissa VAT (OVAT) including OST/ CST: The increase (19.96 *per cent*) was due to increase in business activities of industry sector and vigorous collection drive by the Department.

Land Revenue: The increase (33.48 *per cent*) in collection of revenue was due to conversion of land under Section 8-A of the OLR Act, 1960, alienation of Government land to the different agencies and collection of premium thereof.

Stamp Duty and Registration Fees: The increase (19.80 *per cent*) was due to efforts taken by the I.G.R., Odisha as well as field functionaries and revision of Bench Mark Valuation, disposal of pending cases of under valuation by way of One Time Settlement Scheme (OTS).

State Excise Duty and Fees: The increase (26.02 *per cent*) was due to effective enforcement and opening of more legal outlets.

[2] The figure as furnished by the department is at variance with the Finance Accounts.

The other Departments did not furnish (January 2013) reasons for variation despite being requested (April 2012) and reminded (July 2012).

1.1.3 Non-tax revenue raised during the period 2007-08 to 2011-12 is detailed in the table below:

(₹ in crore)

Sl. No.	Heads of revenue	2007-08	2008-09	2009-10	2010-11	2011-12	Percentage of increase (+)/ decrease (-) in 2011-12 over 2010-11
1	Non-ferrous mining and metallurgical industries	1,126.06	1,380.60	2,020.76	3,329.25	4,571.57	(+) 37.32
2	Interest receipts	570.39	654.67	379.23	260.84	576.38	(+) 120.97
3	Forestry and wild life	82.66	139.29	109.03	157.68	192.39	(+) 22.01
4	Irrigation & inland water transport	48.90	52.95	70.13	143.09	333.11	(+) 132.80
5	Other administrative services	17.31	9.38	56.48	11.06	16.07	(+) 45.30
6	Public works	31.61	38.31	41.99	48.79	47.16	(-) 3.34
7	Police receipts	29.17	22.25	36.69	38.45	36.18	(-) 5.90
8	Education	41.95	10.65	14.88	25.98	21.18	(-) 18.48
9	Medical and public health	14.28	32.18	12.96	19.55	37.12	(+) 89.87
10	Miscellaneous general services	396.95	388.85	11.60	412.29	86.86	(-) 78.93
11	Power	1.05	0.63	2.66	2.07	3.37	(+) 62.80
12	Co-operation	2.29	2.01	1.99	2.18	1.92	(-) 11.93
13	Other non-tax receipts	290.96	444.38	453.80	329.14	519.65	(+) 57.88
Total		**2,653.58**	**3,176.15**	**3,212.20**	**4,780.37**	**6,442.96**	

Source: Finance Accounts for the year 2011-12 of Government of Odisha

The reasons for variation as reported by the respective Departments are as follows:

Non-ferrous mining and metallurgical industries: The increase (37.32 *per cent)* was mainly due to enhancement in rate of royalty on iron ore, chromite etc. by the Indian Bureau of Mines (IBM).

Forestry and Wildlife: The increase (22.01 *per cent)* was due to more collection of KL royalty and arrear dues from the Orissa Forest Development Corporation (OFDC) Ltd.

The other Departments did not furnish (January 2013) the reasons for variation, despite being requested (April 2012) and reminded (July 2012).

1.2 Response of the Departments/Government towards audit

Audit observations on incorrect assessments, non/short-levy of taxes, duties, fees etc. not settled on the spot are communicated to the Heads of the Offices (HoOs)/Departments (HoDs) through Inspection Reports (IRs). The Departments are required to take corrective measures and furnish compliance within one month. On the basis of the compliance, paragraphs are settled by the Accountant General (E&RSA), Odisha (AG). The pending paragraphs are discussed in the Departmental Audit Committee (DAC) meetings to expedite settlement of the same. Important paragraphs of the IRs, Performance Audit (PA) Reports are included in the Report of the Comptroller and Auditor General of India (CAG) which is presented in the State Legislature and discussed in the Public Accounts Committee (PAC). Before such inclusion, paragraphs are forwarded to the Government seeking their views which is required to be furnished within six weeks. After the Report of CAG (Audit Report) is placed in the Legislature, the Departments are required to furnish compliance notes within three months. The PAC, on receipt of compliance notes, discusses the paragraphs and makes recommendations if required. Action Taken Notes (ATNs) on the recommendations of the PAC are required to be furnished by the Departments within six months. The issues raised in the Audit Report are finally settled after the PAC discusses the ATNs submitted by the Departments.

The response of the Departments/Government to audit at different stages of action are discussed in the succeeding paragraphs 1.2.1 to 1.2.6.

1.2.1 Inadequate corrective action on audit observations

The AG conducts periodical inspection of the Departments of the Government to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the Act, Rules and procedures thereunder. These inspections are followed up through IRs incorporating irregularities detected during the inspection and not settled on the spot. The IRs are issued to the HoOs inspected with copies to the next higher authorities for prompt corrective action. The HoOs/ HoDs/ Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the HoD and the Government.

We reviewed the position of the IRs issued up to December 2011 and noticed that 10,270 paragraphs involving ₹ 7,454.18 crore relating to 3,597 IRs were outstanding at the end of June 2012. The corresponding figures for the preceding two years as are also given below.

	June 2010	**June 2011**	**June 2012**
Number of outstanding IRs	3,251	3,267	3,597
Number of outstanding audit observations	9,285	9,712	10,270
Amount involved (₹ in crore)	4,685.50	6,258.05	7,454.18

Department-wise details of the IRs and audit observations outstanding as on 30 June 2012 and the amounts involved are mentioned below:

Sl. No.	Name of the Department	Nature of receipts	Number of outstand-ing IRs	Number of outstanding audit observations	Money value involved (₹ in crore)	Number of IRs against which first reply was not received
1.	Finance	OVAT including OST/CST	671	1,642	771.34	62
		Entry tax	222	389	120.96	
		Profession Tax	7	10	16.87	
2.	Excise	State excise	256	605	175.30	44
3.	Forest and Environment	Forest receipts	526	1,087	251.83	76
4.	Revenue & Disaster Management	Land revenue	774	1,744	1,327.05	143
		Stamp duty and registration fee	443	714	402.56	90
5.	Steel and Mines	Mining receipts	125	317	2,466.29	14
6.	Transport	Taxes on vehicles	335	3,173	617.40	21
		Taxes on goods and passengers	70	237	1.09	
7.	Energy	Electricity duty	114	268	1,272.75	33
8.	Co-operation	Departmental receipts	31	50	17.79	15
9.	Food Supplies & Consumer Welfare	-do-	17	21	3.19	1
10.	Works	-do-	3	6	0.49	2
11.	G.A.(Rent)	-do-	3	7	9.27	3
Total :			**3,597**	**10,270**	**7,454.18**	**504**

Source: As per data maintained in office of the AG

Even the first replies required to be received from the HoOs within one month from the date of issue of the IRs were not received for 504 IRs issued up to December 2011. This large pendency of the IRs due to non-receipt of the replies indicates that the HoOs/HoDs were yet to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

Audit recommends that the Government may take suitable steps to put in place an effective procedure for prompt and appropriate response to audit observations and send the necessary replies to the IRs/paragraphs as per the prescribed time schedules so that appropriate action is taken to prevent loss of revenue and to recover the outstanding demands in a time bound manner.

1.2.2 Departmental Audit Committee meetings

The Government set up DACs (during various periods) to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs

In order to achieve the above objective, it is necessary that the DACs meet regularly and ensure that final action is taken in respect of all the audit observations outstanding for more than a year, leading to their settlement. During 2011-12, 30 meetings were held by the DAC of five Departments in which 74 IRs and 215 paragraphs involving ₹ 15.75 crore were settled. No DAC meeting was held during 2011-12 by the Excise Department.

Audit recommends that the Government may suitably instruct the concerned Departments to come up with more proposals for conduct of DAC meetings and to take rectificatory action on all audit observations, particularly those which are pending since long.

1.2.3 Non-production of records to Audit for scrutiny

Programme of local audit of offices is drawn up based on risk analysis covering revenue earning units and intimated sufficiently in advance to the Departments to enable them to keep the relevant records ready for audit scrutiny.

During 2011-12, 2,066 tax assessment records under OVAT including OST/ CST/Entry Tax relating to 48 Commercial Tax Offices[2] were not made available to Audit. Of these, 717 assessments relate to 2011-12 and the remaining 1,349 cases relate to earlier years.

1.2.4 Response of the Departments to the Draft Audit Paragraphs

The Government of Odisha in Finance Department have instructed from time to time the Administrative Departments to submit compliance to Draft Audit Paragraphs (DPs) proposed by the AG for inclusion in the Audit Report, within six weeks from the date of receipt of such DPs. The DPs are forwarded by the AG to the Principal Secretary/Secretary of the Administrative Department concerned through demi-official letters seeking confirmation of the factual position and comments thereon within the stipulated period of six weeks.

We forwarded 87 DPs (clubbed into 62 paragraphs including one PA and one Thematic Study) proposed for inclusion in this Report, to the Secretaries/ Principal Secretaries of the respective Departments between February and October 2012 through demi-official letters with a request for verification of the factual position and comments thereon. Demi-official reminders were also issued after the expiry of six weeks time in each case. The Secretaries/ Principal Secretaries of the Departments did not send replies to 44 DPs

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[2] **Ranges** : Angul, Balasore, Bhubaneswar, Bolangir, Cuttack I, Cuttack II, Jajpur, Koraput and Sundargarh.
Circles: Angul, Balasore, Barbil, Bargarh, Bhadrak, Bhanjanagar, Bolangir, Boudh, Bhubaneswar I, Bhubaneswar III, Bhubaneswar IV, Cuttack I (Central), Cuttack I(City), Cuttack I(East), Cuttack I(West), Cuttack II, Dhenkanal, Gajapati, Ganjam I, Ganjam II, Jagatsinghpur, Jharsuguda, Kalahandi, Kantabanji, Kendrapara, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nayagarh, Nuapara, Phulbani, Rayagada, Rourkela I, Rourkela II, Sambalpur I, Sambalpur II and Subarnapur.

(including one PA and one Thematic Study). Therefore, these paragraphs have been proposed for inclusion in the report without the response of the Departments concerned.

1.2.5 Follow up on Audit Reports

The Finance Department instructions also envisage that explanatory memoranda in respect of the paragraphs included in the Audit Reports should be furnished to the Orissa Legislative Assembly (OLA) within three months from the date of placing of the Report before the OLA.

A review of outstanding explanatory memoranda on paragraphs included in the Audit Reports (Revenue Receipts) as of June 2012 disclosed that against 874 paragraphs covered in the Audit Reports (Revenue Receipts) for the years 1991-92 to 2010-11, 293 paragraphs were discussed in the PAC leaving 581 paragraphs yet to be discussed. The Departments had also not submitted explanatory memoranda in respect of 94 paragraphs of the Audit Reports (Revenue Receipts) for the years 2005-06 to 2010-11.

With a view to ensuring accountability of the executive in respect of the issues dealt with in the Audit Reports, the PAC, has also directed that the Department concerned should furnish remedial ATNs on the recommendations of PAC relating to the paragraphs contained in the Audit Reports within the prescribed time frame. We noticed from the PAC Reports submitted during the 10^{th}, 11^{th}, 12^{th} and 13^{th} Assembly that 56 Reports containing 501 paragraphs/ recommendations were presented by the PAC before the Legislature between February 1991 and December 2008 after examination of the Audit Reports (Revenue Receipts) relating to 14 Departments for the years 1985-86 to 2005-06. However, ATNs have not been received in respect of 31 recommendations of the PAC from six Departments[3] as of June 2012.

This indicates that the executive is yet to take adequate prompt action on the important issues highlighted in the Audit Reports/ PAC Reports that involve unrealised revenue.

[3] Agriculture, Excise, Law, Revenue and Disaster Management, Steel and Mines and Water Resources Departments.

1.2.6 Compliance to the earlier Audit Reports – Position of recovery of accepted cases

In the Audit Reports for the years 2006-07 to 2010-11, audit observations relating to under assessments, non/short-levy of taxes, loss of revenue, failure to raise demands, etc. involving ₹ 2,917.50 crore were included. Of these, as of June 2012, the Departments concerned accepted under assessments and other deficiencies involving ₹ 1,729.79 crore and recovered ₹ 313.40 crore. Report wise details of amount accepted and revenue recovered are as under:

(₹ in crore)

Sl. No.	Year	Money value of Audit Report	Amount accepted by the Department	Amount recovered
1.	2006-07	516.32	447.22	292.35
2.	2007-08	484.80	142.69	15.33
3.	2008-09	578.83	67.13	5.14
4.	2009-10	304.94	181.72	0.25
5.	2010-11	1,032.61	891.03	0.33
Total		**2,917.50**	**1729.79**	**313.40**

1.3 Analysis of the mechanism for dealing with the issues raised by Audit

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the **Commercial Tax Wing** of the Finance Department in dealing with the cases detected in the course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2007-08 to 2011-12.

1.3.1 Position of Inspection Reports

The summarised position of IRs issued during the last five years, paragraphs included therein and their status as on March 2012 is tabulated below:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value	IRs	Para graphs	Money value
2007-08	836	1,475	319.71	81	216	66.85	65	274	41.87	852	1,965	344.69
2008-09	852	1,965	344.69	69	219	299.16	80	263	20.97	841	1,921	622.88
2009-10	841	1,921	622.88	97	262	136.95	202	315	55.33	736	1,868	704.50
2010-11	736	1,868	704.50	168	378	168.51	89	367	33.23	815	1,879	839.78
2011-12	815	1,879	839.78	63	154	35.72	16	86	9.58	862	1,947	865.92

In order to expedite settlement of the pending IRs/paragraphs, 47 DAC meetings were held during the above period wherein 169 IRs and 1,124 paragraphs were settled.

Besides the above, during regular inspection of the offices the pending IRs/paragraphs are reviewed on the spot after obtaining compliance. Settlement of the IRs/paragraphs are also made on receipt of compliance from the Department and also on *suo motu* review of the pending cases.

1.3.2 Assurances given by the Department/Government on the issues highlighted in the Audit Reports

1.3.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports for the last five years, those accepted by the CT wing of the Finance Department and the amount recovered is detailed in the table below:

(₹ in crore)

Year of the Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
2006-07	15+1 (R)	36.35	14	18.98	-	2.62
2007-08	15+1(R)	65.04	14	48.67	-	0.73
2008-09	19+1(R)	182.74	12	12.05	-	1.24
2009-10	09	59.26	08	14.35	1.64	1.64
2010-11	21+1(PA)	61.57	10	36.74	0.03	0.03
Total	**79+4(R/PA)**	**404.96**	**58**	**130.79**	**1.67**	**6.26**

The recoveries out of the accepted cases as reported to audit come to 4.79 *per cent* during the period from 2006-07 to 2010-11. **As arrear demands of OST/OVAT/CST dues are recoverable under the Schedule appended to the respective Act and the Orissa Public Demand Recovery (OPDR) Act, 1962, the Government may initiate cases for realisation of the balance amount of the accepted cases.**

1.3.2.2 Action taken on the recommendations accepted by the Departments/Government

The outcome of the Performance Audit (PA) conducted by the AG is forwarded to the concerned Departments/Government through Draft PA Reports for their information with a request to furnish their replies/comments. Such Report is also discussed in an Exit Conference and the views of the Department/Government are included while finalising the Audit Report.

The following paragraph discusses the Reviews/PA undertaken in the CT wing of Finance Department featured in the last four Audit Reports, the issues highlighted, the recommendations made and action taken by the Government/Department thereon including the recommendations accepted by them.

Year of the Audit Report	Name of the PA	Number of recommenda-tions made	Action taken by the Department
2006-07	Value Added Tax Information System (VATIS) in Commercial Tax Department	5	Many of the recommendations have been carried out by the Department in rectifying the system of VATIS software. The system has been constantly upgraded from time to time.
2007-08	Concessions and exemptions on inter-State sales and branch transfer	4	The government's compliance note is silent on the recommendations.

Year of the Audit Report	Name of the PA	Number of recommenda-tions made	Action taken by the Department
2008-09	Transition from sales tax to value added tax	4	Many of the suggestions for amendment of Rules have been addressed by amendment of OVAT Act/Rules from time to time. The VATIS software is being modified to accommodate the changes and recently the e-filing of returns has been introduced.
2010-11	Utilisation of declaration forms ('C' & 'F') in inter-State trade and commerce	4	The Department has operationalised the issue of e-Forms using TINXSYS and upgrading various modules of VATIS and computerised the border check gates so as to curb the loopholes in inter-State transactions.

1.4 Audit planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The Annual Audit Plan is prepared on the basis of risk analysis which includes critical issues in Government revenues and tax administration i.e. Budget Speech, White Paper on State Finances, Reports of the Finance Commission (State and Central), Recommendations of the Taxation Reforms Committee, Statistical Analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years, etc.

During the year 2011-12, out of 798 auditable units, 316 units were planned and audited during the year 2011-12.

Besides Compliance Audit, one Thematic Study (TS) on "High Value Certificate- Pending Cases" and a PA on "Working of Excise Department" were also conducted to examine the efficacy of the tax administration of these receipts.

1.5 Results of Audit

1.5.1 Position of local audit conducted during the year

From the test check of the records of 316 offices involved in assessment/ collection of OVAT (including OST) / CST/OET/PT etc. Motor Vehicles Tax, Land Revenue, Stamp Duty and Registration Fee, State Excise Duty and Fees, Forest Receipts, Mining Receipts and Other Departmental Receipts as well as a PA and a TS conducted during the year 2011-12, we noticed underassessment/ short-levy/loss of revenue etc., aggregating to ₹ 5,005.13 crore in 2,16,945 cases. During the year, the Departments concerned accepted under assessments and other deficiencies of ₹ 1,409.90 crore involved in 37,885 cases, of which 30,733 cases involving ₹ 1,384.94 crore were pointed out by us during 2011-12 and the rest in the earlier years. The Departments collected ₹ 12.73 crore in 1,770 cases during 2011-12.

1.5.2 This Report

This Report contains 62 paragraphs including a PA on "Working of Excise Department" and a TS on "High Value Certificate- Pending Cases" relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 981.10 crore. The Departments/ Government have accepted audit observations involving ₹ 1,869.53[4] crore out of which ₹ 0.67 crore has been recovered. Replies for the remaining cases have not been received (January 2013). These observations are discussed in the succeeding chapters II to VIII.

[4] This includes ₹ 1,295.85 crore accepted by the Department against Paragraph 7.3.1.1 of this Report.

CHAPER-II: VALUE ADDED TAX, CENTRAL SALES TAX, ENTRY TAX AND PROFESSION TAX

EXECUTIVE SUMMARY

Increase/decrease in tax collection.	In 2011-12, the collection of taxes from Orissa Value Added Tax (OVAT) including Orissa Sales Tax (OST)/Central Sales Tax (CST), and Orissa Entry Tax (OET) increased by 20.42 *per cent* and 18.08 *per cent* respectively, whereas in case of Professional Tax (PT) it decreased by 4.79 *per cent* in comparison to the actual collections of the previous year. The reason for increase was attributed to increase in business activities of the industry sector and vigorous collection drive by the Commercial Tax (CT) wing of the Finance Department (FD). However, no reason for decreasing trend of revenue in PT was furnished by the Department.
Non-conduct of internal audit	Internal audit of the different auditable entities of the CT wing of the FD has not been conducted for the past several years and the Internal Audit Wing (IAW) is non-functional. This had its impact in terms of the weak internal controls in the Department leading to substantial leakage of revenue as pointed out by audit every year. It also led to omissions on the part of the Assessing Authorities (AAs) remaining undetected till audit was conducted.
Very low recovery by the Department against the observations pointed out by audit in earlier years	During the period 2006-07 to 2010-11, Audit pointed out non/short-levy and realisation, irregular allowance of exemption/set off of tax, non/short-levy of interest/penalty on tax with revenue implication of ₹ 923.18 crore in 26,434 cases. Of these, the Department/Government accepted audit observations in 143 cases involving ₹ 41.91 crore; but recovered only ₹ 3.75 crore in 23 cases. The recovery position as compared to acceptance of objections was as low as 8.95 *per cent.*
Results of audit in 2011-12	In 2011-12 Thematic Study on **"High Value Certificate-Pending Cases"** was conducted and records of 57 units relating to OVAT,CST,OET and PT were test checked. Cases of non/short-levy of tax/interest/penalty involving ₹ 266.19 crore in 328 cases were noticed. The Department accepted underassessment and other deficiencies of ₹ 11.54 crore in 80 cases which were pointed out by audit during the year 2011-12 and in the earlier years. An amount of ₹ 0.44 crore was recovered in 20 cases during the year 2011-12.

Highlights	In this Chapter we present a Thematic Study (TS) on **"High Value Certificate-Pending Cases**" with money value of ₹ 166.45 crore and other observations with money value of ₹ 80.76 crore relating to assessment and collection of OVAT, CST and OET in the offices of the CT wing of the FD due to non-compliance of the provisions of the Acts/Rules. It is a matter of concern that similar omissions have been pointed out by audit earlier also. The Department is yet to take adequate corrective action despite switching over to an IT-enabled system in all the CTOs. Though these omissions were apparent from the records made available to audit, the AAs were unable to detect these mistakes.
Conclusions	The Department needs to improve the internal control system including strengthening and functioning of IAW to reduce recurrence of such omissions. It also needs to initiate immediate action to recover the non-realisation of tax etc. pointed out by audit, more so in those cases where audit contention has been accepted.

2.1.1 Tax administration

The Commissioner of Commercial Taxes (CCT), Odisha under the overall supervision of the Principal Secretary to the Government, Finance Department administers the Orissa Value Added Tax (OVAT) Act, 2004, the Central Sales Tax (CST) Act, 1956, the Orissa Entry Tax (OET) Act, 1999, the Orissa Entertainment Tax (ET) Act, 2006, the Orissa Luxury Tax (OLT) Act, 1995 and the Orissa State Tax on Professions, Trades, Callings and Employments (PT) Act, 2000, being assisted by the Headquarters and field staff of the Commercial Tax Department, for the assessment and collection of the different taxes stated above. However, the tax assessments are made by the Joint CCTs (JCCTs) /Assistant CCTs (ACCTs)/ Commercial Tax Officers (CTOs) in the capacity of the Assessing Authorities (AAs) whereas PT is assessed by the Assistant CTOs designated as Assistant Profession Tax Officers (APTOs) under the control of the CTOs. Besides, there is an Enforcement Wing at the Commissionerate headed by the special CCT (Enforcement) for checking of cases of tax evasion and cross checking of records relating to inter-State transaction.

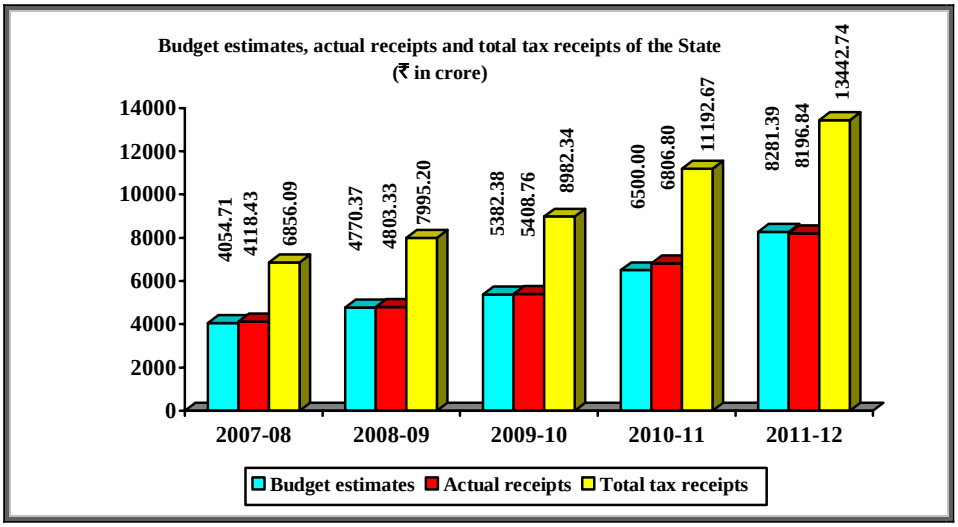
2.1.2 Trend of receipts

The actual receipts from OVAT including OST/CST, OET and PT during the last five years from 2007-08 to 2011-12 are as under:

A. OVAT including OST/CST

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	4,054.71	4,118.43	(+)63.72	(+)01.57	6,856.09	60.07
2008-09	4,770.37	4,803.33	(+)32.96	(+)00.69	7,995.20	60.08
2009-10	5,382.38	5,408.76	(+)26.38	(+)00.49	8,982.34	60.22
2010-11	6,500.00	6,806.80	(+)306.80	(+)04.72	11,192.67	60.81
2011-12	8,281.39	8,196.84	(-)84.55	(-)01.02	13,442.74	60.98

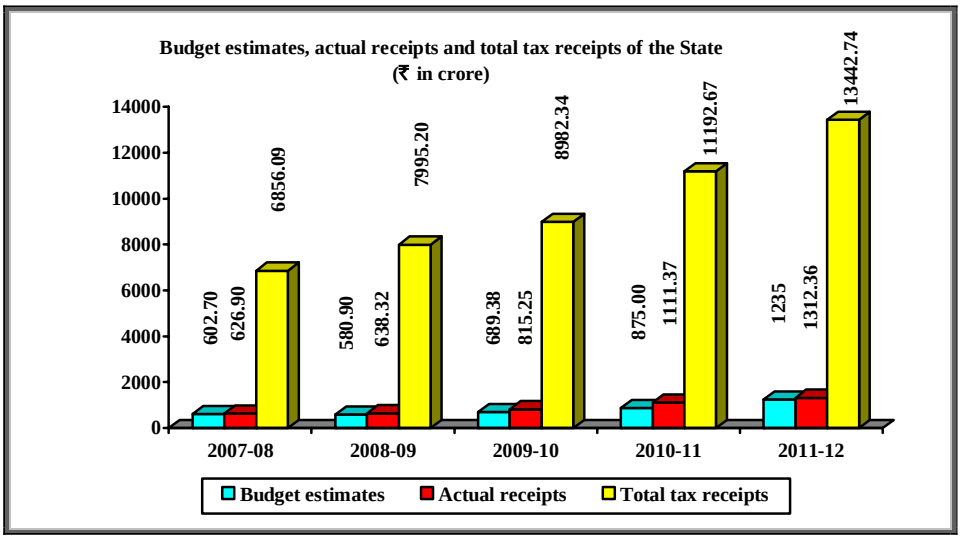


The trend of receipts showed that it increased from ₹ 4,118.43 crore in 2007-08 to ₹ 8,196.84 crore in 2011-12 (99.03 *per cent*) and its contribution to total tax revenue of the State varied between 60.07 *per cent* in 2007-08 to 60.98 *per cent* in 2011-12.

B. Entry Tax

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	602.70	626.90	(+)24.20	(+)04.02	6,856.09	9.14
2008-09	580.90	638.32	(+)57.42	(+)09.88	7,995.20	7.98
2009-10	689.38	815.25	(+)125.87	(+)18.26	8,982.34	9.08
2010-11	875.00	1,111.37	(+)236.37	(+)27.01	11,192.67	9.93
2011-12	1,235.00	1,312.36	(+)77.36	(+)06.26	13,442.74	9.76

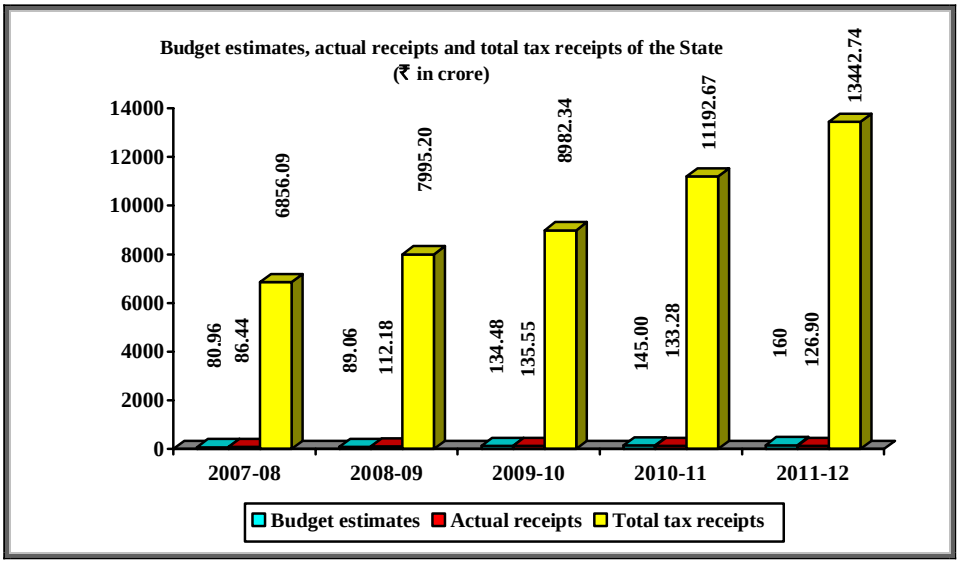


The trend of receipts showed that it increased from ₹ 626.90 crore in 2007-08 to ₹ 1,312.36 crore in 2011-12 (109.34 *per cent*) and its contribution to total tax revenue of the State varied between 7.98 *per cent* in 2008-09 to 9.93 *per cent* in 2010-11.

C. Profession Tax

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	80.96	86.44	(+)05.48	(+)06.77	6,856.09	1.26
2008-09	89.06	112.18	(+)23.12	(+)25.96	7,995.20	1.40
2009-10	134.48	135.55	(+)01.07	(+)00.80	8,982.34	1.51
2010-11	145.00	133.28	(-)11.72	(-)08.08	11,192.67	1.19
2011-12	160.00	126.90	(-)33.10	(-)20.69	13,442.74	0.94



The trend of receipts showed that it increased from ₹ 86.44 crore in 2007-08 to ₹ 135.55 crore in 2009-10 and decreased to ₹ 133.28 crore in 2010-11 and

further decreased to ₹ 126.90 crore in 2011-12. Contribution of PT to total tax revenue of the State varied between 0.94 *per cent* in 2011-12 to 1.51 *per cent* in 2009-10. No reason for the above decreasing trend of revenue was furnished by the Department.

2.1.3 Assessee profile under the OVAT Act

Information furnished by the CCT on various types of dealers registered under the OVAT Act during the last three years is given below.

Year	Number of large tax payers (LTU) dealers	Number of dealers other than LTUs having Tax Identification Number (TIN)	Number of dealers with Small Retailer Identification Number (SRIN)	Total Number of dealers registered under the OVAT Act	Number of dealers required to file returns	Number of dealers who furnished returns in time	Number of dealers who have not furnished/ belatedly furnished returns	Number of cases where notice was not issued to the defaulted dealers
2009-10	689	1,03,319	27,287	1,31,295	1,30,193	91,847	51,494	19,525
2010-11	670	1,01,268	24,594	1,26,532	1,26,532	1,00,706	25,826	12,026
2011-12	739	1,02,479	23,751	1,26,969	1,26,969	1,00,784	26,185	8,297

The CCT contended that in order to ensure filing of returns by the dealers, the Government launched the facility for e-filing of return with effect from November 2010 and it was being made mandatory for different category of dealers in a phased manner. For the habitual non-filers of returns, the Department was also taking statutory actions like suspension and cancellation of Certificate of Registration (RC) and during the year 2011-12, around 8,000 RCs were suspended and 20,000 RCs were cancelled for non-filing of return by the dealers. Despite the above contention of the Department, 8,297 periodical returns were not filed during 2011-12 and notices were not issued to the defaulting dealers as required under the Act.

2.1.4 Cost of collection

Gross collection of tax revenue receipts under the CT wing of the Department, the expenditure incurred on their collection and percentage of such expenditure to the gross collection during the years 2009-10, 2010-11 and 2011-12 along with the all India average percentage for expenditure on collection to gross collection in the respective previous years are mentioned below.

(₹ in crore)

Year	Gross Collection	Expenditure on Collection of revenue	Percentage of expenditure of collection	All India average percentage for the previous year
2009-10	6,409.96[1]	53.90	0.84	0.88
2010-11	8,106.29[1]	80.49	0.99	0.96
2011-12	8,196.85[2]	65.39	0.79	0.75

It is evident that the percentages of expenditure on collection of revenue is showing an increasing trend up to 2010-11 and it exceeded the all India

[1] This collection includes all taxes collected under different Acts by the CT wing of the Finance Department as per the Finance Account which is at variance with the figure furnished by the Department.

[2] The collection of taxes on sales only under the OVAT including OST/CST Acts as per the Finance Accounts which agrees with the figures furnished by the Department.

average percentage of the previous year by 0.03 *per cent* during 2010-11 and by 0.04 *per cent* in 2011-12.

2.1.5 Analysis of collection

Break up of the total collection at the pre-assessment stage, collection after regular assessments, arrear collection and refunds allowed in respect of VAT including Sales Tax, Entry Tax, Profession Tax and Entertainment Tax along with the net collections reflected in the Finance Accounts of the State for the last three years i.e. 2009-10 to 2011-12 is as under:

(₹ in crore)

Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Amount of arrear demand collected	Amount refunded	Net collection as per Department	Net collection as per finance account	Percentage of columns 3 to 8
1	2	3	4	5	6	7	8	9
Sales Tax/VAT	2009-10	5,404.63	24.90	31.60	52.37	5,408.76	5,408.76	99.92
	2010-11	6,762.33	45.17	18.09	18.79	6,806.80	6,806.80	99.34
	2011-12	**8,059.89**	**107.01**	**73.25**	**43.31**	**8,196.84**	**8,196.85**	**98.33**
Entry Tax	2009-10	772.72	26.63	2.88	0.50	801.73	815.25	94.78
	2010-11	1,080.26	06.83	3.45	1.50	1,089.04	1,111.37	97.20
	2011-12	**1,257.32**	**45.52**	**9.52**	**-**	**1,312.36**	**1,312.36**	**95.80**
Entertainment Tax	2009-10	2.76	0.01	0.05	-	2.82	9.28	29.74
	2010-11	3.35	0.00	0.07	-	3.42	3.42	11.70
	2011-12	**7.74**	**1.26**	**0.09**	**-**	**9.09**	**9.09**	**85.15**
Profession Tax	2009-10	116.43	0.54	0.74	-	117.71	135.55	85.89
	2010-11	125.26	0.14	0.13	-	125.53	133.28	93.98
	2011-12	**126.11**	**0.36**	**0.46**	**-**	**126.93**[3]	**126.90**	**99.38**

Thus, the percentage of collection of tax at pre-assessment stage during the last three years ranged between 98.33 and 99.92 in VAT and Sales Tax, between 94.78 and 97.20 in Entry Tax, between 11.70 and 85.15 in Entertainment Tax and between 85.89 and 99.38 in Profession Tax.

2.1.6 Analysis of arrears of revenue

As per the information furnished by the Department, arrears of revenue as on 31 March 2012 under different heads of revenue as reported by the Department amounted to ₹ 4,695.35 crore which included ₹ 4,345.51 under the OVAT including OST/ CST and ₹ 340.63 crore under the OET.

Arrears as on 31 March 2012 includes ₹ 2,494.87 crore outstanding for more than five years. Demands amounting to ₹ 2,088.36 crore and ₹ 914.65 crore were stayed by the Supreme Court/ High Court and the departmental authorities respectively. Demands of ₹ 966.98 crore was covered by show cause and penalty, ₹374.62 crore was covered under certificate/ tax recovery proceedings and ₹ 0.90 crore was proposed to be written off.

The above details indicate that the amount of uncollected revenue as on 31 March 2012 was 53 *per cent* of the revenue collected under the OVAT (including OST)/ CST during 2011-12 and substantial amounts were under stay by judicial/ departmental fora.

[3] Discrepancy of ₹ 0.03 crore was due to inclusion of share of net proceeds assigned to the States by the Government of India.

Further, arrears of ₹ 340.63 crore under OET included ₹ 30.80 crore outstanding for more than five years. Demands amounting to ₹ 146.71 crore and ₹ 71.23 crore were stayed by the Supreme Court/ High Court and the departmental authorities respectively. Demands of ₹ 116.33 crore was covered by show cause and penalty and ₹ 6.36 crore was covered under certificate/ tax recovery proceedings.

The above details indicate that the amount of uncollected revenue as on 31 March 2012 was 26 *per cent* of the revenue collected under the OET during 2011-12 and substantial amounts were covered under stay by judicial/ departmental fora.

Audit recommends that special efforts be made to pursue the cases stayed by Courts.

2.1.7 Working of Internal Audit Wing

At present the Internal Audit Wing (IAW) was not functioning and steps had been taken to revive the same.

The Department may ensure early revival of the IAW as an Internal Control Mechanism with adequate staff to aid the administration in watching the timely assessment, collection and deposit of tax revenue to the Exchequer and avert the leakage of revenue, if any.

2.1.8 Impact of Audit

2.1.8.1 Revenue impact

The year wise details of units audited under different Acts during the period 2006-07 to 2010-11 and the impact of audit in terms of observations raised and acceptance and recovery thereof are given in the following table.

(₹ in crore)

Year	Act	No. of units audited	Objected		Accepted		Recovered	
			No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2006-07	S T/ VAT	31	215	83.64	76	32.60	14	2.74
	Entry Tax		2,050	43.74	16	4.33	4	0.61
	Total	**31**	**2,265**	**127.38**	**92**	**36.93**	**18**	**3.35**
2007-08	Sales Tax/ VAT	38	155	160.16	17	1.51	1	0.36
	Entry Tax		34	112.13	1	0.02	Nil	Nil
	Total	**38**	**189**	**272.29**	**18**	**1.53**	**1**	**0.36**
2008-09	ST/ VAT	44	241	282.77	18	2.45	1	0.08
	Entry Tax		99	27.84	2	0.04	1	0.001
	Total	**44**	**340**	**310.61**	**20**	**2.49**	**2**	**0.01**
2009-10	ST/ VAT	**56**	224	82.45	2	0.11	1	0.02
	Entry Tax		66	19.51	1	0.43	Nil	Nil
	Profession Tax		23,075	16.87	Nil	Nil	Nil	Nil
	Total	**56**	**23,365**	**118.83**	**3**	**0.54**	**1**	**0.02**
2010-11	S T/ VAT	60	205	78.25	10	0.42	1	0.01
	Entry Tax		70	15.82	Nil	Nil	Nil	Nil
	Total	**60**	**275**	**94.07**	**10**	**0.42**	**1**	**0.01**
Grand total		**229**	**26,434**	**923.18**	**143**	**41.91**	**23**	**3.75**

The recovery position as compared to the accepted amount during the last five years was very low, being 8.95 *per cent* only.

Government may ensure prompt recovery of the amounts involved at least in the cases accepted by the Department.

2.1.9 Results of Audit

Test check of the records of 57 units relating to OST,OVAT, CST, OET and PT in commercial tax offices during the year 2011-12 besides a Thematic Study on " High Value Certificate-Pending Cases" covering 12 Circles revealed non/short-levy of tax/interest, penalty and incorrect allowance/adjustment of ITC etc. amounting to ₹ 266.19 crore in 328 cases.

During the year, the Department accepted underassessment and other deficiencies of ₹ 8.15 crore in 61 cases which were pointed out by us in 2011-12 and earlier years and an amount of ₹ 0.35 crore was realised in 15 cases in respect of VAT and CST during the year. Similarly, during the year the Department accepted under assessment and other deficiencies of ₹ 3.39 crore in 19 cases which were pointed out by us in 2011-12 and earlier years and an amount of ₹ 0.09 crore was realised in five cases in respect of Entry Tax.

2.2 THEMATIC STUDY ON "HIGH VALUE CERTIFICATE-PENDING CASES"

2.2.1 Introduction

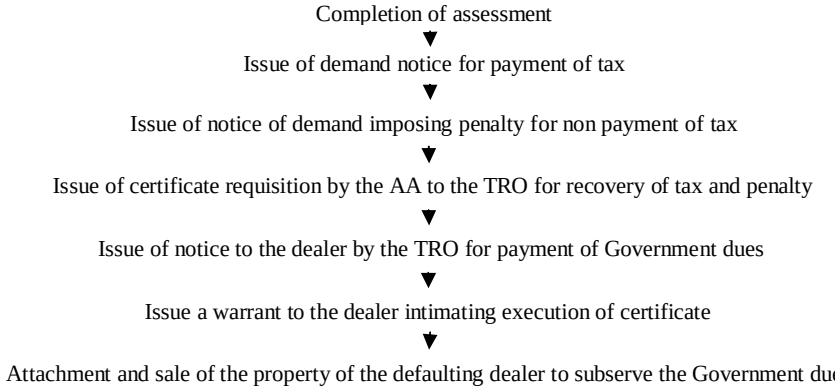
Taxes on sale of goods collected under the erstwhile OST Act, 1947 up to 31 March 2005, OVAT Act, 2004 from 1 April 2005 onwards and the CST Act, 1956 from 5 January 1957 onwards are the major sources of Tax Revenue of the State. As the recovery of taxes on sales decreased from ₹ 84.08 crore in 2006-07 to ₹ 18.09 crore in 2010-11, the procedure for recovery of arrears needs be followed up soon after the assessments are made and demand notices issued by the respective AA of the CT wing of the Finance Department. In case of default, it should be recovered by initiation of certificate proceedings against the defaulters.

2.2.1.2 Procedure prescribed for recovery of arrears of taxes

As per Section 13(4),(5) and (7) of the OST Act read with Rule 32 of the OST Rules and Section 50 (4),(5) and (7) of the OVAT Act read with Rule 54 of the OVAT Rules and the Tax Recovery (TR) Schedules of respective Acts and the instructions (October 1965) of the CCT, Odisha;

- After any assessment is completed, the AA shall serve a demand notice to the dealer directing him to pay the tax assessed within 30 days of service of such notice and to produce the proof of payment within seven days from the date of payment. No time limit is, however, prescribed therein for issue of such demand notices;
- Where a dealer fails to pay the tax demanded within 30 days, the AA shall, after giving an opportunity of being heard, direct him to pay the tax and penalty imposable for non-payment of tax within the specified date with the instruction that in case of failure to do so, the unpaid amount shall be recovered as arrears of public demand under the Schedule containing the TR procedures;
- The AA shall forward a certificate requisition in Form 1 to the Tax Recovery Officer (TRO) for recovery of the arrears, who in turn initiates the TR proceedings by issuing a notice to the defaulting dealer in Form 2 directing him to pay the dues within 15 days from the date of service of the notice;
- In case the amount is not paid within 15 days or such further time as the TRO may grant, he shall proceed to realise the amount by issue of warrant and attachment of property of the defaulter.

A flow chart showing the process of recovery of tax/ arrears of tax is given below:



2.2.2 Organisational Set up

The organisational set up is detailed in para 2.1.1 on Tax Administration. The AAs of the Circles (45 at present under 12 Ranges) i.e. DCCTs/ ACCTs have been authorised to act as the TROs for realisation of arrears by execution of certificate cases against the defaulters.

2.2.3 Audit Objectives

The objective of the TS was to examine whether the Department

- has complied with the provisions of different Acts and Rules read with the executive instructions for expeditious recovery of arrears of tax;
- is effectively pursuing the TR proceedings initiated against the dealers for recovery of arrear tax dues; and
- has an internal control mechanism for monitoring the system of TR proceedings initiated for recovery of arrears of tax.

2.2.4 Scope of Audit

Audit was conducted between January and July 2012 in 12 Circles[4], out of 45, to examine cases of arrears with money value of ₹ 1 lakh and above relating to the assessments finalised during the year 2000-01 to 2010-11 under the OST and the CST Acts which were not covered under any appeal or stay and assessments finalised under the OVAT Act during the years 2005-06 to 2010-11 and the TR proceedings initiated thereon during 2001-02 to 2010-11. TR proceedings initiated by the TROs prior to 2001-02, but not followed up till the date of audit, were also covered.

[4] Bhubaneswar I, Bhubaneswar II, Bhubaneswar III, Bhubaneswar IV, Cuttack I Central, Cuttack I City, Cuttack I East, Cuttack I West, Cuttack II, Jatni, Rourkela I and Rourkela II.

2.2.5 Position of arrears at different levels

The position of arrears as on 31 March 2011 is detailed in the table below.

(₹ in crore)

Name of the Act	Gross arrears under the Act	Proposed to be written off	Net arrears	Amount covered under stay				Total amount under stay	Balance amount under recovery proceedings
				Supreme court.	High court	CCT	JCCT		
OST	1,059.62	3.40	1,056.22	19.90	224.12	262.14	52.30	558.46	497.76
CST	2,439.61	0.10	2,439.51	157.46	1,425.55	245.79	32.80	1,861.60	577.91
OVAT	429.93	0.00	429.93	0.00	11.05	189.11	25.29	225.45	204.48
Total	**3,929.16**	**3.50**	**3,925.66**	**177.36**	**1,660.72**	**697.04**	**110.39**	**2,645.51**	**1,280.15**

Source: Information furnished by the CCT.

Gross arrears was ₹ 3,929.16 crore, from which an amount of ₹ 3.50 crore (0.09 *per cent*) was proposed to be written off and an amount of ₹ 2,645.51 crore (67.33 *per cent*) was locked up at different judicial/ departmental appellate fora. Thus, ₹ 1,280.15 crore (32.58 *per cent*) was to be recovered through the TR proceedings of the Department.

2.2.6 Trend of collection of arrears

(A) Position of collection of arrears under OST/OVAT/CST Acts

Trend of collection of arrears of revenue during the last five years ending 31 March 2011 is given in the table below.

(₹ in crore)

Year	Arrears at the beginning of the year	Arrears added during the year	Total Arrears for the year (Col. 2+3)	Collection during the year	Percentage of collection of arrears (Col. 5 to 4)	Arrears at the end of the year (Col. 4-5)
(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*	*(7)*
2006-07	1,592.63	1,272.10	2,864.73	84.08	2.94	2,780.65
2007-08	2,780.65	447.10	3,227.75	77.69	2.41	3,150.06
2008-09	3,150.06	292.00	3,442.06	32.26	0.94	3,409.80
2009-10	3,409.80	302.81	3,712.61	31.60	0.85	3,681.01
2010-11	3,681.01	266.24	3,947.25	18.09	0.46	3,929.16

Source: Information furnished by the CCT

The percentage of collection to total arrears under different Acts steadily decreased from 2.94 *per cent* in 2006-07 to 0.46 *per cent* in 2010-11 with an average collection of 1.52 *per cent* only. The arrears increased by 147 *per cent* from ₹ 1,592.63 crore as on 1 April 2006 to ₹ 3,929.16 crore as on 31 March 2011. Thus, it is evident that the pace of recovery process was slow in comparison to the steady increase in arrears.

(B) Position of collection of arrears under the repealed OST Act

The total arrears of ₹ 3,929.16 crore outstanding as on 31 March 2011 includes ₹ 1,059.62 crore relating to the repealed OST Act. The trend of collection of such arrears during the period 2006-11 is given in the following table.

(₹ in crore)

Years	Arrears at the beginning of the year	Arrears added during the year	Total arrears (Col. 2+3)	Collection of arrears during the year	Percentage of collection of arrears (Col. 4 to 5)	Arrears at the end of the year (Col. 4-5)
(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*	*(7)*
2006-07	904.08	91.26	995.34	32.13	3.23	963.21
2007-08	963.21	91.36	1,054.57	20.52	1.95	1,034.05
2008-09	1,034.05	38.66	1,072.71	11.33	1.06	1,061.38
2009-10	1,061.38	34.31	1,095.69	10.79	0.98	1,084.90
2010-11	1,084.90	1.37	1,086.27	5.16	0.48	1,059.62[5]

Source: Information furnished by the CCT

The collection of arrears decreased from 3.23 *per cent* of the total arrears in 2006-07 to 0.48 *per cent* of total arrears in 2010-11 indicating that the collection under the repealed Act was not taken up on priority basis. No special review on the activities of the Circles regarding initiation of TR proceedings was done by the Department during the period 2006-11 for speedy collection of the arrears.

The above position needs a special review by the Department in the interest of the revenue of the State.

2.2.7 Audit findings

During the course of audit, we examined 483 TR case records made available to us out of 703 case records requisitioned in 12 Circles.

We noticed several deficiencies in 304 cases relating to 285 dealers in the implementation of the provisions of the TR proceedings for recovery of arrears under the different Acts. We also examined 1,349 cases[6] from the Demand Collection Registers (DCRs) and extracts[7] of DCRs relating to the outstanding arrear dues. The deficiencies noticed in 941 cases relating to 735 dealers and audit findings are discussed in succeeding sub paragraphs.

2.2.7.1 Notices in Form 2 issued but not served to the dealers due to closure of business

To accelerate the pace of collection, the CCT, Odisha instructed (October 1965 and July 2009) all the AAs of the State to expeditiously send the certificate requisition to the TROs (within 15 days as per circular of October 1965) after the expiry of the due date of payment, as delay in initiating the recovery proceedings might tempt the defaulters either to transfer the assets standing in their names or leave the place of business and in such cases, the arrear dues were likely to become bad debts.

During test check of the Registers relating to issue of certificate requisitions in Form 1, notices to the defaulters in Form 2 and Collection Records under the OST, OVAT and CST Acts, we noticed (April-May

[5] Amount of ₹ 21.49 crore was reduced by the appellate fora during 2010-11 as informed by the CCT, Odisha.

[6] Four cases from the DCRs and 1,345 cases from the extract of DCRs.

[7] The demanded revenue against sundry dealers remaining unpaid at the end of the year as per the DCR for any year is shown a register known as 'Extracts of DCR' for monitoring realisation and ascertaining the status of such realisation during next year.

2012) that in 47 cases, TR proceedings were initiated in six Circles against 44 defaulting dealers during different periods between 1999-2000 and 2010-11 for recovery of arrear dues of ₹ 12.17 crore[8] relating to periods between 1989-90 and 2008-09.

However, notices in Form 2 were either not served to the respective dealers or served by way of affixture at the last places of business of the dealers due to closure of the business of the dealers. The TROs did not take any further steps to realise the Government dues from the dealers as per the procedures prescribed under the Schedules. Thus, the arrear dues of ₹ 12.17 crore remained unrealised due to inaction of the Department to trace out the whereabouts of the dealers for attachment of their properties for sale and it carries the risk of becoming a loss to the Government in the long run.

After we pointed out the above cases, while the TROs of Cuttack I East and Rourkela-I Circles agreed (June-July 2012) to take necessary action for recovery of arrears, the TROs of other Circles did not furnish any specific reply as to the actions taken by them for recovery of such arrear tax dues.

2.2.7.2 Non initiation of TR proceedings despite certificate requisitions

The OST Act and the Rules made thereunder as well as the executive instructions issued from time to time do not prescribe any time limit for the TRO for issue of notice to the defaulting dealer in Form 2 after receipt of certificate requisition in Form 1 from the AA. Section 13C of the OST Act, however, provides that no TR proceedings for recovery of any amount shall be initiated after the expiry of twelve years from the date of relevant assessment.

We noticed that in 29 cases, for realisation of tax dues of ₹ 1.16 crore[9] from 27 dealers (under the repealed OST Act) relating to the periods between 1983-84 and 2004-05, the AAs of three Circles issued certificate requisitions between 2002-03 and 2010-11 to the TROs in Form 1 for initiating TR proceedings against the defaulting dealers. However, the respective TROs did not initiate TR proceedings by issuing notices in Form 2 to the defaulting dealers till the dates of audit. As a result, the arrear dues of ₹ 1.16 crore remained unrealised.

After we pointed out the above cases, all the TROs stated (April-May 2012) that the cases would be examined.

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[8] Bhubaneswar-I: OST ₹ 0.53 crore (13 cases, 12 dealers), Bhubaneswar-II: OST ₹ 0.02 crore (2 cases, 2 dealers), Cuttack-I East: OST ₹ 3.10 crore (1 case, 1 dealer), VAT and CST ₹ 3.98 crore (5 cases, 5 dealers), Jatni: OST ₹ 2.01 crore (9 cases, 7 dealers), Rourkela-I: OST ₹ 1.57 crore (4 cases, 4 dealers), Rourkela-II: OST ₹ 0.54 crore (9 cases, 9 dealers) and Rourkela-II: CST ₹ 0.42 crore (4 cases, 4 dealers).

[9] Cuttack I Central ₹ 2.80 lakh (2 cases 2 dealers) Bhubaneswar II: ₹ 50.82 lakh (16 cases, 16 dealers) and Cuttack I West : ₹ 62.43 lakh (11 cases, 9 dealers).

2.2.7.3 Notices in Form 2 served to the dealers but no further action taken

As per the TR procedures prescribed in the Schedules to the OST/ OVAT Acts, if the amount mentioned in the notice in Form 2 served to the dealer is not paid within the time specified therein or within such further time as the TRO may grant, he shall proceed to realise the amount by issue of warrant for payment, attachment and sale of the defaulter's movable/ immovable properties or shall proceed to arrest and detain the defaulter in a civil prison for specific periods pending realisation of the Government dues.

(a) During the scrutiny of TR records, we noticed (April-July 2012) that in 179 cases relating to 170 dealers, TR proceedings were initiated by the TROs of seven Circles between 1990-91 and 2011-12 by issuing notices to the dealers in Form 2 for realisation of OST, OVAT and CST arrear dues of ₹ 23.71 crore[10] relating to the period between 1976-77 and 2006-07.

However, we observed that the TROs issued the notices in Form 2, but did not follow up such proceedings as per the provisions of the Acts like collecting information on movable and immovable properties of the defaulting dealers, issue of warrants and attachment of the property for sale by public auction for recovery of Government dues. Thus, due to inaction on the part of the TROs, the arrear dues of ₹ 23.71 crore remained unrealised as on the date of audit (April-July 2012).

After we pointed out these cases, the TROs of the concerned Circles stated (April-July 2012) that the cases would be examined.

(b) Similarly, in Cuttack-I East Circle, we noticed (July 2012) that TR notices in Form 2 were issued to six dealers[11] in six cases between 2001-02 and 2003-04 for realisation of tax dues of ₹ 1.64 crore under the OST Act relating to the periods between 1988-89 and 1998-99. Though the TRO sought for the information regarding property particulars of the six dealers from the concerned Tahasildars during the period between 2001-02 and 2011-12, no information was received from them. No further action was also taken by the TRO for realisation of the above arrear dues and the same remained unrealised till the date of audit (July 2012).

After we pointed out the above cases, the TRO stated (July 2012) that the concerned Tahasildars would be requested to furnish the property particulars at the earliest.

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[10] Bhubaneswar I: OST ₹ 0.87 crore (1 case, 1 dealer), Bhubaneswar II: OST ₹ 3.66 crore (16 cases, 16 dealers), Cuttack I East: OST ₹ 5.78 crore (66 cases, 63 dealers), Cuttack I West: OST ₹ 2.07 crore (6 cases, 4 dealers), Cuttack II: OST ₹ 4.70 crore (44 cases, 44 dealers), Rourkela I: OST ₹ 0.80 crore (17 cases, 15 dealers), OVAT ₹ 1.64 crore (11 cases, 10 dealers), CST ₹ 3.75 crore (9 cases, 9 dealers) and Rourkela II: OST ₹ 0.44 crore (9 cases, 8 dealers).

[11] (i) M/s Mahalaxmi Trading Co, RC No. CU-IE-3297 : ₹ 10.51 lakh (1995-96 and 1997-98), (ii) M/s Afsana Traders, RC No. CU-IE-3424: ₹ 74.10 lakh (1993-94 and 1996-97), (iii) M/s Jas Machineries, RC No. CU-IE-2998: ₹ 1.58 lakh (1984-85 to 1987-88), (iv) M/s Bhagyabati Banijya Bhandar, RC No. CU-IE-3305: ₹ 19.95 lakh (1998-99), (v) M/s OM Traders, RC No. CU-IE-2381: ₹ 47.53 lakh (1998-99) and (vi) M/s Rawani Dal and Flour Mills, RC No. CU-IE-2463: ₹ 9.93 lakh (1994-95 and 1995-96).

2.2.7.4 Initiation of TR proceedings beyond the limitation of time

As per the provisions of Section 13C of the OST Act, no proceedings for the recovery of any amount under the Act shall be initiated after the expiry of twelve years from the date of assessment.

(a) During scrutiny of TR records, we noticed (April-May 2012) that in three[12] Circles, the assessments under the OST Act for different periods from 1981-82 to 1998-99 relating to 25 dealers in 29 cases were made during 1988-89 to 1998-99 and demand notices for realisation of tax dues of ₹ 24.36 lakh[13] were served during July 1988 to April 1999. The TROs, however, initiated the TR proceedings during the period between February 2002 and July 2011, when the cases were already barred by the limitation of time. This led to loss of revenue of ₹ 24.36 lakh.

After we pointed out these cases, the TROs stated (May 2012) that the cases would be examined.

(b) During scrutiny of TR records, we noticed (April-July 2012) that in two Circles, the AAs issued certificate requisitions in Form 1 between 1995-96 and 2009-10 for recovery of OST arrears of ₹ 2.80 crore[14] through TR proceedings of 13 dealers (14 cases) relating to the period between 1981-82 and 1996-97. However, the TROs did not initiate the proceedings by issuing Form 2 to the defaulting dealers within the specified period of 12 years and even up to the date of audit. As a result, the recovery process of Government dues became barred by limitation of time leading to loss of revenue of ₹ 2.80 crore.

After we pointed out these cases, while the TRO, Bhubaneswar I Circle stated (May 2012) that the cases would be examined, the TRO, Cuttack I Central Circle stated (February and August 2012) that the TR proceedings in the said cases were initiated within the limitation period of 12 years. However, the evidence of initiation of TR proceedings i.e., office copies of Form 2 and acknowledgement of the dealers were not furnished by the TRO.

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[12] Bhubaneswar I, Cuttack II, Rourkela II.

[13] Bhubaneswar I: ₹ 7.18 lakh (6 cases, 6 dealers), Cuttack II: ₹ 7.90 lakh (4 cases, 4 dealers) and Rourkela II: ₹ 9.28 lakh (19 cases, 15 dealers).

[14] Cuttack I Central: ₹ 0.83 (11 cases, 11 dealers) and Bhubaneswar I: ₹ 1.97 core (3 cases, 2 dealers).

2.2.8 Other points of interest

2.2.8.1 Non issue of certificate requisitions for initiation of TR proceedings

To accelerate the pace of collection, the CCT, Odisha instructed (October 1965) all the AAs of the State that it is desirable to send the certificate requisitions in Form 1 to the TROs within 15 days after the expiry of the due date of payment, since the delay in initiating the recovery proceedings could tempt the defaulters either to transfer the assets standing in their names or leave the place of business and in such cases, the arrear dues were likely to become bad debts.

During scrutiny of the extracts of the DCRs for the years 2001-02 onwards relating to the OST and OVAT Acts in twelve Circles, we noticed that out of 1,345 cases examined, in 899 cases, tax dues of ₹ 118.40 crore for different periods during 1982-83 to 2009-10 as per the assessments made between 1999-2000 and 2010-11 remained unrealised as arrears of revenue against 701 dealers. However, certificate requisitions in Form 1 were not issued by the AAs for initiation of TR proceedings against the defaulters. This included ₹ 10.21 crore[15] in respect of 84 cases relating to different periods between 1983-84 and 2004-05 under the OST Act and between 2005-06 and 2007-08 under the CST Act for which even notices to 79 dealers imposing penalty were not issued by the AAs.

After we pointed out the cases, while the AA of Cuttack I Central Circle issued (July 2012) certificate requisitions in 124 cases out of 153 for recovery of tax dues of ₹ 8.74 crore under the OST Act, the AA of Cuttack I East Circle stated (April 2012) that in some cases certificate requisitions in Form I were issued. However, no evidence was furnished against such requisitions. The AAs of remaining nine Circles agreed (April-July 2012) to initiate TR proceedings against the defaulting dealers.

2.2.8.2 Non-issue of certificate requisitions within the limitation of time

As per the provisions of Section 13C of the OST Act, no proceedings for the recovery of any amount under the Act shall be initiated after the expiry of twelve years from the date of assessment.

During scrutiny of the extracts of DCRs of three Circles, we noticed (April-May 2012) that, certificate requisitions in 34 cases relating to 27 dealers were not initiated under the OST Act by the AAs for recovery of arrear tax dues relating to the period between 1986-87 and 1997-98 though the same were barred by limitation of time (May 2012). This resulted in loss of revenue of ₹ 1.36 crore[16].

After we pointed out the above cases, the AAs assured (May 2012) to ascertain the cases after verification of the records.

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[15] Bhubaneswar II: OST ₹ 8.17 crore (49 cases, 49 dealers) and Rourkela I: OST ₹ 2.02 crore (34 cases, 29 dealers), CST ₹ 0.02 crore (1 case, 1 dealer).

[16] Bhubaneswar I: ₹ 120.09 lakh (12 cases, 10 dealers), Bhubaneswar IV: ₹ 11 lakh (3 cases, 2 dealers) and Rourkela I: ₹ 5.14 lakh (19 cases, 15 dealers).

2.2.8.3 Service of demand notice through affixture/ non-service of demand notices

During scrutiny of the extract of DCRs of Bhubaneswar III Circle and DCRs of Rourkela II Circle, we noticed (May 2012) that while the demand notices in Bhubaneswar-III Circle in respect of four dealers in four cases[17] involving tax dues of ₹ 29.41 lakh relating to 2004-05 were served through affixture due to closure of the business, in Rourkela-II Circle, demand notices to a dealer in two cases involving tax dues of ₹ 47.56 lakh relating to the period 2002-03 and 2003-04 could not be served due to closure of business. No further action was initiated by the AAs and hence the above tax dues remained unrealised.

After we pointed out these cases, the AAs agreed (May 2012) to examine the same.

2.2.8.4 Belated service of demand notices

During scrutiny of the DCRs, we noticed that-

- In Bhubaneswar IV Circle, service of demand notice to a dealer[18] was made with a delay of three months and there was a further delay in issue of certificate requisition in Form 1 for realisation of tax dues of ₹ 3.80 crore under the CST Act relating to the tax periods from December 2007 to February 2009. Consequentially, notice in Form 2 issued on 27 March 2010 could not be served to the dealer and it was published in local dailies as the dealer had already closed the business. The information on immovable properties sought for from the revenue authorities in April 2010 was, however, not received up to the date of audit.

- In Bhubaneswar I Circle, the assessment of a dealer[19] under the OVAT Act for the tax periods from April 2005 to October 2009 was finalised on 18 June 2010. Though the demand notice was shown in the DCR to have been issued on 18 June 2010, the same was actually issued on 7 February 2011, with a delay of 7 months as noticed from the Despatch Register. Certificate requisition in this case was also not issued by the AA to the TRO and the amount of ₹ 39.35 lakh remained unrealised till date of audit (May 2012).

After we pointed out the above two cases, the AA of Bhubaneswar I Circle, while admitting (May 2012) the belated issue of demand notice, did not mention any specific reason for non-initiation of any action for recovery of the assessed tax. The TRO of Bhubaneswar IV Circle stated that no tangible information was received from the Tahasildar, Rourkela despite repeated reminders. However, had the demand notice and notice in Form 2 issued on time before closure of the business, the Department would have been in a better position to recover the Government dues.

Audit recommends that the Department may prescribe specific time limits for issue of demand notices after an assessment is over

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[17] Included in 1,345 cases test checked by us from the extract of DCRs.
[18] M/s R L Enterprises, TIN-21851120172.
[19] M/s Maxim System TIN 21551101422.

2.2.9 System Deficiencies

Audit noticed some system deficiencies in the following areas.

2.2.9.1 Annual Targets

Though a significantly decreasing trend of collection of arrears from year to year was noticed and despite such concern being raised by the CCT as early as in 1965, no annual targets were fixed by the CCT for the Circles for collection of arrears which could make the AAs/TROs accountable.

2.2.9.2 Prescription of time limits.

No time limits are prescribed in the Acts or Rules for

- issue of the demand notices to the dealers by the AA after completion of an assessment and issue of certificate requisitions in Form I to the TROs by the AAs when the demand of tax with penalty is not paid by the dealers.
- issue of notices to the dealers in Form 2 by the TROs after receipt of certificate requisitions in Form 1 from the AAs.

2.2.9.3 Internal controls

Internal Audit: Mention was made in the Audit Reports[20] regarding non-functioning of the internal audit system in the Department since 2002-03. The Department also admitted that the internal audit was totally defunct and there would be no possibility of revival due to non-filling up of the vacant posts. Thus adherence to the statutes and executive instructions by the AAs and TROs for timely issue of certificate requisitions and initiation of TR proceedings for recovery of arrear tax dues was not ensured through the Internal Audit System.

Departmental Review: With a view to handling the fundamental changes after the introduction of the OVAT Act, 2004, the CCT introduced (July 2009) the system of comprehensive review of the Circles to be undertaken by the senior officers like JCCTs of the Department at least once in a year which included review of records management, collection of arrears and the current tax, TR proceedings, etc. However, we noticed that the follow up of the said decision was not on record in the test checked Circles.

2.2.10 Conclusion

After the introduction of the OVAT Act from 1 April 2005 onwards, though collection of arrears of tax under the repealed OST Act required utmost priority keeping in view the limitations of time (12 years under the OST Act, reduced to 5 years under the OVAT Act), yet the same was not given adequate importance by the officers at the field level for initiation of TR proceedings. The notices issued to the dealers after initiation of TR proceedings remained un-served due to closure of business and other reasons, the TR proceedings were not initiated by the TROs on time after receipt of certificate requisitions from the AAs. As a result, some cases became barred by limitation of time.

[20] Paragraph 2.18 of the Audit Report for the year ended 31 March 2003, Paragraph 2.2.8 of the Audit Report for the year ended 31 March 2008 and Paragraph 2.2.15 of the Audit Report for the year ended 31 March 2009.

The TROs discharged their responsibilities only by initiating the TR proceedings without follow up action of the same. In majority of the cases, certificate requisitions were not issued by the AAs which resulted in non-realisation of substantial amount of arrears. We also noticed that the internal audit in the Department was non-existent and the Acts/Rules were not amended for speedy realisation of arrears of revenue.

2.2.11 Recommendations

As tax revenue constitutes a major share to the State's exchequer, Government may consider:

- Prescribing specific time limits in the CST/OVAT Acts/ Rules by suitable amendments for issue of notices by the TROs to the defaulters after receipt of certificate requisitions from the AAs.
- Fixing annual targets for AAs/ TROs for the collection of arrears of revenue.
- Strengthening and streamlining the mechanism for monitoring the recovery of arrears of the repealed OST Act and the current Acts

2.3 Other Audit observations

We test checked the assessment records relating to the OVAT including OST, CST and the OET Acts in the Commercial Tax Range/Circle offices of the State and noticed several cases of non-observance of the provisions of the above Acts and Rules made thereunder which led to non/short-levy of tax, interest and penalty as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions on the part of the AAs every year, but not only do the irregularities persist; these remain undetected till an audit is conducted. The Government needs to improve the internal control system including strengthening of internal audit to avoid recurrence of such omissions.

Orissa Value Added Tax and OST

2.4 Non-observance/compliance of the provisions of the Act and Rules

The erstwhile OST Act, 1947 and the OVAT Act, 2004/Rules made there under read with Government notifications provide for:

(i) the audit assessments by the AAs on the basis of Audit Visit Reports (AVRs) and levy of tax on the correctly assessed taxable turnover (TTO) of outputs after giving due credit/adjustment of tax paid on inputs (ITC) as admissible on different counts;

(ii) levy of interest on short-payment of tax and penal interest for delayed payment of tax detected during the regular scrutiny of monthly returns by the AAs;

(iii) imposition of penalty at prescribed rates in addition to the tax assessed at the audit assessment stage by the AAs; and

(iv) transfer of the OST liability of a dealer to its successor dealer when the ownership is changes after amalgamation.

The AAs, while finalising the audit assessments of the dealers for certain tax periods, did not follow the above provisions read with the Government notifications issued from time to time, as mentioned in the succeeding paragraphs which resulted in non/short-levy and realisation of tax, interest and penalty aggregating to ₹ 44.69 crore.

2.4.1 Short-levy of tax due to under assessment of taxable turnover

Under Section 2(56) of the OVAT Act, 2004 read with Rule 6 of the OVAT Rules, a dealer shall be liable to pay tax at the prescribed rate on the TTO of sales. As per Section 42(5) of the Act, if any tax is levied during the audit assessment, penalty equal to twice the tax so levied shall be imposed on him. Further, Section 20(3)(b) of the Act provides that ITC shall be allowed on the purchases made within the State from a registered dealer for use as inputs in the manufacturing of goods for sale.

(a) During scrutiny of audit assessment records[21] of Jajpur Range, we noticed (August 2011) that a dealer, M/s Orissa Mineral Development Company (OMDC) Ltd., engaged in extraction of ore from mines, crushing of ore, manufacture of sponge iron and sale of iron ore and sponge iron; declared a total sales turnover of ₹ 119.35 crore for the tax periods 2006-07 (₹ 71.01 crore) and 2007-08 (₹ 48.34 crore). The tax audit team of the Department detected suppression of manufacture of sized iron ore and sponge iron valued at ₹ 37.46 crore. While assessing the dealer (February 2011), the AA determined tax of ₹ 1.51 crore on suppressed turnover and imposed penalty of ₹ 3.03 crore thereon. After adjusting the tax and penalty of ₹ 4.54 crore against the tax of ₹ 4.79 already paid by the dealer, the AA allowed the dealer to carry forward an amount of ₹ 25.16 lakh to the next year. However, the turnover of ₹ 119.35 crore disclosed by the dealer in his self assessment for the above tax periods was not assessed in the audit assessment. This led to short-levy of tax of ₹ 4.77 crore.

After we pointed out the above case, Government stated (May 2012) that the reassessment proceeding has been initiated against the dealer.

b(i) During scrutiny of audit assessment records of Cuttack-II Range, we noticed (November 2011) that while assessing (March 2011) a dealer, M/s Godrej Consumer Products Ltd., dealing in toiletries for the tax periods from 01 November 2008 to 31 July 2010, the AA determined the sales turnover at ₹ 29.90 crore on the basis of the AVR.

We, however, noticed from the returns filed by the dealer under the Orissa Entry Tax (OET) Act, 1999, for the above tax periods, that the dealer had actually received goods valued at ₹ 31.65 crore out of which goods valued at ₹ 98.36 lakh only, was transferred to the branches outside the State. Taking

[21] Assessment order, calculation sheet, statement showing annual return, details of VAT sales, payment details under OVAT and copy of Audit Visit Report (AVR).

into account the opening and closing stocks as on 1 November 2008 and 31 July 2010 as disclosed by the dealer in his stock statement, audit noticed that the minimum sales turnover of the goods liable to tax was ₹ 30.48 crore exclusive of the profit margin. This led to short-determination of taxable turnover of ₹ 57.91 lakh and consequential short-levy of tax ₹ 7.24 lakh thereon. Besides, the dealer was liable to pay a penalty of ₹ 14.48 lakh.

b(ii) Similarly, during scrutiny of audit assessment records of Mayurbhanj Circle, we noticed (January 2012) that while assessing (April 2010) a dealer M/s Laxmi Soap & Detergent (P) Ltd, a manufacturer of soaps and detergents and a trader in cement, iron bars and rods etc., for the tax periods from 01 April 2005 to 31 July 2009, the AA accepted the sales turnover of ₹ 2.60 crore as declared by the dealer in the returns for tax periods covered in the years 2005-06 and 2006-07. However, we noticed from the annual accounts of the dealer, as certified by the Chartered Accountant that the actual sales turnover during the above period was ₹ 3.33 crore. Thus, due to acceptance of the sales turnover figure declared by the dealer without cross verifying the same with the annual audited accounts which was available to him, there was under determination of sales turnover of ₹ 72.63 lakh and resultant short-levy of tax of ₹ 7.54 lakh. Besides this, penalty of ₹ 15.08 lakh was also leviable.

After we pointed out the above cases, Government stated (May 2012) that in the case of M/s Godrej Consumer Products Ltd. the case has been reopened and the reassessment proceeding was continuing. Response of the Government in case of M/s Laxmi Soap & Detergent (P) Ltd. is yet to be received (January 2013).

2.4.2 Non-levy of VAT on Duty Entitlement Pass Book

Under Section 12 of the OVAT Act, 2004, every dealer, who purchases or receives taxable goods from a registered dealer or any person other than a registered dealer under the circumstances in which no tax is paid, is liable to pay tax on the purchase price or the prevailing market price of such goods, if after such purchase or receipt, the goods are not sold within or outside the State or in the course of export out of the territory of India, but are otherwise disposed off without payment of tax. Penalty equal to twice the amount of tax assessed in audit assessment is also imposable [Section 42(5) the Act]. Under Section 34 of the Act, if a dealer fails to pay the tax dues along with his periodical returns, he will be liable to pay interest at the rate of one *per cent* per month in respect of the tax which he fails to pay. All intangible goods like Duty Entitlement Pass Book (DEPB) is taxable at the rate of four *per cent.*

During test check of audit assessment records[22] of the dealers in Bhubaneswar II Circle and Cuttack II Range for the tax periods ranging from April 2005 to March 2009, we noticed (between June and November 2011) that three dealers[23] received DEPBs without payment of tax and subsequently transferred the same to their branches/ consignment agents outside the State on the strength of declarations in form "F" and hence no tax was paid on such goods. In such circumstances, the receipt of DEPBs were subject to tax at the rate of four *per cent.* However the AAs, while finalising the assessments of the dealers, did not levy such tax. In case of Cuttack II Range, the AA also ignored the observation made for such taxation in the Audit Visit Report (AVR) of M/s. IMFA Ltd. From the data made available, we found that the DEPBs received were valued at ₹ 37.07 crore on which tax of ₹ 1.48 crore[24] and penalty of ₹ 2.96 crore was leviable, in addition to interest of ₹ 0.52 crore on account of short-payment of tax in the periodical returns.

After we pointed out the above cases, the Government stated (April and June 2012) that the reassessment proceeding of M/s Teekay Marines (P) Ltd.and M/s MMTC Ltd. were completed raising a demand of ₹ 22.22 lakh and ₹ 4.37 crore respectively; while the reassessment proceeding of M/s IMFA Ltd was under process.

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22 Assessment orders, one hard copy of return, copy of appeal order in respect of M/s Teekay Marines (P) Ltd and Audit Visit Report (AVR) made available to Audit.

23 M/s MMTC Ltd., M/s Teekay Marines (P) Ltd., of Bhubaneswar-II Circle and M/s IMFA Ltd., Cuttack-II Range.

24 In the absence of data on purchase price or prevailing market price of the said goods on the dates of purchase or receipt in the assessment records we calculated tax on stock transfer value of DEPBs.

2.4.3 Allowance of inadmissible claim of Input Tax Credit

Under Section 24 and 25 of the OVAT Act, 2004 and the Rules made thereunder, no dealer shall be issued with more than one Certificate of Registration (RC). Under Section 20 (3)(b) of the OVAT Act, 2004, Input Tax Credit (ITC) is allowed on purchase of raw materials, which are directly used in manufacturing of goods for sale. As per Section 20 (9)(a), if the goods purchased for any of the purposes specified under Section 20 (3)(b) are subsequently used or disposed off otherwise than sale, the ITC availed for such purchases shall be deducted from the total ITC so availed. Under Section 38 and 39(2) of the Act, if the return furnished by a dealer is found to be in order, it shall be accepted as self assessed. However, under Section 42 of OVAT Act, 2004 read with Rule 41(4) of OVAT Rules, 2005 the Large Taxpayer Units (LTUs) are to be assessed within an audit cycle of two years up to 20 October 2010 and three years thereafter. The Act provides that if any sales turnover of a dealer has escaped assessment, the same shall be assessed under Section 43 of the Act.

During test check of self assessed returns of M/s NALCO Ltd, Damanjodi, a Large Taxpayer Unit (LTU) engaged in manufacture of Alumina, for the tax periods from February 2007 to January 2008, we noticed (November-December 2008) that the dealer claimed and availed ITC of ₹ 2.27 crore on purchase of coal from a registered dealer of the State. This was not admissible as coal is not directly used as an input for manufacture of 'Alumina'. However, the dealer availed such inadmissible ITC of ₹ 8.05 crore for the tax periods from April 2005 to March 2009 including the above mentioned ₹ 2.27 crore.

We further noticed (July 2010) that the dealer transferred Alumina valued at ₹ 2,008.59 crore during April 2005 to March 2009 to a dealer[25] and availed ITC of ₹ 3.35 crore on the corresponding purchase of all inputs related to the manufactured goods transferred to its other branch at Angul illegally registered under the Act during the above tax periods. As the dealer disposed off its manufactured goods otherwise than by way of sale, the above ITC of ₹ 3.35 crore availed by the dealer was not admissible. This included the coal related ITC of ₹ 2.19 crore availed by the dealer. Hence, the net inadmissible ITC availed by the dealer was ₹ 1.16 crore.

Moreover, we noticed that the LTU dealer was not covered under audit assessment though three such assessments were required to be taken up as per the OVAT Act, 2004 effective from April 2005 onwards and the self assessment returns of the dealer were accepted by the AA. This led to non-detection of the above type of lapses.

After we pointed out the above lapses, JCCT, Koraput Range, Koraput, stated (June 2012) that the returns filed by the dealer M/s NALCO Ltd for the period from April 2005 to March 2010 were accepted as self assessed and hence the

[25] Sister unit-smelter plant situated at Nalco Nagar, Angul, having separate registration number-TIN-21571302104 and being assessed separately.

AA reassessed (March 2012) the case under Section 43 of the Act and demanded tax and penalty of ₹ 11.95 crore. This was confirmed (September 2012) by the Government.

2.4.4 Inadmissible ITC on spare parts of machinery

Under Section 20(3)(b) of the OVAT Act, 2004 and Rules made thereunder read with Government Notification of 28 May 2008, ITC shall be allowed on purchase of components and spare parts of capital goods like plant and machinery, as defined under Section 2(8) of the above Act, purchased on or after 1 June 2008 and used directly in the process of manufacture. Purchase of spare parts and components of plant and machinery prior to 1 June 2008 was, therefore, not entitled to ITC. The Act further provides for imposition of penalty equal to twice the amount of tax assessed in the audit assessment under Section 42(5) of the Act.

During test check of the audit assessment records of Jajpur Range, we noticed (August 2011) that while finalising the audit assessments of three dealers[26] (between July 2010 and March 2011), the AA allowed ITC on purchase of components and spare parts of plant and machinery valued at ₹ 7.51 crore prior to 1 June 2008. This resulted in allowance of inadmissible ITC of ₹ 78.94 lakh and a penalty of ₹ 157.87 lakh. This was neither detected by the Tax Audit Team nor the AA, although the information was available on record at the time of audit visit and assessment of the above cases.

After we pointed out the above cases, Government stated (May 2012) that the reassessment proceedings have been initiated against the dealers.

[26] M/s Rungta Sons (P) Ltd.,TIN-21511400786, M/s Mangilal Rungta,TIN-21951400238 and M/s Banspani Iron Ltd.,TIN-21091400144

2.4.5 Non-levy of tax on "cotton yarn"

A dealer shall be liable to pay tax at the prescribed rate on the TTO under Section 2 (56) of the OVAT Act, 2004 read with Rule 6 of the OVAT Rules. As per entry No. 38 of the Schedule B, Part II of the OVAT Act, 2004, 'Cotton yarn' is exigible to tax at the rate of four *per cent*. Section 38 of the Act further provides for scrutiny of all the self-assessed returns filed by the dealers and, in case the dealer is found to have paid less tax than what is payable, the AA is required to issue notice to the dealer directing him to pay the balance tax and interest at the rate of one *per cent* thereon (Section 34 of the Act) per month from the due date of the return to the date of its payment or order of assessment, whichever is earlier. If the dealer fails to pay the tax and interest, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay in addition to tax and interest a penalty at the rate of two *per cent* per month thereon from the date it had become due to the date of its payment or the order of the assessment, whichever is earlier. In audit assessments, penalty equal to twice the amount of tax assessed additionally shall be imposed on the dealer under Section 42(5) of the Act.

During test check of audit assessment records of a dealer in Subarnapur Circle, we noticed (February 2012) that a dealer, M/s Gourishankar Dyeing Works, engaged in dyeing of yarn, sold "cotton yarn" valued at ₹ 2.05 crore inside the State during the period from 1 April 2005 to 31 March 2009. However, during the above period no tax was paid thereon treating the same as tax exempted goods. The tax audit team in their AVR accepted the above contention of the dealer and hence recommended that no audit assessment was required. Accordingly, the AA dropped the audit assessment proceedings. However, cotton yarn is exigible to tax at four *per cent*. Thus a turnover of ₹ 2.05 crore escaped assessment and it led to non-levy of tax of ₹ 8.22 lakh and penalty of ₹16.44 lakh.

Further, we noticed that the self assessed returns of the above dealer for the tax periods from 1 April 2009 to 31 March 2011 were accepted by the AA wherein no tax was paid by the dealer on the taxable sales turnover of "cotton yarn" of ₹ 1.84 crore treating the same as tax exempted sales. This resulted in further escapement of tax of ₹ 7.37 lakh. Besides, interest of ₹1.47 lakh and penalty of ₹ 3.60 lakh on the above tax and interest was also leviable.

Thus, omission on the part of the AA for levying appropriate tax on the sales turnover of cotton yarn at the audit assessment stage and inadequate scrutiny of the self assessed returns resulted in non-levy of tax, interest and penalty aggregating to ₹ 37.10 lakh.

After we pointed out the above case, the Government stated (June 2012) that the reassessment proceeding was initiated against the dealer.

2.4.6 Non-levy of penalty for non-submission of certified report on the audited accounts

Under Section 65 of the OVAT Act, 2004 read with Rule 73 of the OVAT (O) Rules, 2005 made thereunder a dealer having gross turnover exceeding ₹ 40 lakh during a financial year shall furnish a true copy of the annual audited accounts for that year duly certified by a Chartered Accountant by 31 October of the next financial year to the concerned AA for his record in the register prescribed by the CCT Odisha in September 2009 to monitor the timely submission of such accounts at the Circle level and also to act as a reference at the time of tax audit and assessment. The Act further provides that in case the dealer fails to furnish or furnishes the same belatedly, the AA shall, after giving the dealer a reasonable opportunity of being heard, impose on him a penalty of rupees one hundred for each day of default in submission.

During test check of records maintained by 33 Circles[27], from October 2010 onwards, we noticed (between May 2011 and March 2012) that the Circles did not maintain any records to monitor the receipt of copy of the certified annual audited accounts from the dealers, whose gross turnover exceeded ₹ 40 lakh during the previous financial year i.e. 2009-10.

From the information collected from Value Added Tax Information System (VATIS), and confirmed by the AAs, we noticed that out of 10,189 dealers, who were liable to furnish the true copies of the certified annual audited accounts relating to the year 2009-10 during the above period, 5,883 dealers did not submit the same to the respective AAs within the prescribed dates and even up to the date of audit, which warranted levy of penalty under the Act. The delay in submission of copies of the above reports ranged from 211 to 486 days, for which penalty of ₹ 19.87 crore was to be imposed as detailed in **Annexure 1**. The reasons for non-imposition of penalty were also not recorded in the relevant assessment orders or the register prescribed by the CCT, Odisha.

After we pointed out the above cases, the Government stated (July and September 2012) that demand notices had been issued to 22 dealers of Subarnapur Circle. The response for the remaining cases relating to other Circles was awaited (January 2013).

[27] Angul, Balasore, Barbil, Bargarh, Bhubaneswar I, Bhubaneswar II, Bhubaneswar III, Bolangir, Cuttack I (City), Cuttack I Central, Cuttack I East, Cuttack I West, Cuttack II, Deogarh, Dhenkanal, Jagatsingpur, Jajpur, Jatani, Jharsuguda, Kalahandi, Kantabanji, Kendrapara, Keonjhar, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Rayagada, Rourkela I, Rourkela II, Sambalpur I, Sambalpur II and Subarnapur.

2.4.7 Escapement of tax due to suppression of purchases of goods brought through waybills

Under Section74(2) of the OVAT Act, 2004 read with Rule 79(3) of the OVAT Rules, way bills have been prescribed to facilitate transportation of goods through check posts, to prevent evasion of tax and to ensure that transactions made by the dealer are properly accounted for in his books of accounts. Further, the CCT instructed (April and October 2009) that the data relating to waybills received by the Circles from the check gates should be entered in the VATIS and such data needs to be cross verified scrupulously with the utilisation statements of waybills furnished by the dealers.

During scrutiny of the information available in the VATIS, on the details recorded in the "In" and "Out" Registers maintained at the check gates in respect of the value of goods entered into the State through waybills and cross verification of the same with the utilisation statements, we noticed (between May 2011 and March 2012) that in eight Circles[28]; 89 dealers brought goods valued at ₹ 17.51 crore under different tax groups from outside the State during the tax periods from February 2009 to July 2011 through 165 waybills, whereas the dealers exhibited the value of such goods at ₹ 9.21 crore only in their utilisation statements furnished to the AAs. The duplicate copies of 19 waybills furnished by eight dealers to the concerned AAs and made available to us were compared with the data of the check gates and found that there was short-accountal of purchases of ₹ 8.31 crore and possible escapement of a minimum tax of ₹ 44.33 lakh.

Thus, failure of AAs to cross verify the data of the original waybills received from the check gates with the utilisation statements of the waybill received from the respective dealers through VATIS in contravention of the instruction of the CCT led to non-detection of the above lapses. Though we requested the AAs to furnish the original copies of 165 waybills received from the check gates for cross checking the factual position of loss, none of the Circles furnished the same for verification of the factual position of waybills.

After we pointed out the above deficiencies, the Government replied (between September 2011 and December 2012) that verification of 76 waybills of five Circles including nine original waybills furnished by Cuttack-I (West) Circle revealed that there was no discrepancy in respect of 36 waybills with reference to the utilisation accounts of the waybills submitted by the respective dealers.

[28] Bhadrak, Bhubaneswar I, Bhubaneswar II, Cuttack I (East), Cuttack I (West), Koraput, Malkangiri and Mayurbhanja circle.

The above contention of the Government is not acceptable as in the absence of 156 original waybills not being available the correctness can not be established. The matter needs further investigation by the Department by tracing out all the original waybills.

2.4.8 Non-levy of penalty on audit assessment

Under Section 42(1) and (5) of the OVAT Act, 2004, where the tax audit results in detection of any discrepancy such as suppression of purchases or sales or both, erroneous claims of deduction including claim of input tax credit (ITC), evasion of tax or contravention of any provision of the Act affecting the tax liability of the dealer, the AA is required to make audit assessment of the dealer wherein penalty equal to twice the amount of tax assessed shall be levied against the dealer.

During test check of audit assessment records of two Ranges[29], we noticed (August 2011) that while finalising the audit assessments of five dealers[30] for the tax periods from April 2005 to March 2010, the AAs assessed additional tax liability of ₹ 1.45 crore for various discrepancies / contraventions of the Act. However, they did not impose penalty of ₹ 2.90 crore.

After we pointed out the above cases, the Government stated (August 2012) that in respect of the five dealers the AAs cannot reopen the cases under section 43 of the OVAT Act on the ground of non-levy of penalty. Therefore, the proposal for *suo motu* revision / disposal of 1st appeal in the light of the audit objection has been sent to the respective appellate authorities.

[29] Angul Range and Jajpur Range.

[30] M/s Bhushan Steel Ltd , M/s Rungta Sons (P) Ltd , M/s IDCOL Ferro-Chrome Alloys Ltd , M/s Mangilal Rungta , M/s Mangal Sponge & Steels (P) Ltd.

2.4.9 Non-levy of interest and penalty for delayed payment of tax

Under Section-34 (1) of the OVAT Act, 2004, where a dealer, who is required to file a return under the Act, fails without sufficient cause to pay the amount of tax due as per the return, he shall be liable to pay interest at the rate of one *per cent* per month in respect of the tax which he fails to pay according to the return, from the due date of the return to the date of its payment or to the date of order of assessment, whichever is earlier. Under Section 34(2) of the Act, if the dealer fails to pay the above amount of tax and interest, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay, in addition to tax and interest, a penalty at the rate of two *per cent* per month thereon from the date it had become due to the date of its payment or the order of assessment, whichever is earlier.

During verification of the tax payment details generated from the VATIS, self-assessed VAT returns, treasury schedules, progressive collection registers as well as analysis of tax payment details in the assessment records made available in one Range[31] and 28 Circles[32] for different tax periods between 1 April 2005 and 31 March 2011, we noticed (between July 2011 and February 2012) that in respect of 2,159 tax periods, 1,211 dealers paid the tax due (₹ 168.87 crore) with delays ranging from five to 625 days for which interest of ₹ 88.33 lakh was leviable. While accepting the returns for the relevant tax periods, the AAs did not levy the above interest dues against the dealers. Besides, penalty of ₹ 1.81 crore was also leviable. Thus, failure on the part of the AAs resulted in non-levy of interest and penalty of ₹ 2.69 crore as detailed in **Annexure 2**.

After we pointed out these cases, the Government stated (June, July and September 2012) that 25 dealers of three circles had deposited interest and penalty of ₹ 5.84 lakh. The notices were issued to 94 dealers of Sambalpur I and Cuttack I Central Circle. Replies for the remaining cases were awaited (January 2013).

[31] Cuttack-I Range

[32] Angul, Balasore, Bhubaneswar II, Bhubaneswar III, Bhubaneswar IV, Barbil, Bargarh, Bolangir, Cuttack I Central, Cuttack I City, Cuttack II, Ganjam I, Jagatsinghpur, Jajpur, Jharsuguda, Kalahandi, Kantabanji, Kendrapada, Keonjhar, Mayurbhanj, Nabarangpur, Nuapada, Rourkela I, Rourkela II, ,Rayagada Circle, Sambalpur I, Sambalpur II and Subarnapur Circle.

2.4.10 Non-realisation of OST arrears

Under Section 19 of the erestwhile OST Act, 1947, when the ownership of the business of a dealer liable to pay tax under the Act entirely transferred, any tax payable in respect of the business till the date of the transfer and remaining unpaid at the time of transfer shall be payable by the transferee as if he were a dealer liable under this Act for such tax and shall apply for registration under this Act, unless he is already registered. Further, Section 13C of the above Act provided that no proceedings for recovery of any tax shall be initiated after the expiry of 12 years from the date of relevant assessment.

During scrutiny of the extract of the DCR and RC records, we noticed (April 2012) that M/s Tripty Drinks Pvt Ltd having arrear dues of ₹ 2.44 crore relating to the periods 2002-03 to 2004-05 under the OST Act was amalgamated with M/s SMV Beverages (Pvt) Ltd with effect from 6 October 2010 under the orders of the Hon'ble High Court of Orissa. As per the Court order, the transferee company was required to undertake all the liabilities and assets of the amalgamated company under all Acts. However, the transferee company undertook (October 2010) only the liabilities and assets of the amalgamated company under the OVAT, CST and OET Act ignoring the liability under the OST Act. While amending the RC (October 2010), the AA also did not ask the transferee to take over the said liability of ₹ 2.44 crore of the amalgamated company. Thus, the arrear dues of ₹ 2.44 crore remained unrealised and is fraught with the risk of becoming bad debt in the long run after the limitation period of 12 years, as the above arrears relate to the years 2002-05.

After we pointed out the above case, the AA stated (May 2012) that the matter will be examined and action will be taken as per provisions of the law.

Central Sales Tax

2.5 Non-observance/compliance of the provisions of the CST Act/Rules

The CST Act, 1956 and Rules made thereunder read with Government notifications and executive orders issued from time to time provide for:

(i) levy of tax at the assessment stage at the prescribed rates or concessional rates, subject to certain conditions, on the net taxable turnover(NTO) of goods determined at such stage;

(ii) exemption of tax in respect of sales turnover of goods exported outside the country including their penultimate transaction; and

(iii) levy of penalty at the prescribed rates for contravention of provisions of the Act and Rules on the tax liability determined by the AA in audit assessment.

We noticed that while finalising the assessments, the AAs did not observe some of the above provisions read with Government notifications/orders as mentioned in the succeeding paragraphs which resulted in non/short-levy of tax and penalty of ₹ 33.11 crore.

2.5.1 Non-levy of penalty due to misutilisation of declarations in form 'C'

Under Section 8(3)(b) of the CST Act,1956, a registered dealer is eligible to purchase goods from outside the State at concessional rate of tax against declaration in form 'C' provided that such goods are specified in his RC and the goods so purchased are intended for re-sale or for use by him in the manufacture or processing of goods for sale or in the telecommunications network, mining or in the generation or distribution of electricity or any other form of power. Further, if any person being a registered dealer falsely represents when purchasing any class of goods which is not covered by his RC, he is liable to prosecution under Section 10 of the Act. However, under Section 10 A of CST Act the AA may, in lieu of prosecution, after giving him a reasonable opportunity of being heard, impose upon him by way of penalty a sum not exceeding one and a half times of the tax which would have been levied on such goods. Cement is taxable at the rate of 12.5 *per cent*.

During scrutiny of the audit assessment records for the tax periods from July 2006 to December 2007 and further cross check of the utilisation accounts of form 'C' (December 2011) for the period January 2008 to November 2010 in Angul Range, we noticed (August 2011) that a dealer M/s Bhusan Steel Ltd engaged in manufacturing of sponge iron and billets started the commercial production from July 2006. During the tax periods from July 2006 to November 2010, the

dealer purchased cement at a cost of ₹ 75.67[33] crore from outside the State at concessional rate of tax against declaration in Form 'C'. 'Cement' was, however, not included in the RC of the above dealer. Thus, the dealer was not eligible to purchase cement at concessional rate of tax against declaration in Form 'C'. As such, the entire purchase of cement during the above periods at concessional rate was irregular and the dealer was liable to be imposed with a penalty of ₹ 14.18 crore at one and a half times of the tax of ₹ 9.46 crore leviable on cement valued at ₹ 75.67 crore. However, while finalising the assessment up to December 2007 and issuing the 'C' Forms thereafter up to November 2010, the AA did not notice the non-eligibility of the dealer to purchase cement at a concessional rate of tax by using the declaration in Form 'C'. This led to non-imposition of penalty of ₹ 14.18 crore.

After we pointed out the case, the Government stated (September 2012) that show cause notice under Section 10A read with Section 10(b) and 10 (d) of the CST Act, 1956 has been issued on the dealer for imposition of penalty.

[33] ₹ 23.85 crore during the tax periods from July 2006 to December 2007 covered under the assessments and ₹ 51.83 crore from January 2008 to November 2010 for the periods not covered under assessment.

2.5.2 Short-levy of tax due to irregular allowance of concessional rate of tax against defective/invalid declarations in Form 'C'

Under Section 8 of the CST Act, 1956 read with Rule 12 of CST (Registration and Turnover) (R&T) Rules 1957, a dealer who claims concessional rate of tax on inter State sale of goods is required to obtain valid declarations in form 'C' marked 'Original' from the purchasing dealers covering the sales turnover relating to a quarter and furnish the same to the AA within the next quarter. Tax on these transactions is leviable at the concessional rate of four *per cent* up to 31 March 2007, three *per cent* from 1 April 2007 to 31 May 2008 and two *per cent* from 1 June 2008 onwards or at lower rate as applicable to the sale or purchase of these goods within the State.

The Act also provides that inter-State sale of goods not supported by declaration in form 'C' is taxable at twice the rate applicable to sale or purchase of such goods inside the State for declared goods and at the rate of 10 *per cent* or the rate of tax applicable to sale or purchase of such goods within the State, whichever is higher, for non-declared goods up to 31 March 2007 and at the rate of tax applicable to sale or purchase of such goods within the State both for the declared goods and non declared goods. after 31 March 2007.

Rule 12(8) of the pre amended CST (O) Rules, 1957 provides for imposition of penalty not exceeding one and half times of the tax escaped and assessed for the transaction made up to 5 July 2006 and amended sub Rule 3(g) of Rule 12 of CST (O) Rules provides for imposition of penalty of twice the amount of tax assessed in audit assessment for the transactions made from 6 July 2006 onwards.

(a)(i) During scrutiny of the audit assessment records in three Ranges and three Circles, we noticed (between July 2011 and February 2012) that the concerned AAs, while finalising the audit assessments, allowed concessional rate of tax to six dealers[34] on inter-State sale of goods worth ₹ 17.25 crore although the dealers furnished invalid (defective, duplicate, photocopied and manipulated) declarations in form 'C' This led to short-levy of tax of ₹ 62.15 lakh and non-imposition of penalty of ₹ 107.49 lakh.

(ii) Further, during scrutiny of the audit assessment record of a dealer: M/s Narayani Sons (P) Ltd, Barbil Circle, we noticed (September 2011) that the AA levied tax at a concessional rate of three *per cent* on the inter-State sale of goods valued at ₹ 2.66 crore relating to the tax periods from 01 July 2006 to 31 March 2007 instead of the prescribed rate of four *per cent*. This resulted in short-levy of tax of ₹ 2.66 lakh. Besides, penalty of ₹ 5.33 lakh is also leviable.

[34] Cuttack II Range (one dealer), Jajpur Range (one dealer), Sundergarh Range (one dealer), Barbil Circle (two dealers) and Rourkela II Circle (one dealer).

After we pointed out the above cases, the Government stated (September 2012) that demand of ₹ 42.47 lakh was raised against three dealers and reassessment proceedings was opened in case of one dealer. Government further stated that one case being time barred was referred to the JCCT, Jajpur Range for initiation of revision proceedings and in another case, the dealer preferred first appeal against the orders of the Government. Report on the remaining one case is awaited (January 2013).

(b) During scrutiny of audit assessment records in Rourkela-II circle, we noticed (February 2012) that a dealer M/s Pooja Sponge Pvt Ltd engaged in manufacture and sale of sponge iron effected inter State sale of sponge iron worth ₹ 14.49 crore (exclusive of tax) against 90 declarations in Form 'C' during the tax periods from 1 July 2006 to 31 March 2008. We, however, noticed that out of above, 24 declaration forms covering inter-State sales turnover of ₹ 2.20 crore (including tax) relating to different States were defective and hence not valid.

Thus, due to acceptance of the above invalid forms there was short-levy of tax of ₹ 7.97 lakh along with penalty of ₹ 15.35 lakh. We endorsed the details of these 24 declaration forms to the offices of the CT Departments of the concerned 10 States, out of which the authorities of the three States, in respect of five forms, confirmed our observation stating that the forms were not genuine. In respect of other forms, the replies of the CT Departments of the concerned States are yet to be received (January 2013).

After we pointed out the above cases, the Government stated (July 2012) that the reassessment proceeding was opened.

2.5.3 Short-levy of tax due to allowance of inadmissible exemption

Under Section 5(3) of the CST Act, 1956, the last sale or purchase of any goods preceding the sale or purchase of goods for export out of India shall also be deemed to be in the course of export for getting exemption of tax under the Act, if such last sale or purchase took place after, and was in compliance with, the agreement or order for or in relation to export. Under the Act, inter-State sale of declared goods like pig iron without supporting declarations were exigible to tax at the rate of eight per *cent* during 2003-04 under Section 8(2)(b) of the Act.

During test check of the assessment records of Jajpur Circle, we noticed (October 2007) that a dealer M/s Nilachal Ispat Nigam Ltd sold pig iron worth ₹ 77.29 crore to M/s MMTC Ltd. during 2003-04 against five declarations in Form H and claimed exemption of tax under the Act. The AA accepted the said claim (February 2007) while finalising the assessment of the dealer for that year. However, we noticed that the above forms furnished by the dealer were defective as the entries and figures in the informatory columns of the declaration forms were tampered with by erasing the previous entries and writing fresh entries thereon as well as non- availability of essential supporting documents for export of the goods. Thus exemption of tax by acceptance of defective statutory declaration forms by the AA was irregular and it resulted in short-levy of tax to the extent of ₹ 6.18 crore.

After we pointed this out, the Government stated (August 2012) that the case was reassessed and disposed of (April 2010) by raising of extra demand of ₹ 9.05 crore, which included ₹ 6.18 crore observed by us. However, the dealer being aggrieved by the orders of the 1st Appellate authority preferred 2nd Appeal before the Sales Tax Tribunal, Odisha and filed an application for revision before the CCT seeking stay for realisation of the demand. Thereafter, the dealer filed a writ petition (December 2011) in the Hon'ble High Court of Orissa against the verdict of the Revisional Authority. Report on further development of the case is awaited (January 2013).

2.5.4 Inadmissible exemption/ concession on sales in transit

Under Section 6(2) of the CST Act, 1956, where a sale of any goods in the course of inter-State trade or commerce has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer, if the goods are listed under Section 8(3), shall be exempt from tax under this Act. The dealer effecting the sale has to furnish to the prescribed authority within the prescribed time, a certificate in Form E I or E II, as the case may be, duly filled in and signed by the registered dealer from whom the goods were purchased and a declaration in form 'C' obtained from the ultimate buyer registered under the Act. Under the OVAT Act, 2004 and the Rules made thereunder, machinery and equipment are taxable at the rate of 12.5 *per cent* under Part III of the Schedule B to the Act. Further, Rule 12(3)(g) of CST(O) Rules, 1957 provides for levy of penalty equal to twice the amount of tax assessed during the audit assessment against the dealer.

During test check of the AVR and assessment record containing E I certificates, declarations in form 'C' and purchase and sales statements under the CST Act in Sundargarh Range, Rourkela, we noticed (December 2011) that a registered dealer, M/s Larsen &Toubro (L&T) Ltd. engaged in manufacturing of machinery, surface miners, crushers, castings and impactors etc claimed exemption of tax on goods valued at ₹ 12.70 crore towards sales in transit in the course of inter-State trade or commerce for the tax periods from July 2006 to March 2008. The corresponding purchase value of the said goods was ₹ 11.28 crore. However, the AA, while finalising the audit assessment of the dealer in December 2010 for the tax period 1 April 2006 to 31 March 2008, allowed exemption of tax on the sales turnover of ₹ 9.59 crore as the dealer was able to submit five E I certificates obtained from the selling dealers for the corresponding purchase value of ₹ 8.07 crore. The AA levied tax on the remaining sales turnover of ₹ 3.11 crore at the concessional rate of four *per cent* (₹ 1.03 crore) and three *per cent* (₹ 2.08 crore) as the same were not supported with E I Certificates, but supported by declaration in form 'C' obtained from the ultimate buyers.

On further scrutiny of the audit assessment record, examination of the information available in the TINXSYS website, we noticed that proper examination of the declaration forms was not done and the genuineness of the transit sales was not verified by the AA while allowing exemption/ concession of tax during the assessment which ultimately resulted in non/ short-levy/ escapement of tax and penalty of ₹ 4.02 crore. The details are discussed in the succeeding paragraphs.

1. Irregular allowance of exemption of tax against invalid E I Certificates

We noticed that out of five E I certificates for ₹ 8.07 crore submitted by the dealer and accepted by the AA during the assessment, three E-I certificates covering purchase value of ₹ 7.96 crore were not acceptable as those were invalid on the following grounds:

- The E I certificate (B 412278) covering purchase value of ₹ 35.84 lakh during August 2006 was issued by the selling dealer M/s Shanti Gears Ltd of Tamil Nadu in favour of M/s L&T, Bangalore, not in favour of the instant dealer. The invoice attached with the E I certificate was in favour of M/s L&T, Bangalore with destination of dispatch as Barbil whereas the instant dealer was located at Kansbahal, Odisha. As such, the instant dealer was not entitled to any exemption against the said certificate.

- The E I certificate (MH 08/0082494) pre-filled by the Sales Tax Department of Maharashtra State for ₹ 58.03 lakh against one invoice relating to the period July to September 2007 was issued originally by the selling dealer M/s Tractor Engineers Ltd, Mumbai in favour of M/s L&T, Bhopal, Madhya Pradesh, TIN-23654000082. The certificate was reused by the instant dealer for ₹ 5.92 crore relating to the period July to September 2006 by manipulating the original details i.e. TIN, value of goods and period of transaction.

- The E I certificate (MH 08/0082498) pre-filled by the Sales Tax Department of Maharashtra for ₹ 1.62 crore against two invoices relating to the period January to March 2008 was issued originally by the selling dealer M/s Tractor Engineers Ltd, Mumbai in favour of M/s L&T, Bhopal, Madhya Pradesh, TIN-23654000082. The certificate was reused by the instant dealer for ₹ 1.68 crore relating to the period January to March 2007 by manipulating the original details i.e. TIN, value of goods and period of transaction.

Despite the above discrepancies, which were sufficient to render the said three E I certificates invalid and unacceptable, the AA, while finalising the audit assessment, accepted the same and allowed exemption of tax on the corresponding sale value of ₹ 8.51 crore to the dealer of Odisha. This indicated that the AA relied merely upon the statement of transit sale submitted by the dealer and the availability of E 1 certificates and the corresponding C forms without checking the details in regard to the genuineness of such E I certificates and scrutinising the said certificates for their acceptability in assessment. This resulted in non-levy of tax of ₹ 1.06 crore besides a penalty of ₹ 2.12 crore.

2. Short-levy of tax due to irregular allowance of concessional rate of tax

Further, we noticed that for the remaining sales turnover of goods valued at ₹ 3.11 crore for which the dealer could not submit E 1 certificates, the AA levied tax at concessional rates of four *per cent* on ₹ 1.03 crore and three *per cent* on ₹ 2.08 crore only on the basis of the declaration in form 'C' submitted by the dealer. On verification, we noticed that as against ₹ 3.11 crore 'C' forms for ₹ 2.53 crore were only available in the assessment record and 'C'

forms for the remaining amount of ₹ 0.58 crore were not available. From the 'C' forms for ₹ 2.53 crore which were available in the record, we noticed that all the forms were issued by the dealers of Odisha.

As the above 'C' forms were obtained from the dealers of Odisha, in the absence of the corresponding 'E-I' certificates, the transactions in respect of these 'C' forms were neither transit sales nor inter-State sales but were intra-State sales. The transactions were, therefore, liable to be taxed at the rate of 12.5 *per cent* under the OVAT Act. As such, allowance of concessional rate of tax against these 'C' forms without verifying the admissibility of treating the same as inter-State sale was not correct. This led to short-levy of tax of ₹ 28.11 lakh at the differential rate of 8.5 *per cent* on ₹ 1.03 crore and 9.5 *per cent* on ₹ 2.08 crore respectively along with a penalty of ₹ 56.22 lakh.

After we pointed out the inadmissible exemption of sales in transit, Government stated (July 2012) that the dealer had preferred 1st appeal against the order of the assessment. Hence, the observations of the audit had been transmitted to the above appellate authority for consideration

2.5.5 Short-levy of tax due to allowance of inadmissible exemption

Under Section 5(3) and (4) of the CST Act, 1956, the last sale of goods preceding the export sale is exempted from levy of tax, if it is supported with a certificate in form 'H' filed by the ultimate exporter in respect of purchase of such goods for export along with relevant documents in proof of such export sale to have taken place after, and was in compliance with, the agreement or order for export. Inter-State sale of 'iron ore fines' without supporting certificate in form 'H' was taxable at the rate of 10 *per cent* up to 31 March 2007 and at the rate applicable to sale or purchase of these goods inside the State with effect from 1 April 2007 onwards under Section 8(2)(b) of the Act.
Further, Rule 12(3)(g) of the CST (O) Rules, 1957 provides for imposition of penalty equal to twice the amount of tax assessed in audit assessment with effect from 6 July 2006.

During test check of the audit assessment records in three Ranges[35] and two Circles[36], we noticed (between August 2011 and January 2012) that five dealers[37] sold goods such as fabricated and galvanised transmission line towers, sponge iron, rice and iron ore fines worth ₹ 6.04[38] crore to the exporters in course of export during the tax periods from 1 April 2005 to 31 March 2010 and paid no tax thereon claiming exemption of tax under the Act. While finalising the audit assessments, between April

[35] Cuttack II, Jajpur and Sundargarh Range.

[36] Rourkela I and Sambalpur I Circle.

[37] (1) M/s Adhunik Metallicks Ltd, Sundargarh Range (2) M/s Nainadevi Minerals (P) Ltd, Rourkela I Circle (3) M/s Shakti Minerals, Jajpur Range (4) M/s Shree Annapurna Rice Mill, Sambalpur I Circle (5) M/s Utkal Galvanisers Ltd. Cuttack II Range.

[38] Export sale against photocopied certificates in form H (₹ 252.94 lakh) , against forms H not supported with copies of agreement between the foreign buyer the exporter and bill of lading etc.(₹ 221.39 lakh) and incidence of not complying with the agreement or order (₹ 130.17 lakh).

2010 and February 2011, the AAs allowed the dealers to avail exemption on the sale of these goods. However, we noticed that the exemption allowed by the AA was irregular since the same was allowed against photocopies in Form 'H', certificates of export, forms 'H' not supported with the required documents such as copies of agreement between the foreign buyer the exporter and bill of lading etc and incidences where goods were sold to the exporters before the purchase orders were placed on the exporters by the foreign buyers. This resulted in short-levy of tax of ₹ 33.03 lakh and non-imposition of penalty of ₹ 46.77 lakh.

After we pointed out these cases, the Government stated (June 2012) that notice for the assessment of the escaped turnover was issued to one dealer of Sambalpur I Circle, whereas another dealer of Sundargarh Range had preferred appeal (August 2012). The Government further stated that extra demand of ₹ 0.48 lakh have been raised in case of one dealer of Rourkela I Circle. The reassessment proceeding of remaining two dealers was under process.

2.5.6 Short-levy of tax due to allowance of concessional rate of tax

As per the order dated 24 December 1999 of the Ministry of Commerce and Industries, Department of Industrial Policy and Promotion GoI, read with the notifications dated 18 July 2006 and 29 September 2006 of the Ministry of Small Scale Industries of the Central Government, industrial units with Fixed Capital Investment (FCI) in plant and machinery up to ₹ one crore between 24 December 1999 and 2 October 2006 and ₹ five crore thereafter are considered as Small Scale Industries (SSI) units. Under the CST Act, 1956 read with Government notifications dated 31 March 2005 and 16 June 2006, inter-State sale of goods manufactured by the SSIs of the State are taxable at a concessional rate of one *per cent* up to 15 June 2006 and at two *per cent* thereafter against declarations furnished by the purchasing dealer in form 'C'. Under Section 8(1) of the CST Act , inter State sale of goods supported with declarations in form 'C' are exigible to tax at the rate of four *per cent* up to 31 March 2007 and at the State rate from 1 April 2007 onwards. This concession was, however, not extended to inter-State sales made to Government Departments against certificate in Form 'D'. Jute products as well as goods manufactured by SSI units and sold to Government Departments in the course of inter-State trade against certificate in Form 'D' were liable to be tax at the rate of four *per cent.*

(a) During test check of the audit assessment records of M/s Om Oil & Flour Mills of Cuttack I Range, we noticed (November 2010) that the dealer was allowed to avail concessional rate of tax ranging from one to two *per cent* instead of tax at the prescribed rate of four *per cent* and three *per cent* on inter State sale of goods against valid declarations in form 'C being considered as an SSI unit during the period April 2005 to March 2006 and April 2007 to November 2008. During the period 1 April 2005 to November 2008 the

FCI on plant and machinery exceeded the investment limit[39] as seen from the balance sheets submitted by the dealer. However, overlooking the balance sheets kept on record at the time of assessment, the AA allowed the dealer to avail tax at concessional rate. This led to short-levy of tax of ₹ 13.13 lakh besides non-levy of penalty of ₹ 26.26 lakh.

After we pointed out the above case, the AA stated (November 2010) that proper action after verification of fact and figures would be taken.

The matter was referred to the CCT, Odisha in April 2012 and the Government in May 2012. Replies are yet to be received (January 2013).

(b) During scrutiny of audit assessment records in two Circles[40,] we noticed (November and December 2010) that four dealers transacted inter-State sales of goods worth ₹ 5.06 crore to different Government Departments[41] during the tax periods ranging from 1 April 2005 to 31 December 2006 against certificates in Form 'D' and paid tax at concessional rates of one/ two *per cent*. As the concession was not extended to inter-State sales made to Government Departments against certificate in form 'D', the concession allowed by the AA during the assessment stage of the dealers as well as during scrutiny of monthly returns led to short-levy of tax of ₹ 11.06 lakh.

After we pointed out the above cases, the Government stated (June and July 2012) that reassessment proceedings in respect of all the dealers were completed by raising of demand of ₹ 11.06 lakh during July and September 2011.

2.5.7 Non-levy of penalty in audit assessment

Under Rule 10(3) read with Rule 12(3) (a), (e) and (f) of the CST (O) Rules, 1957 as amended (6 July 2006), where the tax audit results in detection of suppression of purchases or sales or both, erroneous claims of deduction, evasion of tax or contravention of any provision of the Act affecting the tax liability of the dealer, the AA is required to make audit assessment of the dealer and impose penalty equal to twice the amount of tax so assessed in such assessment as per sub Rule 3 (g) of Rule 12 of the CST (O) Rules, 1957.

During test check of the audit assessment records of two Ranges[42] and one Circle[43], we noticed (between August and November 2011) that in six cases pertaining to six registered dealers[44], the concerned AAs, while assessing the dealers for different tax periods from 1 April 2006 to 31 March 2010, assessed tax of ₹ 1.95

[39] The capital investment of the dealer in plant and machinery stood ₹ 9.32 crore and ₹ 10,79 crore as against the eligible limit of rupees 1 crore during the period 2005-06 and rupees 5 crore during the period April 2007 to Nov 2008 respectively.

[40] Cuttack I (West) and Rourkela-II Circle.

[41] Directorate of Supplies and Disposal, 6 Esplanade East, Kolkata and Eastern/Southern and Eastern Railways etc.

[42] Jajpur and Cuttack-I Range.

[43] Cuttack-I Central Circle.

[44] (1) M/s K J S Alhuwalia (2) M/s OMDC Ltd (3) M/s S N Mohanty (4) M/s Total Fina Elf(I) Ltd. (5) M/s State Trading Corporation Ltd (6) M/s Proctor & Gamble Home Products Pvt. Ltd.

crore at concessional rate of tax without supporting declarations and production of books of accounts during assessment stage. Although the tax levied for the above irregularities warranted imposition of penalty, the AAs did not impose penalty of ₹ 3.90 crore as detailed below:

- Jajpur Range: Three dealers could not produce the required declaration forms after tax audit visit or even up to the time of assessment and hence the AA while assessing the dealers levied tax of ₹ 1.87 crore. However, he neither imposed penalty of ₹ 3.74 crore as per the provisions nor discussed the reasons for non-levy of the same.

- Cuttack I Range **:** The dealer failed to produce the relevant declarations in Form 'F' for the period 6 July 2006 to 31 March 2007 till the date of assessment**.** Though the AA assessed the dealer and levied tax of ₹ 5.47 lakh for the said period he did not impose penalty of ₹ 10.95 lakh or record any reason for non-levy of penalty.
- Cuttack I Central Circle: The AA assessed the dealer and levied tax of ₹ 10.70 crore, out of which the dealer paid ₹ 10.69 crore. Although the remaining amount of tax of ₹ 1.55 lakh attracted penalty as per the provision, yet the AA did not impose the penalty of ₹ 3.07 lakh nor discuss the reasons for non-imposition of the same.
- Cuttack I Central Circle: The AA assessed the dealer exparte and demanded tax of ₹ 0.78 lakh as the dealer failed to produce the books of accounts before the AA. However, the AA neither imposed penalty of ₹ 1.55 lakh on the above amount nor discussed the reasons for non-levy of the same.

After we pointed out the above cases, the Government stated (July 2012) that one dealer of Cuttack I Central Circle paid ₹ 3.07 lakh and audit observation in case of another dealer was transmitted to the Registering Authority (RA). Government further stated (August 2012) that in three cases of the Jajpur Range, it was not possible on the part of the AA to reopen the cases. Therefore, proposal for suo-motu revision/disposal of first appeal in the light of audit objection has been referred to the appellate authority and in one case, the Commissioner issued show cause notice. However, reply in respect of one dealer of Cuttack I Range is yet to be received (January 2013).

2.5.8 Short-levy of tax due to allowance of inadmissible exemption of tax on stock transfer

Under Section 6A(1) of the CST Act, read with Rule 12(5) of the CST (R&T) Rules, 1957, a dealer is not liable to pay tax for goods transferred by him to any other place of his business or to his agent or principal located outside the State, provided he furnishes a declaration in Form 'F'. Further, each declaration in form 'F' shall cover transactions effected during a period of one calendar month only. Branch transfer of non declared goods without declarations in Form 'F' were exigible to tax at the rate of 10 *per cent* or the rate of tax applicable to sale or purchase of goods inside the State whichever was higher up to 31 March 2007 and at the same rate of tax applicable to sale of these goods inside the State with effect from 1 April 2007 onwards under Section 8(2) of the Act.

During scrutiny of the audit assessment records of two Ranges and one Circle[45], we noticed (between June and August 2011) that the concerned AAs, while assessing four dealers[46] under the CST Act between March and November 2010 for different tax periods from 1 April 2005 to 31 March 2009 granted exemption of tax on stock/ branch transfers of goods worth ₹ 36.19 crore as claimed by the dealers though such transfers of goods were not supported by valid declarations in Form 'F' or were supported by defective, duplicate, photocopied and manipulated declaration forms. This led to non/ short-levy of tax of ₹ 1.52 crore.

After we pointed out the above cases, the Government stated (July 2012) that there was no question of levy of tax on the transferred value of goods under objection (in case of M/s Ferro alloys Corporation Ltd, Balasore Range) as one 'F' form covering the value of ₹ 12.37 lakh was furnished by the dealer but the same could not be produced to audit and that another invalid declaration previously furnished by the dealer covering the transactions of ₹ 62.66 lakh was replaced with a fresh 'F' Form issued by the purchasing dealer. The reply is not acceptable as acceptance of the fresh declaration after the assessment is not in conformity with any of the provisions of the Act and the Rules made thereunder. In respect of other two dealers, the Government intimated (August 2012) that proceedings were initiated against them. However, response to the objection made against one dealer is yet to be received (January 2013).

[45] Balasore, Jajpur Range, and Bhubaneswar III Circle.

[46] M/s Ferro Alloys Corporation Ltd., M/s Dishnet Wireless Ltd., M/s N.K. Bhojani Pvt. Ltd., M/s Mangala Sponge and Steel Pvt. Ltd.

Entry Tax

2.6 Non-compliance of the provisions of OET Act/Rules

The OET Act, 1999 and Rules made thereunder read with Government notifications issued from time to time provide for:

(i) completion of audit assessment based on Audit Visit Report (AVR) and levy of tax at the prescribed rates on entry of scheduled goods into any local area for sale, use or consumption therein;

(ii) levy of tax on the sale value of manufactured scheduled goods at the prescribed rates;

(iii) allowance of set off towards tax paid on purchase of scheduled goods by the manufacturers as raw materials on the ET payable on the sale value of taxable finished goods; and

(iv) levy of penalty at prescribed rates on the tax levied in audit assessment.

We noticed that while finalising the assessments, the AAs did not adhere to the above provisions as mentioned in the following paragraphs which resulted in non/short-levy of tax, interest and penalty of ₹ 0.77 crore.

2.6.1 Non-levy of Entry Tax

Under Section 3(1) of the OET Act, 1999, entry tax is leviable at the prescribed rates on the purchase value of scheduled goods on their entry into a local area for consumption, use or sale therein. Under the Act, minerals including boulders are taxable at the rate of one *per cent*. Further, penalty equal to twice the amount of tax assessed is leviable in case of an audit assessment of any dealer under Section 9C(5) of the Act.

During test check of the assessment records in Ganjam-II Circle, we noticed (August 2011) that a dealer M/s Gopalpur Ports Ltd., was procuring stone boulders from its own quarry and also from another registered dealer[47]. As per the report of the Sales Tax Officer (STO), Vigilance, Berhampur dated 29 February 2008, the dealer procured 0.66 lakh MT of boulders during August to December 2007 from its own leased quarry situated in another local area whose market value was determined at ₹ 2.26 crore as the procurement cost was much below the market price. The extent of procurement of boulders from the other registered dealer could not be ascertained by the vigilance wing. However, the AA determined the same as 2.51 lakh MT, the market value of which was ₹ 8.53 crore at the rate of ₹ 340 per MT applied by the STO Vigilance, Berhampur. The cost of total procurement of 3.17 lakh MT of boulders was, therefore, arrived at ₹ 10.79 crore. The AA, while finalising the assessment (February 2011) for the above period (August to December 2007) overlooked the Report of STO Vigilance and determined the entry tax liability of the dealer as nil, considering the boulders as non-scheduled goods under the Act. This resulted in non-levy of entry tax of ₹ 10.79 lakh along with a penalty of ₹ 21.58 lakh.

[47] M/s Star Smart Trading Pvt. Ltd.(SSTPL), Cuttack.

After we pointed out the case, the Government stated (September 2012) that the reassessment proceeding was completed by raising extra demand of ₹ 32.37 lakh.

2.6.2 Short-levy of tax due to under determination of purchase turnover

Under Section 3(1) of the OET Act, 1999, entry tax is leviable at the prescribed rates on the purchase value of scheduled goods on their entry into a local area for consumption, use or sale therein. Further, the Act provides that every manufacturer shall collect entry tax payable from the buying dealers or persons on the value of finished products and deposit the tax so collected into the Government account under Section 26 of the Act, 1999. Under Section 2(j) of the Act, purchase value includes the Value Added Tax (VAT). Further, penalty equal to twice the amount of tax assessed is leviable in case of audit assessment of any dealer under Section 9C(5) of the Act.

During test check of audit assessment records in Cuttack-I Range, we noticed (October 2011) that a dealer M/s Cargil India Ltd., a manufacturing unit engaged in processing of edible oil from crude soya oil, olive oil and palm oil etc. sold finished goods worth ₹ 118.73 crore during the tax period from 1 April 2005 to 31 March 2006, on which he was liable to pay ₹ 4.75 crore towards VAT at the rate of four *per cent* and also entry tax at the rate of one *per cent* on the total amount of sale value (value of finished goods plus VAT thereon) of ₹ 123.48 crore. However, the AA levied entry tax on ₹ 118.73 crore only without adding the VAT component on such sale. This resulted in under determination of taxable turnover and resultant short-levy of entry tax of ₹ 4.75 lakh besides non-imposition of penalty of ₹ 9.50 lakh.

After we pointed out the case, the Government stated (August 2012) that notice in form E-32 was issued. Further compliance is yet to be received (January 2013).

2.6.3 Excess allowance of Entry Tax set off

Under Section 26 of the OET Act 1999, as amended (May 2005) read with Rule 19 (5) of the OET Rules 1999, the manufacturers of scheduled goods, while selling the finished products, shall collect Entry Tax on the sale value of goods. The entry tax paid by the manufacturer of scheduled goods on the purchase of raw materials, which directly go into the composition of finished products, is permitted to be set off against entry tax payable. Where no ET is payable on a part of the sales (due to local sale, inter State sale, branch transfer etc.), the set off admissible shall be reduced proportionately. Further, Section 9C(5) of the Act provides for levy of penalty equal to twice the amount of tax assessed on audit assessment.

During scrutiny of the audit assessment records of a registered dealer M/s OMFED Ltd., of Bhubaneswar II Circle for the tax periods from 01 April 2005 to 31 March 2008, we noticed (July 2011) that the dealer purchased scheduled goods for ₹ 56.09 crore on payment of entry tax of ₹ 56.09 lakh and sold the finished products for ₹ 87.81 crore. The above sales included sale of goods worth ₹ 15.81 crore within the local area on which no entry tax was payable. Hence, the dealer was eligible to avail proportionate set off of ₹ 46.02 lakh only. However, the dealer availed set off of the entire amount of ₹ 56.09 lakh paid on purchase of raw materials. This was neither detected by the Audit Visit Team at the time of their visit nor the AA at the assessment stage despite the requisite information being available to them. This resulted in excess allowance of set off of ₹ 10.07 lakh. Besides, a penalty of ₹ 20.13 lakh was also leviable.

After we pointed out the above case, the Government stated that the reassessment proceeding (April 2012) for the period 2006-07 and 2007-08 was completed raising demand of ₹ 14.53 lakh towards penalty. However, from the copy of the reassessment order of the AA, we noticed that reassessment proceedings for the tax period 2005-06 was barred by limitation of time for the AA. Further action taken by the Department for levy of tax and penalty for that period i.e., 2005-06 is awaited and details of realisation of tax demanded is yet to be received (January 2013).

CHAPTER-III : MOTOR VEHICLES TAX

EXECUTIVE SUMMARY

Marginal increase in tax collection	In 2011-12, the collection of taxes from motor vehicles was less by 6.53 *per cent* as compared to the Budget Estimate for the year and increased by 8.30 *per cent* over the previous year which was attributed by the Department to increase in registration of vehicles, increase in the enforcement activities, amendment of the Orissa Motor Vehicles Taxation (OMVT) Act, 1975 and arrear collection.
Internal audit not conducted	Internal Audit of the units under the Transport Department has not been conducted since last few years due to shortage of staff in the Internal Audit Wing. This had its impact in terms of the weak internal control in the Department leading to leakage of revenue. It also led to omissions on the part of the Regional Transport Officers remaining undetected till audit was conducted.
Very low recovery by the Department against the observations pointed out by audit in earlier years	During the period 2006-07 to 2010-11, audit pointed out non / short-levy, non / short-realisation of tax, fee etc., with revenue implication of ₹ 348.75 crore in 8,58,741 cases. Of these, the Department / Government accepted audit observations in 88,169 cases involving ₹ 156.92 crore; but recovered only ₹ 7.53 crore in 4,255 cases. The average recovery position, being 4.80 *per cent* as compared to acceptance of objections, was very low and it ranged between 1.32 *per cent* and 5.93 *per cent.*
Results of audit in 2011-12	In 2011-12, Records of 32 units relating to taxes on motor vehicles and noticed non / short-realisation / levy of tax, fees, penalty etc., involving ₹ 86.54 crore in 1,70,927 cases were test checked. The Department accepted non / short-realisation / levy of tax and other deficiencies of ₹ 18.25 crore in 7,673 cases, of which 579 cases involving ₹ 1.67 crore were pointed out by audit during 2011-12 and the rest in the earlier years. An amount of ₹ 1.12 crore was recovered in 561 cases during the year 2011-12 which included ₹ 0.05 crore in 43 cases for the year 2011-12.
Highlights	In this Chapter, Audit findings of illustrative cases involving ₹ 84.34 crore selected during test check of records relating to assessment and collection of motor vehicles tax in the office of the Transport Commissioner-cum-Chairman, State Transport Authority and the Regional Transport Officers (RTOs), due to non-adherence to provisions of the Acts / Rules are presented.

	It is a matter of concern that similar omissions have been pointed out by audit in the earlier Audit Reports also; but the Department has not taken adequate corrective action despite switching over to an IT-enabled system in all the RTOs. Though these omissions were apparent from the records database made available to audit, the RTOs were unable to detect these mistakes.
Conclusions	The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by audit are avoided in future. It also needs to initiate immediate action to recover the non-realisation, undercharge of tax, fees etc. pointed out, more so in those cases where audit contentions have been accepted.

3.1.1 Tax administration

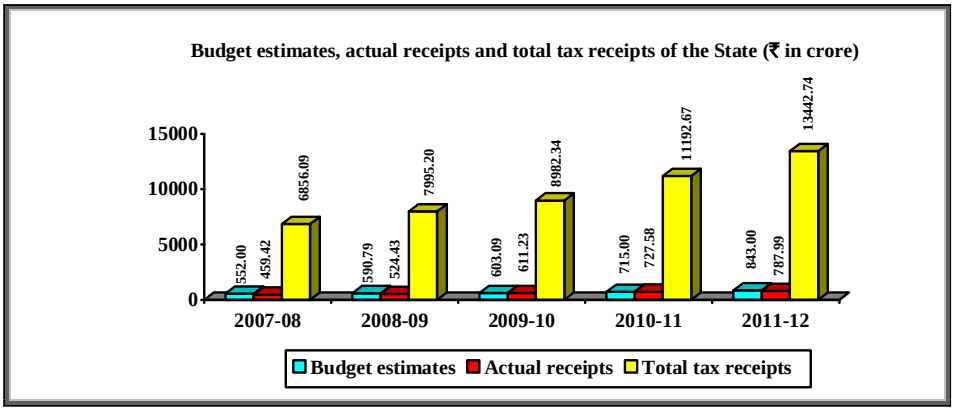
Levy and collection of taxes on motor vehicles is regulated under the Motor Vehicles (MV) Act, 1988 and the Orissa Motor Vehicles Taxation (OMVT) Act, 1975. The Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA), under the overall supervision of the Principal Secretary, Commerce and Transport (Transport) Department, administers the above Acts and Rules made thereunder and is assisted by the Headquarters and field staff. The RTOs are the Assessing Authorities (AAs) as well as the Tax Recovery Officers (TROs).

3.1.2 Trend of Receipts

Actual receipts from taxes on motor vehicles during the years 2007-08 to 2011-12 along with the total tax receipts during the same period is detailed in the following table.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	552.00	459.42	(-)92.58	(-)16.77	6,856.09	6.70
2008-09	590.79	524.43	(-)66.36	(-)11.23	7,995.20	6.56
2009-10	603.09	611.23	(+)8.14	(+)1.35	8,982.34	6.80
2010-11	715.00	727.58	(+)12.58	(+)1.76	11,192.67	6.50
2011-12	843.00	787.99	(-)55.01	(-)6.52	13,442.74	5.86



The reasons for wide fluctuations in budget estimates and actuals during 2007-08 was attributed to less registration of vehicles as compared to the previous year and a campaign against overloading of vehicles, whereas for the year 2008-09 it was attributed to a downward trend in registration of new commercial vehicles as compared to the previous year. Increase of revenue during 2010-11 and 2011-12 are due to increase in registration of vehicles, increase in the enforcement activities, amendment of OMVT Act and arrear collection.

3.1.3 Cost of collection

The gross collection under taxes on motor vehicles, expenditure incurred for their collection and the percentage of such expenditure to gross collection during the years 2009-10 to 2011-12 along with the relevant all India average percentage of expenditure on collection to gross collection in the respective previous years are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2009-10	611.23	27.78	4.54	2.93
2010-11	727.58	30.73	4.22	3.07
2011-12	787.99	25.96	3.29	3.71

The percentages of the cost of collection were higher than the all India average percentages during 2009-10 and 2010-11; whereas during 2011-12 it was within the all India average percentages for the previous year.

3.1.4 Working of Internal Audit Wing

Although the Internal Audit Wing (IAW) of the Department exists, audit has not been conducted since last couple of years due to shortage of staff. **The Government may take suitable steps to strengthen the IAW so as to ensure effective implementation of the Acts / Rules for prompt and correct realisation of revenues as well as to clear the arrears in audit.**

3.1.5 Impact of Audit

Revenue impact

During the last five years (2006-07 to 2010-11) we pointed out non/short-levy, non/short-realisation of tax, fee etc., with revenue implication of ₹ 348.75 crore in 8,58,741 cases. Of these, the Department/Government accepted audit observations in 88,169 cases involving ₹ 156.91 crore and recovered ₹ 7.53 crore in 4,255 cases.

During the period 2006-07 to 2010-11 the recovery position as compared to acceptance of objections was very low ranging from 1.32 *per cent* to 5.93 *per cent.* **The Government may take appropriate steps to improve the recovery position.**

3.1.6 Results of Audit

During the year 2011-12, we test checked the records of 32 units involved in the assessment and collection of taxes on motor vehicles and found non / short-realisation / levy of tax, fees, penalty etc. involving ₹ 86.54 crore in 1,70,927 cases.

During the year the Department accepted non / short-realisation / levy of tax and other deficiencies of ₹ 18.25 crore in 7,673 cases, of which 579 cases involving ₹ 1.67 crore were pointed out in audit during the year 2011-12 and the remaining pertained to earlier years. An amount of ₹ 1.12 crore was recovered in 561 cases during the year 2011-12 which included ₹ 0.05 crore in 43 cases for the year 2011-12.

3.2 Audit observations

We scrutinised the records relating to assessment and collection of Motor Vehicles Tax (MVT) in the offices of the Transport Commissioner (TC)-cum-Chairman, State Transport Authority (STA) and the Regional Transport Officers (RTOs) and found several cases of non-observance of some of the provisions of the Acts/Rules and other cases as mentioned in the succeeding paragraphs in this chapter. The cases are illustrative and are based on a test check carried out by us. Such omissions remain undetected till an audit is conducted by us. The Government may direct the Department to improve the internal control system including strengthening of internal audit so that such omissions can be detected, corrected and avoided in future.

3.3 Non-compliance of the provisions of the Acts/Rules

The provisions of the Motor Vehicles (MV) Act 1988, Orissa Motor Vehicles Taxation (OMVT) Act, 1975 and Rules made thereunder require levy and payment of:

(i) motor vehicles tax/additional tax by the vehicle owner at the prescribed rate in advance and within the grace period so provided;

(ii) compounding fee from the goods vehicle carrying excess load;

(iii) One Time Tax (OTT) from goods vehicle of Gross Vehicle Weight (GVW) not exceeding 3,000 Kg;

(iv) differential tax when a stage carriage is used as a contract carriage;

(v) additional tax at specified rates from the stage carriages plying under reciprocal agreement on inter State routes;

(vi) inspection cum testing/fitness fees at prescribed rates at time of registration/renewal of vehicles and

(vii) penalty up to double the tax for belated payment of tax, if the tax is not paid on time within two months after the expiry of the grace period of 15 days.

Non-compliance of the provisions of the Act/Rules in some cases as mentioned in succeeding paragraphs resulted in non/short-realisation of ₹ 83.05 crore.

3.3.1 Non/short-realisation of motor vehicle tax and additional tax

3.3.1.1 Non-realisation of tax

Under Section 3, 3A and Section 4(1) of the OMVT Act, 1975, motor vehicle tax and additional tax due for a motor vehicle should be paid in advance at the rates prescribed in schedule I appended to the Act unless exemption from payment of such taxes are allowed for the period covered by off road undertaking prescribed under Section 10(1) of the above Act. If such tax is not paid within two months after expiry of the grace period of 15 days, penalty is to be charged at double the tax due as per of Section 13(1) read with Rule 9(2) of the OMVT Rules, 1976. As per the executive instruction (February 1966) of the TC, the RTOs are required to issue demand notices within 30 days from the expiry of the grace period for payment of tax.

During test check of the data base of Vahan[1] and selective cross check of records like General Registration Register (GRR), Permit Register (PR) Permit Case Record (PCR), Off Road (OR) Register of the RTOs, we noticed (between May 2011 and March 2012) that motor vehicles tax and additional tax from 37,278 vehicles for different periods between March 2010 and March 2011 were not realised even though the vehicles were not covered by off road undertakings as detailed in the following table.

[1] Vahan is a application software for registration of vehicles and collection of taxes.

(₹ in crore)

Sl. No.	No. of regions Type of vehicles	No. of vehicles	Non-realisation of tax/additional tax	Penalty leviable	Total
1.	29[2] Goods carriages	17,681	19.65	39.30	58.95
2.	31[3] Contract carriages	7,210	3.77	7.54	11.31
3.	30[4] Tractor-trailer combinations	12,283	3.29	6.59	9.88
4.	22[5] Stage carriages	104	0.28	0.56	0.84
Total		**37,278**	26.99	**53.99**	**80.98**

Thus failure of the Department/ RTOs concerned to review the GRR, PR, PCR and OR etc due to non-streamlining of the monitoring process post computerisation for recovery of legitimate tax from the owner of the vehicles resulted in non-realisation of motor vehicles tax and additional tax of ₹ 80.98 crore including penalty of ₹ 53.99 crore.

3.3.1.2 Short-realisation of tax

During test check of GRR, PR, PCR, OR register of vehicles and data of VAHAN of 12 RTOs[6], we noticed (between May 2011 and March 2012) that motor vehicles tax / additional tax of ₹ 0.03 crore for 35 stage carriages for the period from March 2007 and March 2011 was short-realised due to change in permit conditions and consequential slab rates etc. Besides, penalty of ₹ 0.06 crore was also leviable.

After we pointed out these cases, all the RTOs except Ganjam region agreed (between May 2011 and March 2012) to issue demand notices for realisation of dues. Further, the Taxing Officer (TO), Ganjam, stated that computerised demand notices had already been issued to the owners of the vehicles. However, the demand notices issued by the RTO did not specify the amount of tax and penalty. Besides, the DCB register was not maintained to watch the recovery.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in April and May 2012 and the Government in July and August 2012. Reply is yet to be received (January 2013).

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2 Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Bolangir, Boudh, Chandikhol, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nawarangpur, Nayagarh, Nuapada, Phulbani, Puri, Rayagada, Rourkela, Sambalpur, Subarnapur and Sundargarh.

3 All regions as at foot note 2 along with Deogarh and Kendrapara regions.

4 All regions as at foot note 3 except Kendrapara regions.

5 All regions as at foot note 2 except Balasore Boudh, Malkangiri, Nuapada, Phulbani, Puri and Subarnapur.

6 Angul, Bargarh, Bhubaneswar, Chandikhol, Gajapati, Ganjam, Nayagarh, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

3.3.2 Non/short-realisation of motor vehicle tax from Private Service Vehicles

Under Section 3, 3A and Section 4(1) of the OMVT Act, 1975, tax shall be levied and realised in advance on the basis of the seating capacity of a Private Service Vehicle (PSV). The tax rate in respect of PSV was raised by the Government to ₹ 800 from ₹ 270 per seat per annum with effect from 14 May 2010. As per the provision of section 13(1) of the Act read with Rule 9(2) of the OMVT Rules, 1976, in the event of non-payment of tax within the specified period, the vehicle owner/possessor shall be liable to pay penalty amounting to 200 *per cent* of the tax due, if it is not paid within two months of the due date of payment after the grace period of 15 days.

During test check of the taxation records such as endorsement of tax payment made in GRRs and database of Vahan of 14 RTOs[7], we noticed (between May 2011 and March 2012) that motor vehicle tax was not realised from 51 PSVs for different periods, between April 2010 and March 2011, though the vehicles were not covered by off road undertakings during that period. Tax in respect of 201 PSVs was collected at the rate of ₹ 270 for the whole year instead of ₹ 800 from May 2010 to March 2011. This resulted in non/short-realisation of tax of ₹ 18.66 lakh (non-realisation of ₹ 6.07 lakh and short-realisation of ₹ 12.59 lakh), besides penalty of ₹ 37.33 lakh from the above PSVs.

After we pointed out these cases, all the RTOs stated (between May 2011 and March 2012) that action would be taken to realise the amounts by issuing demand notices.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in May 2012 and Government in July 2012. The reply is yet to be received (January 2013).

[7] Angul, Bargarh, Bhubaneswar, Bolangir, Gajapati, Jagatsinghpur, Jharsuguda, Keonjhar, Nuapara, Phulbani, Rayagada, Rourkela, Sambalpur and Sundergagh.

3.3.3 Non-realisation of compounding fees from goods vehicles carrying excess load

Under Section 194(1) of MV Act, 1988, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Section 113 or Section 114 or Section 115 shall be punishable with minimum fine of ₹ 2000 and an additional amount of ₹ 1000 per ton of excess load, together with the liability to pay charges for off loading of the excess load. Under Section 200 of the MV Act, 1988 read with the Government notification of 29 September 1995, an offence for driving a vehicle exceeding the permissible weight may be compounded with realisation of a minimum amount of ₹ 2000 and an additional amount of ₹ 1000 per ton of excess load without any concession unlike other Sections relating to offences. Further, the TC, Odisha in July 2005 instructed the RTOs for expeditious disposal of Vehicle Check Reports (VCRs) by issue of notices to the owners or persons having possession or control over the vehicles for compounding the offence, failing which the Certificate of Registration (RC) of the vehicle shall be suspended/ cancelled.

During test check of Miscellaneous Proceeding Register (MPR)/VCR register along with the database of Vahan and Management Information System (MIS) for Vahan of two RTOs[8] we noticed (between February and March 2012) that the VCRs issued against 1,125 goods vehicles for carrying excess loads were lying undisposed from June 2001 to March 2011 and no action was either taken for early disposal of such VCRs through issue of notices and compounding of the offences or for suspension or cancellation of the RCs. This resulted in non-realisation of compounding fee of ₹ 56.64 lakh. Besides non-cancellation of RCs of such vehicles resulted in non-enforcement of the penal provision.

After we pointed out these cases, the RTOs stated (February and March 2012), that action would be taken to realise the amounts by issuing demand notices.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in May 2012 and the Government in July 2012. The reply is yet to be received (January 2013).

[8] Keonjhar and Rourkela.

3.3.4 Non/short-levy of penalty on belated payment of motor vehicles tax and additional tax

Under Section 3, 3A and Section 4(1) of the OMVT Act, 1975 and Rules made thereunder, tax and additional tax due at the prescribed rate against a vehicle shall be paid in advance or within a grace period of 15 days from the due date. As per Section 13(1) read with Rule 9(2) of the OMVT Rules, 1976, in case of default, penalty ranging from 25 to 200 *per cent* of the tax and additional tax due, depending on the extent of delay in payment, shall be realisable.

During test check of the GRR Register, taxation details from the database of Vahan of 17 RTOs[9], we noticed (between May 2011 and March 2012) that motor vehicles tax and additional tax in respect of 94 motor vehicles for different periods between July 2001 and March 2011 were not paid on the due dates. Although such taxes were paid belatedly between February 2010 and April 2011, penalty of ₹ 5.13 lakh was not realised in twelve cases and penalty of ₹ 22.96 lakh in 82 cases was short-realised. Thus non-detection of the cases by the Taxing Officers and failure on the part of the enforcement wing to detect such cases resulted in non/short-realisation of penalty of ₹ 28.09 lakh

After we pointed out these cases, all the RTOs stated (between June 2011 and March 2012) that demand notices would be issued to realise the dues.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in April 2012 and the Government in July 2012. The replies are yet to be received (January 2013).

3.3.5 Short-realisation of onetime tax

Under Section 4B of the OMVT Act, 1975, as amended and Government Notification of 14 May 2010 every goods carriage, the Gross Vehicle Weight (GVW) of which does not exceed 3,000 Kg is liable to pay One Time Tax (OTT) at the rate equal to ten times of the annual tax specified in the taxation schedule or five *per cent* of the cost of such vehicle, whichever is higher at the time of registration of the vehicle.

During test check of taxation records such as endorsements of tax payment made in new registration case records, database of Vahan in respect of 10 RTOs[10], we noticed (between August 2011 and March 2012) that OTT at appropriate rate was not realised from 73 goods carriages, whose GVW did not exceed 3,000 Kg at the time of registration of these vehicles. Thus the failure of adoption of the revised rate and continuance of collections at the old rate instead of at new rate resulted in short-realisation of motor vehicles tax of ₹ 15.13 lakh

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[9] Angul, Balasore, Baragarh, Bhadrak, Chandikhole, Cuttack, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Keonjhar, Mayurbhanj, Rayagada, Rourkela and Sundergarh.

[10] Bargarh, Bolangir, Chandikhole, Deogarh, Ganjam, Jharsuguda, Nuapara, Rayagada, Rourkela and Sambalpur.

After we pointed out the cases, all the RTOs stated (between August 2011 and March 2012), that action would be taken to realise the amount by issuing demand notices.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in May 2012 and the Government in July 2012. The reply is yet to be received (January 2013).

3.3.6 Non-realisation of differential tax from stage carriages used as contract carriages

Under Section 6 of the OMVT Act, 1975 and Rules made thereunder, when a vehicle, for which motor vehicle tax and additional tax for any period has been paid, is proposed to be used in a manner for which tax at higher rates is payable, the owner of the vehicle is liable to pay the differential tax on the date of alteration of use or within a period of 15 days from the due date. Under Section 13(1) of the Act read with Rule 9(2) of the OMVT Rules, 1976, if such tax is not paid within two months after the expiry of the grace period of 15 days, penalty equal to twice the tax due shall be charged.

During test check of GRRs Special Permit Registers (SPRs) and database of Vahan in respect of 22 RTOs[11], we noticed (between May 2011 and March 2012) that 134 stage carriages were permitted to ply temporarily as contract carriages during different periods (between November 2009 and March 2011) without payment of the differential taxes in advance for alteration of use of the above vehicles. The RTOs did not take any action to issue demand notices for realisation of such taxes. This resulted in non-realisation of differential tax of ₹ 4.23 lakh and penalty of ₹ 8.46 lakh.

After we pointed out the cases, all the RTOs stated (between June 2011 and March 2012), that demand notices would be issued to realise the dues.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in April 2012 and the Government in July 2012. The reply is yet to be received (January 2013).

[11] Angul, Balasore, Bhadrak, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Deogarh, Dhenkanal, Ganjam, Kalahandi, Kendrapara, Keonjhar, Koraput, Mayurbhanj, Nawarangpur, Nayagarh, Puri, Rayagada, Rourkela, Sambalpur and Sundargarh.

3.3.7 Non-realisation of additional tax from stage carriages plying on inter State routes

Rule 9(4) of the OMVT Rules, 1976 and explanation of item 4 (v) and (vi) of the OMVT Act, 1975 stipulate that where, a stage carriage plies on a route partly within the State of Odisha and partly within another State, in pursuance of any agreement between the Government of Odisha and Government of any other State, such carriage is liable to pay tax/additional tax calculated on the total distance covered by it on the approved route in the State of Odisha, at the rates prescribed and in the manner as specified thereunder. As per Section 13(1) read with Rule 9(2) of the OMVT Rules, 1976, in case of delay in payment of such tax after the grace period of 15 days, penalty extending up to 200 *per cent* of tax/additional tax shall be levied.

During test check of the taxation records and inter State permit records of STA, Odisha with reference to the reciprocal agreements made with the States of West Bengal and Jharkhand along with permit particulars, we noticed (February 2012) that additional tax in respect of six stage carriages authorised to ply on the inter State routes under reciprocal agreement were not realised for different periods (between December 2009 to March 2011). This resulted in non-realisation of additional tax of ₹ 2.43 lakh and penalty of ₹ 4.85 lakh[12].

After we pointed out these cases, the TC stated, (February 2012) that action was being taken for realisation of the dues by issuing demand notices.

We brought the matter to the notice of the Government in July 2012. The reply is yet to be received (January 2013).

[12] As per Section 13(1) read with Rule 9(2) of the OMVT Rules, 1976.

3.3.8 Plying of Goods vehicles with expired fitness

Under Section 56 of the MV Act, 1988 read with Rule 62 of the Central Motor Vehicles (CMV) Rules, 1989, a transport vehicle shall not be deemed to be validly registered, unless it carries a Certificate of Fitness (FC) issued by the prescribed authority in the prescribed form. The FC in respect of a new transport vehicle shall be valid for two years; otherwise it shall be renewed every year against receipt of prescribed fees for inspection and testing of the vehicles and grant or renewal of FC. The fees for conducting test of the vehicle for grant or renewal of FC was fixed at ₹ 400 in addition to a fee of ₹ 100 per motor vehicle towards grant or renewal of FC. Further, sub Rule 7(22) of the OMV Rules, 1993 prescribes a penalty of ₹ 100 for non filing of the renewal of FC application within the prescribed date.

During test check of the taxation records together with database of Vahan and MIS for Vahan of two RTOs[13] we noticed (during February 2011 and March 2012) that 590 goods vehicles, were allowed by the RTOs to pay up to date taxes without renewing their FCs and payment of the prescribed fitness fees. The expiry of fitness of these vehicles ranged from April 2007 to December 2010. This resulted in loss of Government revenue towards testing/fitness fees for renewal and penalty for non-renewal of the vehicles on time amounting to ₹ 6.31 lakh, as on 31 March 2011. Further the system did not prompt alerts of fitness expiry during acceptance of tax of the vehicles.

After we pointed out the cases, the concerned RTOs stated (February and March 2012) that action would be taken to realise the amounts by issuing demand notices. Since FCs for the current period only can be insisted upon, and no FC can be issued for back periods, the possibility of recovery of the amounts is unlikely.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in May 2012 and the Government in August 2012. The reply is yet to be received (January 2013).

[13] Keonjhar and Rourkela.

3.3.9 Non-registration of omnibuses under transport category

Under Section 41 of the MV Act, 1988 as amended on 5 November 2004 read with Rule 81 of the CMV Rules 1989, fitness and testing fees are to be collected from the transport category of vehicles including omnibuses (vehicles with seating capacity more than seven excluding the driver) at prescribed rates at the time of registration or renewal of registration of such vehicles. The fees for conducting fitness test of omnibus was fixed at ₹ 200 in addition to a fee of ₹ 100 per vehicle towards grant or renewal of fitness. As per Rule 62 of CMV Rules 1989, the FC issued for new vehicles is valid for two years, whereas in renewal cases it is valid for one year.

During test check of registration records and analysis of the database of Vahan in respect of two RTOs[14] we noticed (February and March 2012) that 690 Omnibuses were registered under 'private' category instead of 'transport category' and testing/fitness fees were not collected at the appropriate rates from time to time since March 2007, i.e. the date of implementation of Vahan application software in the State. Even the application system was not customised to prompt collection of such fees and inclusion of these vehicles in the transport category at the time of new registration. This resulted in non-realisation/loss of testing/fitness fees amounting to ₹ 3.72 lakh.

After we pointed out the cases, the RTOs concerned stated (February and March 2012) that fitness fee were not collected as omnibuses are registered under 'private' and 'non-transport' category under the OMVT Act, 1975. The fitness fee as per the CMV Rules, would be followed after getting instruction from the STA, Odisha.

The reply is not tenable as omnibuses were categorised as transport vehicles in the CMV Rules made under the MV Act and the required fees had to be collected.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in May 2012 and Government in July 2012. The reply is yet to be received (January 2013).

[14] Keonjhar and Rourkela.

3.3.10 Non-realisation of fee from non-transport vehicles with lapsed registration

Under Section 41(7) of MV Act, 1988 and Rule 53(2) of CMV Rule, 1989, in respect of a motor vehicle, other than a transport vehicle, the RC shall be valid for a period 15 years from the date of issue of such RC and shall be renewable for a further period of five years after realisation of renewal fee under sub Section 11 of Section 41 of above Act at the rate of ₹ 200, testing fee at the rate of ₹ 200 for conducting test of the vehicle and fitness fee at the rates of ₹ 100 for grant of certificate for renewal of the RC as prescribed under Rule 81 of above Rules. Further, in case the owner fails to make an application for renewal, a sum not exceeding ₹ 100 may also be realised from the owner of vehicles as required. Besides, fine under Section 192 of MV Act, 1988 ranging from ₹ 2,000 to ₹ 5,000 shall be imposed for using vehicles without registration.

During test check of the database of Vahan with selective cross check of taxation records along with the GRRs in respect of two RTOs[15] we noticed (February and March 2012) that 457 non-transport vehicles registered during the years from 1990 to 1996 were not renewed for further period of five years after expiry of their RCs. This resulted in non-realisation of government revenue towards fitness fees, re-registration fees etc. amounting to ₹ 2.74 lakh. No action was taken by the RTOs concerned for imposition of minimum fine of ₹ 9.14 lakh under Section 192 of MV Act, 1988.

After we pointed out the cases, the RTOs concerned stated, between February and March 2012, that action would be taken to realise the amount by issuing demand notices.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in May 2012 and the Government in July 2012. The reply is yet to be received (January 2013).

[15] Keonjhar and Rourkela.

3.4 Non-compliance of Government notification/decision

Government decisions notified on 24 January 2003 prescribe for payment of process fee at the prescribed rate. Non-compliance of the above decisions in the following cases as mentioned in paragraphs 3.4.1 resulted in non realisation of process fees of ₹ 1.29 crore.

3.4.1 Non-realisation of process fees

Under Section 96 of the MV Act, 1988 read with the Government notification of 24 January 2003, Process fee of ₹ 100 on every application/objection filed was introduced with effect from 28 January 2003. The Department, by an order of March 2003, however, postponed the collection of the fees at the rate prescribed in the notification.

During test check of the Permit Register (PR) and other connected records in the offices of the STA, Odisha and 28 Regional Transport Officer (RTOs)[16] we noticed, between May 2011 and March 2012, that the process fees were not realised in 1,28,710 cases between June 2009 and March 2011. This resulted in non-realisation of process fee amounting to ₹ 1.29 crore.

After we pointed this out, the STA, Odisha and all the RTOs stated, between May 2011 and March 2012, that the collection of fees was postponed in view of the Government's letter dated 7 March 2003.

The reply is not acceptable since the executive orders cannot overrule the statutory provisions in the law. However, the TC in response to similar comments made in the Audit Report for the year ended 31 March 2011, informed audit in May 2011 that a draft amendment proposal was sent to the Government on 16 July 2010. The matter was also taken up demi-officially with the Principal Secretary of the Department (July 2011) to expedite action for early realisation.

We brought the matter to the notice of the TC-cum-Chairman, STA, Odisha in April 2012 and the Government in June 2012. The reply is yet to be received (January 2013).

[16] Angul, Balasore, Bargarh, Bhadrak, Bhubaneswar, Boudh, Chandikhol, Cuttack, Deogarh, Dhenkanal, Gajapati, Ganjam, Jagatsinghpur, Jharsuguda, Kalahandi, Kendrapara, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nawarangpur, Nayagarh, Nuapara, Phulbani, Puri, Rourkela, Sambalpur, Sundergarh.

CHAPTER-IV: LAND REVENUE, STAMP DUTY AND REGISTRATION FEE

EXECUTIVE SUMMARY

Increase/decrease in tax collection	In 2011-12 the collection of taxes from land revenue increased by 12.14 *per cent* as compared to the Budget Estimates (BE) for the year and by 33.48 *per cent* over the previous year which was attributed by the Department to the increase in conversion of land under Section 8A of the OLR Act, 1960, alienation of Government land to the different agencies, collection of premium thereof and collection of more royalty etc. The collection of stamp duty and registration fee during 2011-12 increased by 19.80 *per cent* over the previous year. However, it decreased by 2.33 *per cent* as compared to the BE for the year which was attributed to excess target fixed in comparison to previous years.
Low recovery by the Department against the observations pointed out by audit in earlier years	During the period 2006-11 audit pointed out non / short-levy, blocking, non / short-realisation of land revenue and fee etc., with revenue implication of ₹ 981.02 crore in 50,131 cases. Of these, the Department accepted audit observations in 36,769 cases involving ₹ 107.30 crore; but recovered only ₹ 7.41 crore in 1,293 cases. The average recovery position, being 6.91 *per cent*, as compared to acceptance of objections, was very low and it ranged between 0.20 *per cent* and cent *per cent.* Similarly, during the period 2006-11 audit pointed out non / short-levy, non / short-realisation of stamp duty and registration fee etc., with revenue implication of ₹ 946.32 crore in 1,66,460 cases. Of these, the Department accepted audit observations in 14,436 cases involving ₹ 16.14 crore; but recovered ₹ 7.40 crore in 3,751 cases. The average recovery position, being 45.85 *per cent*, as compared to acceptance of objections was low and it ranged between 4.48 *per cent* and 96.57 *per cent.*
Results of audit conducted in 2010-11	In 2011-12, Records of 135 units relating to land revenue, stamp duty and registration fees were test checked and found non-collection, non / short-assessment, blocking of revenue etc. involving ₹ 1,905.77 crore in 15,153 cases. The Department accepted underassessment and other deficiencies of ₹ 186.29 crore in 1,100 cases in respect of land revenue and ₹ 1.03 crore in 412 cases in respect of stamp duty and registration fees pointed out in audit during the year 2011-12. An amount of ₹ 5.29 crore in 377 cases in respect of land revenue

	and ₹ 1.49 crore in 637 cases in respect of stamp duty and registration fees were recovered during the year 2011-12.
Highlights	In this Chapter illustrative cases of ₹ 72.15 crore selected from the audit observations noticed during test check of records relating to assessment and collection of land revenue, stamp duty and registration fees in the offices of the Tahasildars, District Sub-Registrars (DSRs) and Sub Registrars (SRs),where the provisions of the Acts / Rules were not followed. It is a matter of concern that similar omissions have also been pointed out repeatedly in the Audit Reports in the past; but the Department has not taken adequate corrective action. Further, though these omissions were apparent from the records which were made available to audit, the Tahasildars / DSRs / SRs were unable to detect these mistakes.
Conclusions	The Department needs to improve the internal control system including strengthening of the internal audit wing so that weaknesses in the system are addressed and omissions of the nature detected by audit are avoided in future. It also needs to initiate immediate action to frame / amend the Rules for early finalisation / regularisation of lease of Government lands and to realise the Government dues as pointed out.

4.1.1 Tax administration

Levy and collection of Land Revenue (LR) is regulated under the Orissa Government Land Settlement (OGLS) Act, 1962, the Orissa Prevention of Land Encroachment (OPLE) Act, 1972, the Orissa Land Reforms (OLR) Act, 1960 and Rules made thereunder. The Board of Revenue (BOR) administers the above Acts and Rules being assisted by field functionaries like Collectors, Sub Collectors and Tahasildars under the overall control of the Principal Secretary to Government in the Revenue and Disaster Management (R&DM) Department.

The levy and collection of Stamp Duty (SD) and Registration Fee (RF) are regulated under the Indian Stamp (IS) Act, 1899, the Indian Registration Act, 1908 and Rules made thereunder. The Inspector General of Registration (IGR) under the overall control of the Principal Secretary to the Government in Revenue and Disaster Management Department administers the above Act and Rules being assisted by a Joint Inspector General (JIG), three Deputy Inspectors General (DIGs) and 30 District Sub Registrars (DSRs) at the district level and Sub Registrars (SRs) at the unit level.

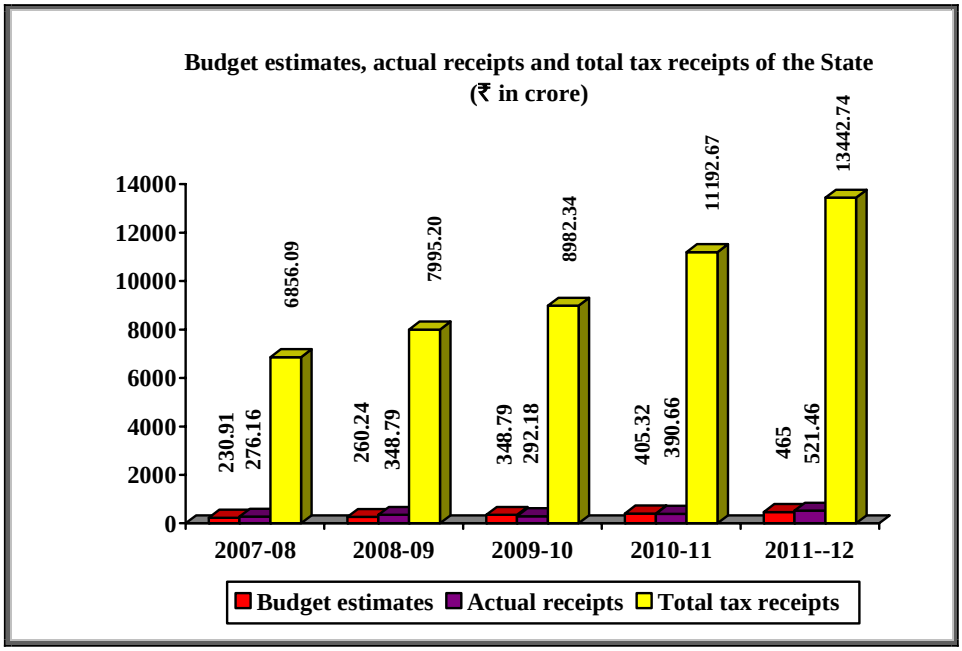
4.1.2 Trend of receipts

Actual receipts from LR, SD and RF during years 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following tables and bar graphs showing their contribution to the total tax receipts of the State.

A Land Revenue

(₹ in crore)

Year	Budget estimate	Actual receipts	Variation Excess (+)/ Short-fall (-)	Percentage of variation	Total tax receipts of the state	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	230.91	276.16	(+) 45.25	(+) 19.60	6,856.09	4.03
2008-09	260.24	348.79	(+) 88.55	(+) 34.03	7,995.20	4.36
2009-10	348.79	292.18	(-) 56.61	(-) 16.23	8,982.34	3.25
2010-11	405.32	390.66	(-) 14.66	(-) 3.62	11,192.67	3.49
2011-12	465.00	521.46	(+) 56.46	(+) 12.14	13,442.74	3.88

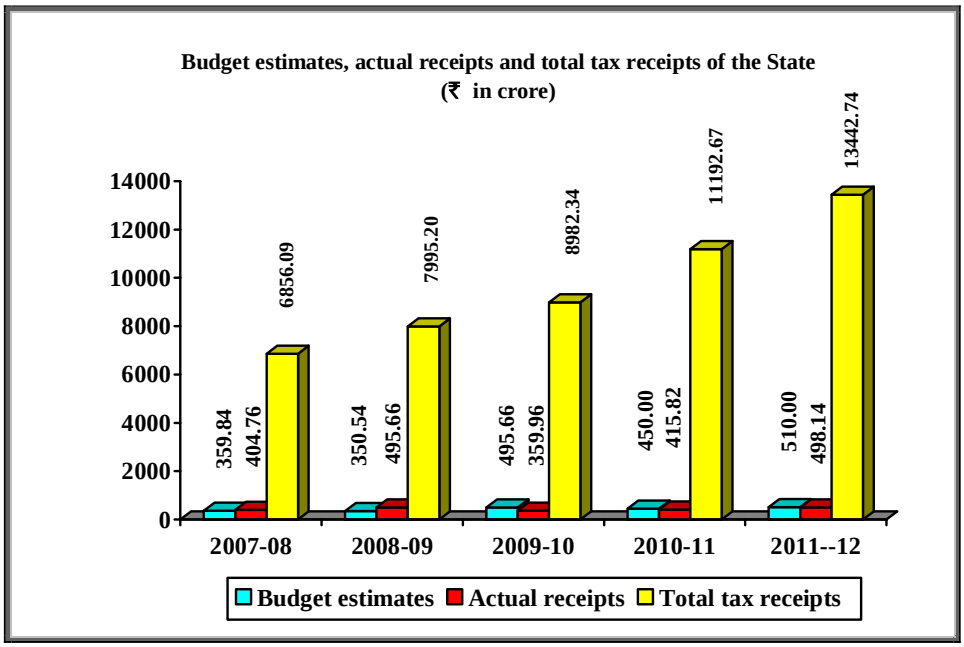


No reasons were, however, furnished by the Department for wide fluctuation in the receipts vis-à-vis the budget estimates made during the above period. While the increase in collection for revenue during 2007-08, 2008-09, 2010-11 and 2011-12 as compared to the previous years was stated to be due to conversion of land under Section 8-A of OLR Act, 1960, alienation of Government land to the different agencies, collection of premium thereof and collection of more royalty etc., no reasons for decrease in collection of revenue during 2009-10 as compared to the previous year was given by the Department.

B Stamp duty and registration fee

(₹ in crore)

Year	Budget estimate	Actual receipts	Variation Excess (+)/ Short-fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	359.84	404.76	(+) 44.92	(+) 12.48	6,856.09	5.90
2008-09	350.54	495.66	(+) 145.12	(+) 41.40	7,995.20	6.20
2009-10	495.66	359.96	(-) 135.70	(-) 27.38	8,982.34	4.01
2010-11	450.00	415.82	(-) 34.18	(-) 7.60	11,192.67	3.72
2011-12	510.00	498.14	(-) 11.86	(-) 2.33	13,442.74	3.71



The reason for increase in collection during 2011-12 over the previous year was attributed by the Department to the efforts by the IGR and field functionaries, revision of Bench Mark Valuation, disposal of pending undervaluation cases by way of one time settlement. The lower collection against the target during 2010-11 and 2011-12 was also stated to be due to excess target fixed in comparison to previous years which is not correct since the target (₹ 450 crore) fixed for 2010-11 was less than the target of ₹ 495.66 crore for the year 2009-10.

The Government may prepare realistic budget estimates both for LR and SD etc., duly adhering to the provision of the Budget Manual.

4.1.3 Cost of collection

The gross collection under SD and RF, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the All India average percentage of expenditure for collection to gross collection in the respective previous years are mentioned below.

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2009-10	359.96	15.91	4.42	2.77
2010-11	415.82	17.09	4.11	2.47
2011-12	498.15	23.87	4.79	1.60

The percentage of the cost of collection was always higher than the all India average percentage during the above years. During the year 2011-12, it was almost three (2.99) times the all India average percentage of previous year (1.60) which needs to be reviewed by the Departments. **The Government may, after the review take appropriate steps to reduce the cost and increase the collection**.

4.1.4 Impact of Audit

Revenue Impact

A. Land Revenue

During the last five years (2006-07 to 2010-11) we pointed out non/short-levy, blocking, non/short-realisation of land revenue and fees etc. with revenue implication of ₹ 981.02 crore in 50,131 cases. Of these, the Department/ Government accepted audit observations in 36,769 cases involving ₹ 107.30 crore and had since recovered ₹ 7.41 crore in 1,293 cases.

The recovery position as compared to the acceptance of objections was very low.

The Government may take appropriate steps to improve the recovery position.

B. Stamp Duty and Registration Fee

During the last five years (2006-07 to 2010-11) we pointed out non/short-levy, non/short-realisation of SD and RF etc. with revenue implication of ₹ 946.32 crore in 1,66,460 cases. Of these, the Department/Government accepted audit observations in 14,436 cases involving ₹ 16.14 crore and had since recovered ₹ 7.40 crore in 3,751 cases. The recovery position as compared to the acceptance of objections was low.

The Government may take appropriate steps to improve the recovery position.

4.1.5 Results of Audit

During the year 2011-12 we test checked the records of 135 units relating to land revenue, stamp duty and registration fees and detected non-collection, non / short-assessment, blocking of revenue etc., involving ₹ 1,905.77 crore in 15,153 cases.

During the year, the Department accepted underassessment and other deficiencies of ₹ 186.29 crore in 1,100 cases in respect of land revenue and ₹ 1.03 crore in 412 cases in respect of stamp duty and registration fees pointed out in 2011-12. An amount of ₹ 5.29 crore in 377 cases in respect of land revenue and an amount of ₹ 1.49 crore in 637 cases in respect of stamp duty and registration fees were recovered during the year 2011-12.

After the draft paragraphs were issued, the Department recovered ₹ 22.49 lakh (August, 2012) in a single case pointed out during 2011-12.

LAND REVENUE

4.2 Audit observations

We scrutinised the records relating to assessment and collection of land revenue, stamp duty and registration fees which revealed occupation of Government land without payment of revenue, non-finalisation of lease cases resulting in non-realisation of revenue, short-levy of royalty and penalty, non / short-realisation and loss of revenue as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out repeatedly, but not only do the irregularities persist, these remain undetected till an audit is conducted by us. There is need for the Government to improve the internal control system including strengthening of internal audit so that these omissions can be avoided, detected and corrected.

4.3 Non-compliance of Acts/Rules and Government orders/ instructions

Section 3 of the Orissa Government Land Settlement (OGLS) Act, 1962 read with Rule 3 and 5 of the OGLS Rules and the Government orders / instructions issued from time to time in respect of lease[1] / alienation[2] of Government land require that Government land can be leased out / alienated to Government Departments and various bodies / organisations on payment of premium equivalent to the market value of the land, incidental charges at the rate of 10 per cent thereon along with the ground rent at the rate of one per cent on premium and cess at the rate of 50 per cent of ground rent up to 1993-94 and 75 per cent thereafter. However, in case of land alienated in favour of Central Government Departments, capitalised value at the rate of 25 times of ground rent and cess is payable along with the premium and interest at the rate of six per cent up to November 1992 and 12 per cent thereafter is also chargeable for default in payment of Government dues.

The Orissa Prevention of Land Encroachment (OPLE) Act, 1972 and Rules made thereunder prescribe the procedure for eviction or settlement of Government land unauthorisedly occupied. The Orissa Minor Mineral Concession (OMMC) Rules, 2004 prescribe the rates of levy of royalty on removal of minor minerals from Government/ Private land, punishment for illegal extraction of such minerals and the procedure for auction of the sairat[3] sources and collection of revenue therefrom. The Orissa Land Reforms (OLR) Act, 1960 and Rules made thereunder provide for conversion of agricultural land for non-agricultural purposes against receipt of prescribed fees.

Non-observance of the above provisions by the Assessing Authorities (AAs) in some cases as mentioned in the succeeding paragraphs resulted in non / short-realisation of revenue of ₹ 70.44 crore.

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1 A contract for letting or renting of land for a specific term.
2 Transfer or diversion of land from its original possessor to any other person.
3 Revenue earning

4.3.1.1 Occupation of Government land without payment of revenue

As per Section 3 of the Orissa Government Land Settlement (OGLS) Act, 1962 read with Rule 3 and 5 of the OGLS Rules and the Government's order of 26 November 2010, where the land is to be occupied after formal sanction of lease, the market value of the land as on the date of recommendation of the Tahasildar for sanction of lease should be charged, provided that a period of more than one year has not lapsed from the date of such recommendation to the date of submission of the proposal to the authority competent to sanction the lease. Wherever a period of more than one year has lapsed from the date of recommendation of the Tahasildar, the authority competent to sanction the lease may direct the Tahasildar to reassess the market value based on recent sale statistics.

Where the land is occupied by way of advance possession with the permission of the competent authority, the market value of the land should be determined as on the date of taking over advance possession or occupation by the applicant. The arrear land revenue and cess at the prescribed rates shall also be payable for the entire period of occupation. The interest on premium and arrear land revenue and cess for the entire period of occupation shall also be payable at the prevailing rate of interest.

During test check of the records of two[4] Tahasils, we noticed (October 2011 and January 2012) that in four cases, advance possessions of Government land measuring 31.743 acres[5] were given during the period August 1996 to December 2009. Though the occupants applied for formal lease of the said lands to the concerned Tahasildars, the cases were pending at various levels which led to engagement of Government land without payment and blockage of revenue of ₹ 59.97 crore[6] (31 March 2011).

(a) The advance possession of Ac.14.158 of Gharabari kisam of Government land inside the old Jail Campus at Unit-II Oriya Bazar, Cuttack was given to Cuttack Development Authority (CDA) in August 1996 in pursuance to orders (July 1995) of the Government. The occupant (CDA) applied (December 1996) for lease of Ac 2.360 of land for development and it was recommended (June 1999) by the Tahasildar, Cuttack Sadar for sanction of lease. CDA was liable to pay ₹ 5.62 crore towards premium, ground rent, cess and incidental charges and interest (31 March 2011) after deduction of ₹ 3.20 crore deposited by the CDA in February and March 2008. Due to delayed action of the Departmental authorities the case was not finalised till the date of audit and the amount of ₹ 5.62 crore was not realised from CDA.

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4 Cuttack Sadar, Tahasil (CDA, Cuttack and IDCO, Bhubaneswar) and Rourkela Tahasil (RDA, Rourkela and IDCO, Bhubaneswar).

5 CDA, Cuttack - Ac. 14.158, IDCO, Bhubaneswar -Ac. 7.000, Ac. 8.330 and RDA, Rourkela (Ac. 2.255).

6 CDA, Cuttack - ₹ 5.62 crore, IDCO, Bhubaneswar -₹ 12.15 crore, ₹ 37.90 crore and RDA, Rourkela - ₹ 4.30 crore.

The Government stated (September 2012) that in response to the request made by the Tahasildar, Cuttack to deposit ₹ 5.62 crore, CDA has suggested to examine the demand pending sanction of the lease. The lease case record was under process at the Collectorate in Cuttack.

(b) The Industrial Infrastructure Development Corporation, Odisha (IDCO), Bhubaneswar applied (August 2009) for lease of Government land of Patita kissam[7] measuring Ac.7.00 under Unit 4, Cuttack Town for use by Indian Oil Corporation Limited (IOCL) for commercial purpose. Advance possession of the land was given (December 2009) to IDCO and the Tahasildar, Cuttack Sadar recommended (January 2010) the case for formal sanction of lease and the land was in use by IOCL from that date without payment of Government dues. However, due to non-finalisation of the lease case, the value of Government land, which was ₹ 12.15 crore could not be realised.

Government stated (September 2012) that the Collector, Cuttack moved the Government for fixation of the concessional rate for the above land as per Clause 16.2 of IPR, 2007 and demand notice was raised against IDCO, who in turn had assured (August 2012) to deposit the amount after sanction of lease.

(c) Rourkela Development Authority (RDA) applied (May 2007) for lease of Government land measuring Ac.2.255 for setting up a Truck Terminal (Commercial Space) at Rourkela Town, Unit No. 44. The Revenue Inspector (RI), Raghunathpali reported (August 2007) that the land was in the possession of the RDA, Rourkela, since August 2007. The Land Allotment Committee (LAC) headed by the Revenue Divisional Commissioner, Northern Division, Sambalpur decided (September 2009) to allot the land on payment of the premium at the rate of ₹ 1.20 crore per acre and requested (December 2009) the RDA to deposit the premium of ₹ 2.71 crore and execute the lease deed within 90 days from the date of receipt of the letter of request, failing which the allotment would be automatically cancelled. The RDA, however, deposited (March 2011) ₹ 20 lakh only towards payment of premium and hence, the lease case was not sanctioned till date of audit (January 2012). The Tahasildar neither demanded the balance Government dues of ₹ 2.51 crore nor initiated the proceedings for cancellation of the allotment made by the LAC. Thus, Government land was in occupation without payment of Government dues of ₹ 4.30 crore by RDA towards premium, ground rent, cess, incidental charges and interest thereon as on March 2011.

The Tahasildar, Rourkela stated (January 2011) that the matter would be intimated to RDA.

(d) IDCO, Bhubaneswar applied (March 2008) to the Tahasildar, Rourkela for sanction of lease of Government land measuring Ac.8.33 for establishment of a Software Technology Park Complex and other Information Technology (IT) related industries in Sabik village Sanlanjiberna, Rourkela Town Unit (RTU) No. 20, Rourkela. The land was under possession of Software Technology Park of India (STPI) since March 2008 and the LAC fixed (January 2010) the premium at the rate of ₹ 3.60 crore per acre taking into

[7] Waste/fallow variety of land.

account the rate of adjoining unit RTU No 29. However, due to non-sanction of formal lease up to date of audit (January 2012) STPI was in occupation of this land without payment of ₹ 37.90 crore towards premium, ground rent, cess, incidental charges and interest (31 March 2011).

Government assured (June 2012) to raise the demand and realise the Government dues from IDCO soon after sanction of lease. The case is under process for sanction of lease in favour of STPI.

4.3.1.2 Non-finalisation of lease case

As per the Government's order of 26 November 2010, where land applied for settlement is occupied without prior approval of the competent authority, it should be treated as encroachment and the occupier will be required to pay:

- Premium calculated at the market value of the land as on the date of occupation and interest thereon for the entire period of occupation or the market value as applicable in the cases where the land is to be occupied after formal sanction of lease, whichever is higher.
- An amount equal to the penalty, as would have been payable under the provisions of the OPLE Act and Rules; and
- Arrear ground rent and cess with interest, based on market value prevailing during the relevant period.

During test check of the records of two tahasils[8], we noticed (July- August 2007 and October- November 2011) that in four cases Government land measuring 12.14 acres[9] was in unauthorised occupation of the encroachers for different periods from 1958-59 to 2008-09. The cases were pending finalisation by the competent authority as on the dates of audit. This led to occupation and enjoyment of Government land without realisation and remittance of ₹ 9.78 crore[10] towards premium, incidental charges, ground rent, cess and interest calculated up to 31 March 2011.

(a) The Sovaniya Sikhyasram, Bidanasi, Cuttack applied (April 1992) for sanction of lease of patita kissam[11] of Government land measuring Ac.10.00 in Mouza- Bidyadharpur for the purpose of construction of an Educational Institution. After protracted correspondences, the Tahasildar, Cuttack Sadar recommended (May 2010) for lease of Ac 4.00 of land at the Bench Mark Valuation (BMV) rate of ₹ 75 lakh per acre on the date of possession (2008). However, only ₹ 0.11 lakh towards assessment and penalty was realised (July 2010) against an encroachment case booked against the institution. The case

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8 Tahasildar, Cuttack Sadar (OFDC, Bhubaneswar and Sovaniya Sikhyasram, Bidanasi, Cuttack) and Tahasildar, Rairangpur (NAC, Rairangpur and Gowsala Committee, Rairangpur).

9 Sovaniya Sikhyasram, Bidanasi, Cuttack – Ac. 4.00, OFDC, Bhubaneswar- Ac. 2.94, NAC, Rairangpur – Ac. 0.20, Rairangpur Gowsala Committee– Ac. 5.00.

10 Sovaniya Sikhyasram, Bidanasi, Cuttack – ₹ 445.41 lakh, OFDC, Bhubaneswar- ₹ 109.52 lakh, NAC, Rairangpur – ₹ 30.08 lakh, Rairangpur Gowsala Committee– ₹ 393.25 lakh.

11 Waste/fallow variety of land.

was not finalised, although ₹ 4.45 crore is payable by the occupant towards premium, incidental charges, ground rent, cess, and interest etc (31 March 2011).

The Government stated (September 2012) that the case was in process for sanction of lease in favour of Sobhaniya Sikshasrama, Bidyadharpur, Cuttack Government dues would be realised from the institution with interest.

(b) The Odisha Forest Development Corporation (OFDC) unauthorisedly occupied (1962) Government land measuring Ac.2.94 of Nuapada Mouza at Khapuria, Cuttack. In two encroachment cases booked against OFDC, the Tahasildar, Cuttack Sadar realised ₹ 11,860 only (₹ 669.75 in 1988-89 and ₹ 11,160 in 2002-03) towards assessment and penalty. However, OFDC applied (September 2010) for alienation of the above land; but the case was pending at the level of the concerned Tahasildar for finalisation as on date of audit. Thus, due to inaction of the Department, the land cost of which to OFDC as on 31 March 2011 towards premium, ground rent and cess etc was ₹ 1.10 crore, was in unauthorised occupation of OFDC for the last 50 years by paying nominal amount of ₹ 0.11 lakh only.

Government stated (September 2012) that a lease case had been initiated on the application of OFDC dated 29 September 2010. Different paraphernalias were required to be maintained including de-reservation of kisam of land before making it leasable. Hence the delay caused might not be construed as the negligence on the part of the Tahasildar. Government dues would be realised from OFDC after sanction of lease, since the Corporation had given an undertaking on 31 August 2012 to pay the same.

(c) The Notified Area Council (NAC), Rairangpur unauthorisedly occupied (2006-07) Government land measuring Ac.0.20 of Rakhit-Gochar[12] kisam in Mouza Rout Khamar under the same NAC and constructed a "Yatri Nivas" a double storied building and it was leased out. The NAC was not either evicted or any assessment and penalty was realised. Government revenue of ₹ 30.08 lakh towards premium, incidental charges, ground rent, cess and interest up to 31 March 2011 was realisable from the occupant in addition to penalty leviable under the OPLE Act, 1972 and Rules made thereunder.

Government stated (August 2012) that they directed the Tahasildar, Rairangpur to seal the building and initiate action against the encroacher. However, the above direction could not be carried out due to obstruction of the Chairman, Councillors and public of NAC, Rairangpur on 10 April 2012. The occupant filed a writ petition before the Hon'ble High Court of Odisha to avoid eviction and the Hon'ble Court have passed an interim stay order on 12 April 2012 till next date.

(d) Rairangpur Gowsala Committee was in unauthorised occupation of Ac. 5.00 reserved/homestead kissam[13] of Government land in Mouza Anladova under Rairangpur Tahasil since 1958-59 and applied (August 1993) for alienation of the said land for construction of a Gowsala. Two encroachment cases were booked against the occupant in 1993 and 2007 and 0.25 lakh only

[12] Rakhit-Gochar means land reserved for grazing of cattle.
[13] Kissam means variety.

was realised towards assessment and penalty. The Tahasildar could not evict the occupant even after a lapse of more than 50 years of possession thereon. The Committee's representation (April 2005) to the Government for exemption of premium was rejected as there was no such provision in the OGLS Rules, 1983. On the fresh application of occupant (2007) the case was, processed (February 2008) by the Tahasildar and it was sent back (December 2009) by the Collector with objections which are yet to be compiled. The Committee was to pay ₹ 3.57 crore towards premium at the current BMV rate of ₹ 71.50 lakh[14] per acre and incidental charge of 0.36 crore as on 31 March 2011.

The Secretary, BOR, Odisha, Cuttack, while confirming (May 2012) the above facts and figures stated that the alienation proposal could not be processed and the case record had been closed by the Tahasildar as the Committee expressed their inability to pay due to paucity of fund. However, another encroachment case was booked in 2010 and the Committee was directed (October 2010) to vacate the land. Thus, the Department could not realise the Government dues.

[14] In the absence of the BMV of the above land on/after the date of occupation i.e. 1958-59 onwards.

4.3.2 Short-levy of royalty and penalty for unauthorised removal of minor minerals

Under Sub-Rules 1(i), 3 and 4 of Rule 68 of OMMC Rules, 2004 any person illegally extracting or transporting minor minerals by himself or on behalf of others shall be punishable with simple imprisonment for a term up to two years or with fine up to ₹ 25,000 or with both by the appropriate Court of Law on a complaint from the concerned Tahasildar. The Tahasildar may seize the minor mineral products together with all tools, equipments and vehicles used in committing the offence for confiscation/disposal of the same in accordance with the directions of the Court. Further, whenever any person raises, without any lawful authority, any mineral from any land, the Tahasildar may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof along with the royalty for the period the land was unlawfully occupied. As per Rule 28(ii) of the above Rules, the rate of royalty for extraction and removal of a cubic metre (Cum) of moorum should be fixed at ₹ 19.60[1] per Cum. from 31 August 2010 onwards.

During test check of a case in Betnoti Tahasil, we noticed (November 2011) the Revenue Inspector (RI), Baisinga reported (21 March 2011) that M/s Meenakshee Infrastructure Pvt. Ltd of Khantapada, Balasore unauthorisedly lifted 72,000 Cum of moorum through its agent, from a jungle–II kissam[15] plot of Mouza-Jayapuria by using a Poclain machine. Instead of forwarding the case to the appropriate Court of Law, the Tahasildar realised ₹ 0.39 lakh towards royalty and fine from the offender, without realising the cost of minerals illegally removed. Recoverable amount of ₹ 13.97[16] lakh towards balance royalty and fine was accepted by the Tahsildar (November 2011). In response thereto, the Government stated that ₹ 0.54 lakh was realised towards royalty (₹.0.49 lakh) and penalty (₹.0.05 lakh) on 2,448 Cum moorum extracted, and not 72,000 Cum as pointed by Audit. However, a scrutiny of papers furnished (April 2012) by the Tahasildar, Betonati indicated that the documents do not agree with the original papers made available to audit in November 2011 due to inconsistencies and the case was again referred (July 2012) to the Secretary with revised calculation of the recoverable balance amount of ₹ 46.22 lakh towards royalty, fine and cost of minerals taking into account the amount of ₹ 0.54 lakh already realised by the Tahasildar. The Secretary BOR, Odisha stated (September 2012) that the factual position submitted by the Tahasildar in course of compliance contravened the factual position submitted at the time of audit and further added that it culminated in tampering of original case record. This fact was communicated to Government with suggestion for

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15 Jungle –II Kissam is kissam of land marked for forest variety of land in the Records of Right (ROR).

16 Royalty: ₹ 14.11 lakh on 72,000 Cum at the rate of 19.60 per Cum plus maximum Penalty of ₹ 0.25 lakh less 0.39 lakh realised in March 2011.

drawal of departmental proceeding and criminal investigation against the defaulting staff by the Crime Branch. Further progress in the case is awaited (January 2013).

4.3.3 Short-realisation of bid value of sairat sources

Under provision of Rule 47 of the OMMC Rules 2004, when the sairat sources are put to auction, all the bidders taking part in the bid are to deposit 10 *per cent* of the upset price of the bid value towards the Earnest Money Deposit (EMD). The successful bidder shall deposit, 25 *per cent* of the bid money immediately after the bid is knocked down by the competent authority; failing which the EMD shall be forfeited to Government account and the bid offered by him shall be treated as null and void. Further, as per Rule 48 and 49 of the Rules of the OMMC Rules 2004 the successful bidder, on receipt of the confirmation, shall deposit the balance seventy five *per cent* of the bid amount within thirty days from the date of confirmation of the bid. On failure to do so, the competent authority shall cancel the confirmation order and forfeit the amount so far deposited including the earnest money.

During test check of the seven sairat case records relating to auction of seven[17] sairat[18] sources of the Tahasildar, Jaleswar, we noticed (November 2011), that the said sairat sources were put to auction (March 2010) involving a total bid amount of ₹ 42.12[19] lakh for the year 2010-11. Against this, ₹ 25.87[20] lakh including initial deposit of ₹ 10.58 lakh only was realised leaving a balance of ₹ 16.25[21] lakh (October 2011). However, without taking steps to cancel the bids by forfeiting the initial deposits made within 30 days of the knocking of the bids, the Tahasildar allowed the bidders to utilise the sairat sources without realisation of the balance amount.

After we pointed this out in November 2011, the Government intimated (June 2012) that out of ₹ 16.25 lakh, an amount of ₹ 7.57 lakh was collected from the bidders, further amount of ₹ 1.60 lakh was adjusted from their security deposit and steps were taken to collect the balance amount of ₹ 7.08 lakh from the auction holders through certificate cases.

We reported the matter to the Secretary, BOR, Odisha in April 2012 and the Government in July 2012. The reply is yet to be received (January 2013).

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17 Sekh Savai Sand source (KGO)-Jamalpur, Srirampur Sead Source-Saradiha, M.N. Patna Sand Source (GOA)-Jamalpur, Sijkharpur Sand Souce-Sardiha, Chakhari Sand Source-Sardiha, Kantapal Sand source- Paschingad and Sukhadukhia Ferry Ghat.

18 Revenue earning sources like sand and morrum quary, ferry ghat etc.

19 ₹ 5.70 lakh + ₹ 12.98lakh + ₹ 2.02 lakh + ₹ 2.00 lakh + ₹ 1.82 lakh + 17.55 lakh + ₹ 0.05 lakh of above circles respectively.

20 ₹ 4.05 lakh + ₹ 7.75 lakh+ ₹ 0.51 lakh + ₹ 0.5 lakh + ₹ 0.5 lakh + ₹ 12.55 lakh + ₹ 0.01 lakhof above circles respectively.

21 ₹ 1.65 lakh+ ₹ 5.24 lakh + ₹ 1.50 lakh + ₹ 1.50 lakh+ ₹ 1.32 lakh + ₹ 5.00 lakh + ₹ 0.04 lakh of above circles respectively.

4.3.4 Short-realisation of conversion fee

Where the authorised officer allows conversion of any agricultural land for non-agricultural purpose under section 8A (2)(i) of OLR Act, 1960 as amended on 7 July 2006 and read with the Government notification dated 28 January 2006, the raiyat (title holder of the land) is required to pay the conversion fee of such land, calculated at the rate specified in the Act, and the kissam of the land may be converted accordingly. The land coming under the Municipal area "or" as per Government notification 965 dated 7 July 2006 within half a kilometer of the National Highways (NH) are required to be converted against realisation of highest conversion fee of at the rate of rupees three lakh per acre.

During test check of the land revenue case records of the Tahasildar, Jeypore, we noticed (November 2010) that the Tahasildar allowed conversion of agricultural land measuring Ac.2.661 in 51 cases for non-agricultural purposes basing on the spot visit report of the concerned Revenue Inspectors (RI) about the location of land; but the conversion fees were realised at lower rate than the applicable rate in 51 cases. This resulted in short-realisation of Government revenue of ₹ 6 lakh.

The Government, stated (May 2012) that the lands pointed out by Audit are coming under rural area under the Gram Panchayats and neither within the Municipality area nor between one-fourth and half a kilometer from the NH and the conversion fee charged by the Tahasildar appeared to be genuine.

The reply is not acceptable as the same Tahasildar had earlier furnished the reports of RI's wherein it was stated that the plots were within the Municipal area.

We reported the matter to the Government in July 2012; whose reply is yet to be received (January 2013).

STAMP DUTY AND REGISTRATION FEE

4.4 Non-observance of the provisions of the Acts/Rules and Government instructions

Section 9(1) of the Indian Stamp (IS) Act, 1899 read with clause (b) of sub-section (2) thereof and division (b) of Article 23 of schedule 1A of the above Act, as amended by the State on 05 August 2008 of the Indian Stamp (IS) Act, 1899 and part I(1) of Article A of Section 78 of the Registration Act, 1908 as amended by the State on 30 January 2001 prescribe that sale agreements, lease deeds and conveyance deeds etc. are to be registered on realisation of Stamp Duty (SD) at the prescribed rates of eight per cent up to 4 August 2008 and at five per cent thereafter and Registration Fee (RF) at the rate of 2 per cent on the consideration truthfully and correctly mentioned therein keeping in view the Market Value Guidelines (MVG) or the rates prescribed in the Industrial Policy Resolutions (IPRs) of the Government. As per Section 47A of the IS Act, 1899, in case of under valuation of any property noticed after registration of a document the Registering Officer shall refer the matter to the Collector for determination of the market value of such property and proper stamp duty payable thereon.

Non-observance of the provisions of the above Acts by the assessing authorities resulted in short-realisation of SD and RF of ₹1.71 crore as discussed in subsequent paragraphs.

4.4.1 Loss/short-levy of Government revenue

4.4.1.1 Loss of Government revenue due to belated revision of Bench Mark Valuation (BMV)

Rule 40 of the Orissa Stamp (Amendment) Rules, 2001 stipulates that the District Level Valuation Committee (DLVC) headed by the Collector of the District should issue the Market Value Guideline (MVG) containing the set of values of immovable properties in different villages, NACs, Municipalities, Corporations and other local areas of the District as soon as it is prepared and thereafter revise it biennially from the 1st April. In case the DLVC fails to revise the MVG commonly known as Bench Mark Valuation (BMV), the Collector-cum-Chairman of the Committee would enhance the value by 10 *per cent* of the value so fixed after expiry of two years.

During test check of the Sale deeds by two[22] District Sub-Registrars (DSRs) and two[23] Sub-Registrars (SRs), we noticed (February to May 2011) that revision of the BMVs biennially from 1 April, was not effected and were revised and adopted after a delay which ranged between 13 and 103 days. The Collector-cum- Chairman of the committee also did not enhance the BMVs by 10 *per cent* during the intervening period, i.e. from 1 April to the actual date of

[22] Khurda and Puri
[23] Badachana and Bari

revision to safe guard the revenue of the Department. The documents continued to be stamped and registered by taking into account the pre-revised rates fixed during 1 April up to the dates of actual revision. Thus, due to belated revision of BMV, there was irrecoverable loss of SD and RF amounting to ₹ 92.70[24] lakh.

The SRs and DSRs stated (February to May 2011) that the BMVs took effect as per the approval of the Collector-cum-Chairman of the concerned DLVCs. However, the reply was silent about that the belated revisions.

We reported the matter to the Inspector General of Registration (IGR), Odisha in May 2012 and the Government in July 2012. The reply is yet to be received (January 2013).

4.4.1.2 Short-levy of revenue due to non-revision of Bench Mark Valuation and undervaluation of land

During test check of the registration records of the SR, Panposh, we noticed (January 2012) that four deeds[25] of immovable property situated in Rourkela were registered between December 2009 and June 2010 based on the sales statistics data of land available there for the years 2007 to 2009 since BMV of lands of the district made in 2006 was not biennially revised or enhanced by the Collector. Further we noticed that the per decimal rates of land fixed for different areas of Rourkela by the Land Allotment Committee (LAC) headed by the Revenue Divisional Commissioner, Northern Division, Sambalpur on 7 September 2009 were higher than the rates of land at which the properties mentioned in the above deeds were registered after acceptance by the SR, Panposh. This led to under valuation of the properties by ₹ 1.42 crore and consequential short-realisation of ₹ 9.92 lakh[26] towards SD and RF.

The IGR, Odisha stated (August 2012) that the SR, Panposh had issued notices to deposit the deficit amount in respect of four documents.

We reported the matter to the Government in June 2012. The reply is yet to be received (January 2013).

4.4.1.3 Short-levy of revenue due to under valuation of land

During test check of two sale deeds[27] of the DSR, Sambalpur, we noticed (March 2010) that the documents for conveyance of two patches of private land situated in Sambalpur Town[28] area were registered in April and May 2008 with recital of consideration money lower than the BMV for such areas determined by the DLVC. This led to under valuation of the properties by ₹ 35.38 lakh and consequential short-levy of SD and RF of ₹ 2.89 lakh[29].

The IGR, Odisha replied (September 2012) that both the documents were booked under section 47A of IS Act by the DSR, Sambalpur and forwarded to

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[24] SD= ₹ 66.21 lakh + RF =₹ 26.49 lakh.

[25] Lease deed No.1865 dated 24 December 2009 and sale deed Nos.311 dated 15 February 2010,1335 dated 20 May 2010 and 1474 dated 4 June 2010.

[26] SD of ₹ 7.09 lakh and RF of ₹ 2.83 lakh.

[27] No.1002 dated 25 April 2008 and 1078 dated 07 May 2008.

[28] Unit No.16 Sarala P.S and Unit-2 Dhanupali P.S.

[29] SD : ₹ 2.37 lakh and RF : ₹ 0.52 lakh.

the respective Stamp Collectors, Sambalpur for realisation of deficit SD and RF and disposal of the same as per Law expeditiously.

We reported the matter to the Government in June 2012. The reply is yet to be received (January 2013).

4.4.2 Irregular exemption/short-realisation of Stamp Duty and Registration Fee

As per clause 16.2 of the IPR, 2007, effective from 2 March 2007, Government Land earmarked for Land Bank scheme and other Government land, wherever available, may be allotted to the Odisha Industrial Infrastructure Development Corporation (IDCO) for industrial and infrastructure use at a concessional industrial rate. Area available outside Municipality/NAC under the Revenue Sub-Division of Jajpur and Sundergarh coming under Zone B and C are valued at the concessional rate of rupees two lakh and rupees one lakh per acre respectively. Further, Government in their order of May 2007 provided for remission of SD payable under the Act to the extent specified therein based on the recommendation of the competent authorities recorded on the body of the document presented at the time of execution and registration of the deed.

During test check of five agreements[30] executed in May 2007 and June 2008 between Government of Odisha and IDCO in the offices of the DSRs Jajpur and Sundargarh, we noticed (May 2009 and August 2010) that in one case of DSR Jajpur, the total consideration money received in the document for Ac.159.50 of Government land given to IDCO was valued at the rate of ₹ one lakh per acre though the applicable rate as per IPR 2007 was ₹ two lakh[31] per acre as per the IPR 2007. However, RF of ₹ 3.41 lakh only was collected instead of ₹ 6.82 lakh which resulted in short-realisation of RF of ₹ 3.41 lakh. Further, we observed that without the recommendation of the Managing Director (MD), IDCO recorded on the body of the above document, SD of ₹ 27.31 lakh at the prescribed *per cent* of the consideration money was not collected. Thus, there was short-realisation/inadmissible exemption of SD and RF amounting to ₹ 30.72[32] lakh in the above case.

In four cases of DSR, Sundergarh we noticed (August 2010) that Ac.52.72 of Government land was given to IDCO at the rate of ₹ one lakh[33] per acre as against ₹ two lakh is applicable and SD of ₹ 4.51 lakh was exempted without the recommendation of the MD, IDCO being recorded on the body of the documents which resulted in inadmissible exemption of SD of ₹ 4.51 lakh.

Thus, there was inadmissible exemption /short-realisation of SD aggregating to ₹ 35.23 lakh in all the five cases.

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30 DSR, Jajpur: DOC No.922/29.05.2007, DSR, Sundargarh: DOC Nos.515, 514, 516 and 518 of 12.06.2008.

31 Zone B as per IPR 2007

32 SD ₹ 27.31 and RF ₹ 3.41

33 Zone C as per IPR, 2007

After we pointed this out the Government stated (August 2012) that the DSR, Jajpur has accepted the objection and issued demand notice for realisation of deficit SD and RF of 30.71 lakh. As regards DSR, Sundargarh, Government stated that the recommendation of IDCO was obtained subsequently to regularise the exemption of SD/RF of ₹ 4.51 lakh.

The reply of Government is not acceptable as the recommendation of IDCO had to be made on the body of the deeds executed at the time of registration of the same.

4.4.3 Short/non-relisation of Stamp Duty and Registration Fee

As per schedule-I Article 35 (a) vi & (c) of IS Act 1899, in case of lease deed of any immovable property executed against a premium, SD and RF will be charged at the prescribed rates on the premium along with four times the average annual rent reserved for such property by treating it as a conveyance to the premium reserved for a term exceeding twenty years, but not exceeding 100 years. Further, as per clause 16.2 of the IPR 2007, Government land may be allotted for new Industrial Units (IUs) including infrastructure projects at the concessional rate of 2 lakh per acre in the non Municipal/NAC area of Champua Sub-division being specified under Zone B.

During test check of a lease deed registered by the DSR, Keonjhar, we noticed (May 2009) that it was executed on 31 May 2007 between IDCO, the lessor and Tata Steel Limited (TSL), the lessee. As per the recital of the deed, Ac.120 of land in the village Nayagarh of Champua Tahasil/ Sub-division of Keonjhar district classified under Zone B was given on lease for 90 years at a consideration money (premium) of ₹ 1.20 crore at the rate of ₹ one lakh per acre against the correct consideration money of ₹ 2.40 crore at the concessional rate of ₹ two lakh per acre as prescribed in the IPR 2007. Thus, the consideration money[34] of the immovable property, based on which SD and RF was to be collected at the time of registration, was understated by ₹ 1.35 crore. This resulted in short-realisation of SD and RF of ₹ 14.90 lakh[35].

After we pointed this out, the IGR, Odisha stated (August 2012) that action was being taken for realisation of deficit revenue. Further information is yet to be received (January 2013).

We also reported the matter to the Government in July 2012; The FA-cum-Special Secretary to Government replied (September 2012) that Government land measuring Ac 120.00 for establishment of an industry by TISCO was sanctioned by the Collector, Keonjhar on 14 December 2004 and IDCO has paid the Government dues for the said land as per prevalent rate prescribed in IPR 2001 i.e. ₹ one lakh per acre and IDCO has taken possession of the land on 13 April 2005 after execution of lease deed.

The reply is not tenable as the lease deed was registered on 31 May 2007 during the currency of the IPR 2007 when the land value was fixed at the rate

[34] Premium and four times of the average annual rentals i.e. ground rent and cess.
[35] SD of ₹ 12.64 lakh + RF of ₹ 2.26 lakh

of two lakh per acre and the deficit SD/RF is realisable from the lessee i.e. TSL.

4.4.4 Short-realisation of Stamp Duty and Registration Fee due to under valuation of land

Notification under Section 73(c) of the Orissa Land Reforms (OLR) Act, 1960 allows a host of benefits to the land determined as required for industrial development. Government notified on 14 August 2009 that the land in the village Sahajbahal of Lakhanpur Tahasil under Jharsuguda District was reserved for industrial development, since the State Level Single Window Clearance Authority (SLSWCA) had approved the establishment of a Thermal Power Plant by M/s Ind-Barath Energy (Utkal) Limited (IBEUL) in that village. As per clause 16.2 of the IPR, 2007 of the Government, the concessional sale rate of Government land in the village Sahajbahal of Jharsuguda subdivision, which comes under Zone B, was fixed at ₹ two lakh per acre as it is situated in a place which was other than the Municipal/NAC area.

During test check of three sale deeds[36] registered in the office of the SR, Lakhanpur on 30 September 2009, we noticed (November 2011) that Ac. 156.09 of land in the village Sahajabahal were sold by three persons to IBEUL at a consideration money of ₹ 1.67 crore at the rate of ₹ 1.07 lakh per acre only. The BMV was ₹ 0.66 lakh per acre. This was far below the concessional rate of ₹ two lakh per acre prescribed in the IPR, 2007 for the Government land. As the notification under section 73(C) of OLR Act, 1960 allows several benefits, the BMV of the notified lands of the above village should have been revised to at least ₹ two lakh per acre, in line with the IPR 2007, in order to arrest the under valuation of sales transactions at the time of registrations and safeguard the interest of the private land owners of that area. However, no such revision was made subsequent to the issue of the notification on 14 August 2009. As a result of this, the three persons who sold their land on 30 September 2009, were deprived of getting the minimum sale vale of ₹ 3.12 crore as stated above from IBEUL. Instead they were paid ₹ 1.67 crore only resulting in under valuation of the consideration money of the land to the extent of ₹ 1.45 crore involving short-realisation of SD and RF of ₹ 10.15[37] lakh at the prescribed rates in course of the registration of the above sale deeds.

After we pointed this out, the SR, Lakhanpur stated (November 2011) that action was being taken for realisation of the deficit SD and RF from the IBEUL.

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[36] Document No.775/30.09.2009=Ac.12.78, Document No.776/30.09.2009=Ac.38.04 and Document No.777/30.09.2009=Ac.105.27.

[37]

Document No.775	30.09.2009	₹ 83,197
Document No.776	30.09.2009	₹ 2,47,640
Document No.777	30.09.2009	₹ 6,84,558
Total:		₹ 10,15,395

We reported the matter to IGR, Odisha in April 2012 and to the Government in July 2012. The reply is yet to be received (January 2013).

4.4.5 Short-realisation of revenue due to misclassification of land

Section 27 and 64 of the IS Act, 1899, as amended stipulates that the facts and circumstances shall be rightly and truly set-forth in the instruments presented to the Registering Officer for assessment of SD and RF. Any person who intends to deprive the Government of any duty or penalty shall be punishable with a fine up to ₹ 5000 in addition to payment of the deficit SD and RF.

During test check of records of the DSR, Sambalpur, we noticed (March 2010) that though the plots sold and registered[38] in two documents were classified as "Commercial" the documents were registered with lower consideration values than the BMVs. This led to short-realisation of Government revenue ₹ 4.90[39] lakh, besides non-imposition of penalty up to ₹ 0.10 lakh since it was an attempt to defraud the Government.

After we pointed this out, the DSR, Sambalpur stated (March 2010) that necessary demand would be raised against the party and the facts would be intimated to audit.

We reported the matter to the IGR, Odisha in April 2012 and the Government in May 2012. The reply is yet to be received (January 2013).

[38] Sale Deed No.1594 and 1595 dated 20 June 2008.
[39] SD : ₹ 4.15 lakh + RF : ₹ 0.75 lakh.

	the Acts /Rules/ Annual Excise Policies were not adequately adhered to. It is a matter of concern that similar omissions have been pointed out by audit repeatedly in the Audit Reports for the past several years, but the Department has not taken adequate corrective action. Though these omissions were apparent from the records which were made available to audit, the DEOs failed to detect these mistakes.
Conclusions	The Department needs to improve the internal control system including strengthening of IAW so that weaknesses in the system are addressed and omissions of the nature detected by audit are avoided in future. The Department also needs to initiate immediate action on the recommendation in the PA and to recover the non / short-levy/realisation of excise duty and fees etc. pointed out by audit, more so in those cases where the Department has accepted the audit contentions.

5.1.1 Tax administration

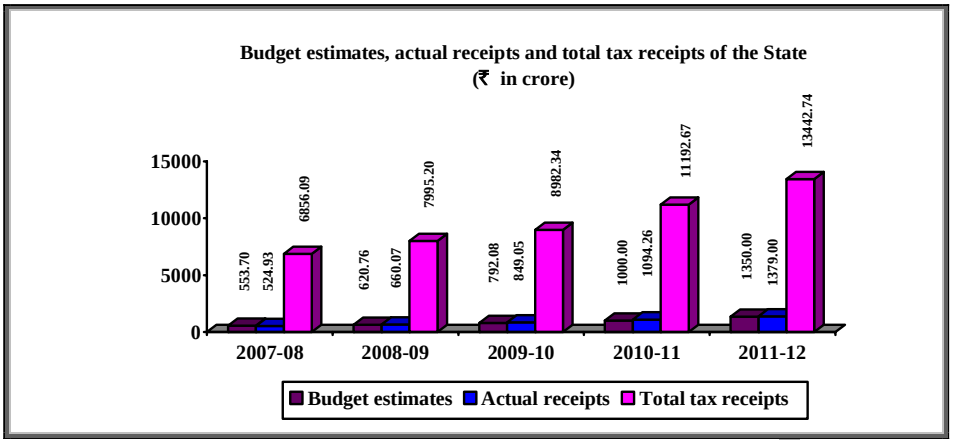
Levy and collection of excise duty, fee, penalty etc. is governed by the Bihar and Orissa Excise (B&OE) Act, 1915, Orissa Excise Rules, 1965, the Board's Excise (BE) Rules, 1965, Orissa Excise Exclusive Privilege (OEEP) Rules, 1970, the Orissa Excise (Exclusive Privilege) Foreign Liquor (OEEPFL) Rules 1989, Orissa Excise (Methyl Alcohol) Rules, 1976, the Board of Revenue (BOR)'s Excise (Fixation of Fees on Mahua Flower) (BEFFMF) Rules, 1976 and the Annual Excise Policies (AEPs) framed by the Government in Excise Department. The Excise Commissioner (EC) being the head of the Department administers the various provisions of the above Acts / Rules under the control of BOR as well as the overall control of the Principal Secretary of the Department. He is assisted by Deputy Commissioners of Excise (EDCs) at division level, Superintendents of Excise (SEs) at district level, Officers and staff at field level thereunder.

5.1.2 Trend of receipts

Actual receipts from State Excise during the years 2007-08 to 2011-12 along with the budget estimates and total tax receipts during the same period is detailed in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	553.70	524.93	(-) 28.77	(-) 5.20	6,856.09	7.66
2008-09	620.76	660.07	(+) 39.31	(+) 6.33	7,995.20	8.26
2009-10	792.08	849.05	(+) 56.97	(+) 7.19	8,982.34	9.45
2010-11	1,000.00	1,094.26	(+) 94.26	(+) 9.43	11,192.67	9.78
2011-12	1,350.00	1,379.00	(+) 29.00	(+) 2.15	13,442.74	10.26



The above table shows that the excise revenue increased from ₹ 524.93 crore in 2007-08 to ₹ 1,379 crore in 2011-12 and its contribution to the total tax receipt of the State varied between 7.66 and 10.26 *per cent*. The reasons for increase in collection during 2011-12 were attributed by the Department to opening of new legal outlets, increasing trend in lifting of IMFL, Beer and higher utilisation of Mohua Flower.

5.1.3 Analysis of arrears of revenue

The arrears of Excise revenue was ₹ 21.03 crore as on 31 March 2012. The details of arrears outstanding for more than five years were not available with the Department. However, arrears of ₹ 14.26 crore was covered by certificate proceedings; ₹ 2.29 crore was stayed by the Supreme Court/ High Court/ other judicial authorities; ₹ 0.87 crore was under dispute; ₹ 0.03 crore was proposed to be written off and the remaining ₹ 3.58 crore was under other stages of recovery.

We recommend that the Department may pursue for speedy disposal of certificate proceedings.

5.1.4 Cost of collection

The gross collection of state excise revenue, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the all India average percentages of expenditure for collection to gross collection in the respective previous years are given in the table below.

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2009-10	849.05	30.74	3.62	3.66
2010-11	1,094.26	36.25	3.31	3.64
2011-12	1,379.00	38.36	2.78	3.05

The percentages of the cost of collection during 2009-10 to 2011-12 were within the all India average percentages.

5.1.5 Impact of Audit

Revenue impact

During the last five years (2006-07 to 2010-11), we pointed out non / short-levy, non / short-realisation of excise duty and fee etc., with revenue implication of ₹ 117.28 crore in 4,342 cases. Of these, the Department accepted audit observations in 1,722 cases involving ₹ 31.57 crore and has since recovered ₹ 1.90 crore in 309 cases. The details are given in the following table.

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	32	1,025	25.14	262	0.51	100	0.14	27.45
2007-08	31	531	9.66	268	4.63	118	1.31	28.29
2008-09	31	410	13.29	247	0.86	52	0.09	10.47
2009-10	27	1,936	46.29	800	17.53	29	0.04	0.23
2010-11	15	440	22.90	145	8.04	10	0.32	3.98
Total	**136**	**4,342**	**117.28**	**1,722**	**31.57**	**309**	**1.90**	**6.02**

The recovery position (6.02 *per cent* only) as compared to acceptance of audit observations was low. **The Government may take appropriate steps to improve the recovery position, at least for the accepted cases immediately.**

5.1.6 Working of Internal Audit Wing

The internal audit of the units under the Department was being conducted by the Internal Audit Wing (IAW) of the Board of Revenue alongwith that of other offices under the Revenue Department to ensure correct assessment, prompt collection and timely deposit of excise revenue to Government account and to arrest leakage of such revenue. Since it is one of the major revenue earning Departments of the State, it was required to create the IAW in the Department (September 2010) for internal audit of its units from 2010-11 onwards. The internal audit for 2008-09 and 2009-10 only was completed in four[2] out of 31 DEOs by the end of March 2011.

The Department may take appropriate steps to clear the backlog of internal audit.

[2] Balasore, Bolangir, Dhenkanal and Nabarangpur.

5.1.7 Results of Audit

During the year 2011-12, a Performance Audit (PA) on Working of Excise Department covering 12 districts was conducted and test check of records of 15 units relating to State Excise Duty (SED) was done wherein non/short-levy/realisation, loss of revenue etc., involving ₹ 1002.59 crore in 28,193 cases were noticed.

During the year, the Department accepted non-levy/short-realisation of SED of ₹ 15.27 crore in 26,570 cases pointed out in 2011-12. An amount of ₹ 0.45 crore was recovered in 50 cases relating to 2011-12 and earlier years.

After issue of draft paragraphs, the Department recovered ₹ 7.81 lakh (May 2012) pertaining to two cases pointed out by audit during 2011-12.

5.2 Performance Audit on "Working of Excise Department"

Highlights

- Molasses is being manufactured, stored and sold by the sugar factories without the necessary licence.

{Paragraph 5.2.7.1(i)}

- Allowance of excess wastage than the norm prescribed under the Excise Technical Manual in manufacture of Beer led to loss of revenue of ₹ 2.80 crore.

{Paragraph 5.2.7.3(i)}

- Delay in supply of Country Spirit (CS) in bottles led to revenue loss of ₹ 4.80 crore.

(Paragraph 5.2.8.2)

- Revenue of ₹ 246.16 crore could not be earned due to non levy of transport fee on IMFL, Beer and CS.

{Paragraph 5.2.8.5 (ii)}

- Renewal of excise shops without enhancement of Consideration Money (C.Money) led to revenue loss of ₹ 85.08 crore and incorrect fixation of C.Money led to further loss of ₹ 80.76 crore..

(Paragraphs 5.2.9.1 and 5.2.9.3)

- Levy of State Excise Duty at lower rate on Canned Beer led to revenue loss of ₹ 13.88 crore.

(Paragraph 5.2.9.7)

- Seized hemp plants with large revenue potential were not disposed off through auction.

(Paragraph 5.2.9.12)

- Monitoring and control measures in the areas of recording complaints, periodical inspection of Excise shops, sugar factories and manufacturing units, enforcement activities was weak. Low rates of conviction in the excise offence cases were also noticed.

(Paragraph 5.2.10)

- Internal Control Mechanism is poor and Internal Audit is in arrears in respect of 232 units as on 31 March 2011, Manpower deployment for regulatory and enforcement activities including internal audit was inadequate.

(Paragraphs 5.2.10.5, 5.2.10.5(ii) and 5.2.10.6))

5.2.1 (a) Introduction

The objective of the Excise Department is to generate revenue resources of the State as per the Excise Laws of the State and as detailed in the Annual Excise Policies (AEPs). The existing demand of consumers is to be met by legitimate and safe supply of liquor of good quality in reasonable quantities without compromising with the social values under strict vigilance on illegal production, import, possession, sale, consumption or export.

The State Government derives the power to levy and collect Excise Revenue under Article 246(3) read with Entries 51 and 66 of List II of the Seventh Schedule of the Constitution of India. The rate of State Excise Duty (SED) and Fees are fixed by the Government / Board of Revenue (Board) under the Bihar and Odisha Excise (B&OE) Act, 1915 and Rules made thereunder and notified in the AEP of the Government.

(b) Policy framework and strategy

The Government formulates the AEPs for each financial year. Licences are issued to import, produce, possess and sell/export intoxicants for levy and collection of State Excise Duty (SED) and Fees to enhance the revenue of the State as well as curbing the consumption of such intoxicants by the consumers. The regulatory activities are carried out by the District Excise Officers (DEOs) and Enforcement Squads. Public Awareness Campaigns are also conducted involving Non-Government Organisations, Self Help Groups and Panchayat Raj Institutions to create awareness among the people about the dangers in consumption of Illicitly Distilled and Spurious Liquor.

5.2.2 Organisational setup

The administration of the Excise Laws and the policy decisions thereon rest with the Department headed by the Principal Secretary. The Board of Revenue implements the same with the assistance of one Excise Commissioner (EC), three Deputy Commissioners of Excise (EDCs), 31 Superintendents of Excise (SEs), 34 Dy. Superintendents of Excise (DSEs), 80 Inspectors of Excise (IEs), 205 Sub-Inspectors of Excise (SIEs), 187 Assistant Sub-Inspectors of Excise (ASIEs) and 1,127 Excise Constables. The Collector of the district is the head of excise administration in the district. The SEs, also known as the DEOs carry out all the excise functions under the overall supervision/guidance of the Collectors of the respective districts.

5.2.3 Audit objectives

A Performance Audit (PA) on "**Working of Excise Department**" was conducted to ascertain whether;

- The provision/system for regulating levy and collection of State Excise Duty, Fee etc under the Acts and Rules administered by Excise Department were being complied with and implemented effectively.
- The internal control mechanism was adequate and effective for preventing leakage of Excise Revenue as per the Rules and Regulations of the Department.

5.2.4 Audit criteria

The following Act/Rules/Policies/Notification/instructions etc., governing the levy and collection of excise revenue of the State were used as sources of audit criteria.

i) Bihar and Orissa Excise (B and OE) Act, 1915,

ii) Orissa Excise Rules (OER), 1965,

iii) Board's Excise Rules (BER), 1965,

iv) The Orissa Excise (Exclusive Privilege) FL Rules, 1989,

v) The Orissa Excise Exclusive Privilege Rules, 1970,

vi) Orissa Excise (Mohua Flower) Rules, 1976,

vii) The Board's Excise (Fixation of Fees on Mohua Flower) Rules, 1976,

viii) Orissa Excise (Methyl Alcohol) Rules, 1976; and

ix) Annual Excise Policies (AEPs), Circulars, notifications and instructions of the Department/Board/Commissionerate issued from time to time.

5.2.5 Scope and methodology

We conducted the audit during March to July 2012 covering the period from 2006-07 to 2010-11 by way of test check of the records of the Department, the Commissionerate of Excise, three Deputy Commissionerates, 12[3] DEOs out of 30 selected on the basis of revenue collection and all the six[4] depots of Orissa State Beverages Corporation Ltd. (OSBC) situated in the selected districts. Entry Conference was held on 22 March 2012, where the objectives of the audit, audit criteria, scope and the methodology of audit etc. were discussed with the Principal Secretary and Excise Commissioner (EC) of the Department. In the 12 districts test checked, two Distilleries, three Breweries, ten Bottling Units and five Sugar Factories are located. The aspects of production, procurement, storage, sale of intoxicants, monitoring and enforcement measures taken by the Department were examined in the audit. Similar observations noticed in the regular audit during the year and previous years but not featuring in the earlier Audit Reports, have also been included. Exit Conference was also held on 3 January 2013 with the Principal Secretary and EC of the Department where all the significant audit observations were discussed and the responses of the Department are incorporated in the Report at appropriate places.

[3] Angul, Balasore, Baragarh, Bolangir, Cuttack, Dhenkanal, Ganjam, Jajpur, Khurda, Mayurbhanj, Rayagada and Sambalpur.

[4] Balasore, Cuttack, Ganjam, Khurda, Rayagada and Sambalpur.

Audit Observation

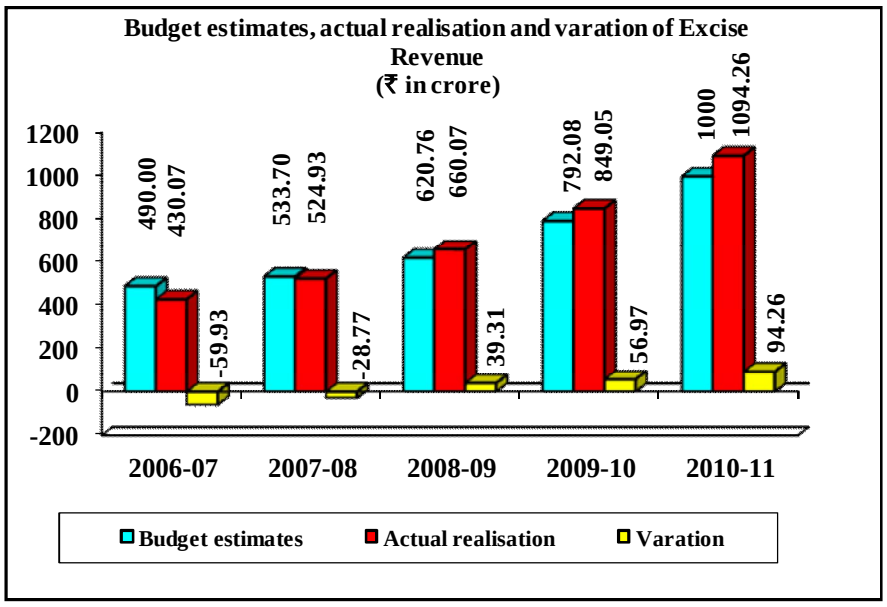
5.2.6 Trend of Excise Revenue

The Orissa Budget Manual stipulates that the Estimates of Revenue receipts should be based on the demand of the current year including any arrear of the past years and probability of their realisation during the year. We noticed that Controlling Officers of the Department required to submit the Estimates of Revenue on realistic basis did not furnish the same to the Finance Department (FD) for inclusion in the Revenue Budget of the State. However, as ascertained from the FD, the Budget Estimate (BE) of the ensuing year was prepared on the basis of the trend of realisation of revenue in the past years. The BE, actual realisation and the variations are detailed below:

(₹ in crore)

Year	Budget estimates	Actual realisation	Variation [Excess (+), Short-fall (-)]	
			Amount	Percentage
2006-07	490.00	430.07	(-) 59.93	(-) 12.23
2007-08	553.70	524.93	(-) 28.77	(-) 5.20
2008-09	620.76	660.07	(+) 39.31	(+) 6.33
2009-10	792.08	849.05	(+) 56.97	(+) 7.19
2010-11	1,000.00	1,094.26	(+) 94.26	(+) 9.43
TOTAL	**3,456.54**	**3,558.38**		

(Source: Finance Accounts and Audit Reports)



Excise Revenue of ₹ 3,456.54 crore was estimated for collection during the last five years ending with March 2011, against which ₹ 3,558.38 crore was collected. The variation between the BE and actuals ranged between (-) 12.23 *per cent* (2006-07) and 9.43 *per cent* (2010-11). The Department may analyse the reason for variation and ensure reduction in the gap in the ensuing years.

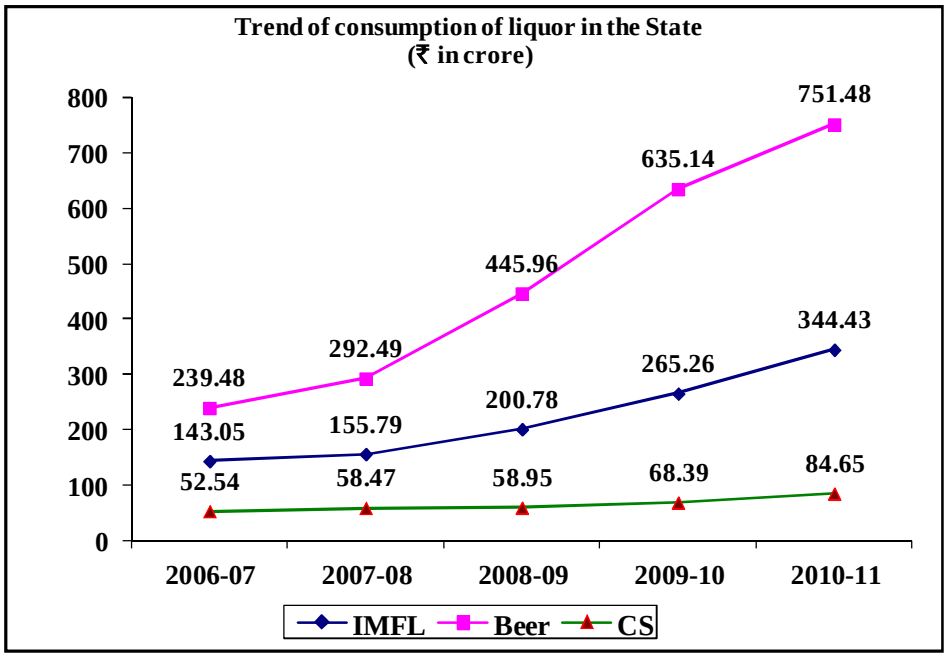
5.2.6.1 Trend of lifting and consumption of liquor in the State.

Year-wise position of lifting and consumption of liquor (IMFL, Beer, CS) in the State through the retail outlets and per capita consumption thereof during the period covered under audit are given in the table below:

Total lifting of liquor:

Year	IMFL (in lakh LPL)	Beer (in lakh BL)	CS (in lakh LPL)
2006-07	143.05	239.48	52.54
2007-08	155.79	292.49	58.47
2008-09	200.78	445.96	58.95
2009-10	265.26	635.14	68.39
2010-11	344.43	751.48	84.65

Source: Information supplied by the EC, Odisha



Per capita consumption of liquor

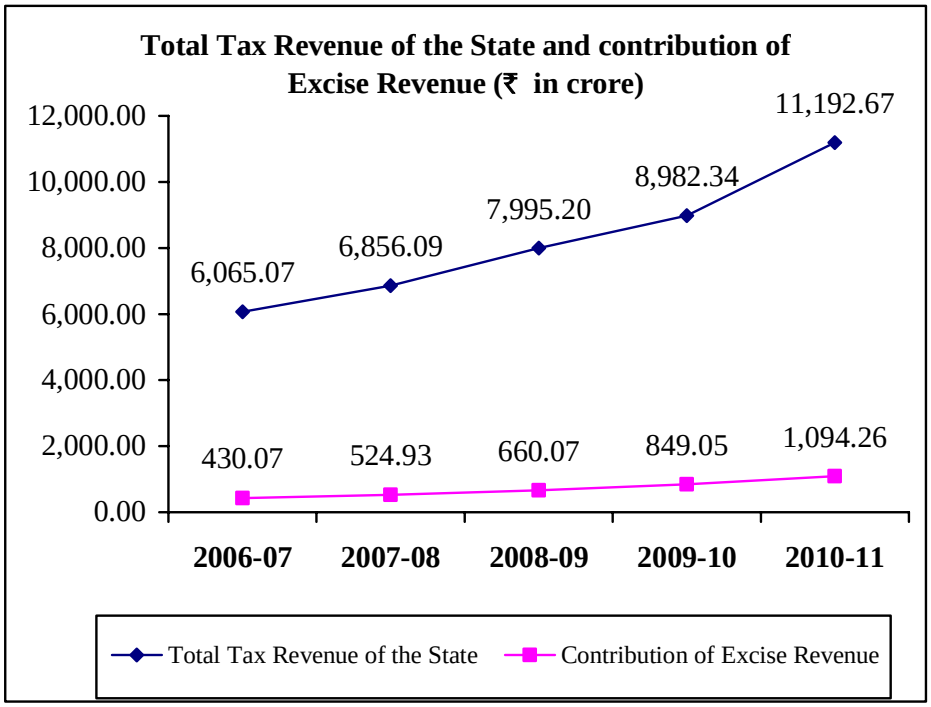
The projected population of the State during 2006-07 was 3.89 crore and it increased to 4.19 crore as per the latest Census Report. Thus, the average annual growth rate of population was 1.40 *per cent*. The average percentage of annual growth rate of consumption of liquor during the above period was 48.15 *per cent* for IMFL, 62.76 *per cent* for Beer and 31.70 *per cent* for CS.

5.2.6.2 Contribution of Excise Revenue to total Tax Revenue of the State

Contribution of Excise Revenue to the total Tax Revenue of the State for last five years was as under:

(₹ in crore)

Year	Total Tax Revenue of the State	Contribution of Excise Revenue	Percentage of Excise Revenue to the total Tax Revenue
2006-07	6,065.07	430.07	7.09
2007-08	6,856.09	524.93	7.66
2008-09	7,995.20	660.07	8.26
2009-10	8,982.34	849.05	9.45
2010-11	11,192.67	1,094.26	9.78



The contribution of Excise Revenue to the total Tax Revenue of the State increased steadily from 7.09 (2006-07) to 9.77 *per cent* (2010-11).

The reason for such increase was attributed to opening of more retail excise outlets leading to increase in lifting of alcohol by the retail shops and increase in the use of Mahua Flower (MF) by the Out Still (OS) shops.

5.2.6.3 Components of Excise Revenue

Excise Revenue consists of SED on intoxicants, Consideration Money (C Money) and Licence Fee (LF) of excise shops[5], Utilisation Fee (UF) on Mohua Flower (MF), UF on Molasses, Import Fee (IF), Export Fee (EF), Transportation Fee (TF), Bottling Fee (BF), Franchise Fee (FF) and other

[5] India Made Foreign Liquor (IMFL) off and on shops, Country Spirit (CS) shops, OS Shops and Bhang Shops etc.,

receipts from fines and penalties. The major component wise receipts of Excise Revenue during the last five years are given in the table below:

(₹ in crore)

Year	Total Excise Revenue of the State	[6]Component of Excise Revenue							
		Total SED	Percentage of SED to the total Excise Revenue	C Money & LF	Percentage of C Money and LF to the total Excise Revenue	UF on MF & Molasses	IF/ EF/ TF	BF/ FF	Other receipts
2006-07	430.07	236.91	55.09	141.50	32.90	16.44	9.65	15.21	10.36
2007-08	524.93	303.17	57.75	157.83	30.07	18.89	9.28	21.57	14.19
2008-09	660.07	393.79	59.66	177.70	26.92	20.57	19.35	29.84	18.82
2009-10	849.05	510.10	60.08	219.37	25.84	24.10	31.66	40.53	23.29
2010-11	1,094.26	700.43	64.01	248.74	22.73	24.65	38.86	50.15	31.43
TOTAL	**3,558.38**	**2,144.40**	**60.26**	**945.14**	**26.56**	**104.65**	**108.8**	**157.3**	**98.09**

During the last five years, the contribution of SED to the total Excise Revenue of the State varied between 55.09 *per cent* in 2006-07 and 64.01 *per cent* in 2010-11. The percentage of revenue under C.Money/LF to the total Excise Revenue showed a decreasing trend. The reasons and their impact on the decreasing trend have been discussed in detail in sub-paragraph 5.2.9.3 of this Report. The contribution of all other fees and other receipts to the total Excise Revenue of the State during the period 2006-11 showed increasing trends.

5.2.6.4 Arrears of Excise Revenue

The year wise arrears of Excise Revenue during the period covered under audit is given in the table below:

(₹ in crore)

Year	Opening Balance of arrears	Addition	Total arrears due for collection	Realisation	Closing Balance of arrears
2006-07	29.00	2.31	31.31	1.28	30.03
2007-08	30.03	0.41	30.44	9.57	20.87
2008-09	20.87	0.39	21.26	0.26	21.00
2009-10	21.01	0.69	21.70	0.24	21.46
2010-11	21.46	0.58	22.04	0.23	21.81

(Source: Information furnished by the Department)

Out of the total arrears of ₹ 21.81 crore as of 31 March 2011, ₹ 11.57 crore was under certificate cases, ₹ 4.47 crore was subjudice, ₹ 1.40 crore was under dispute, ₹ 0.48 crore was under process for write off and the balance ₹ 3.89 crore, representing 17.83 *per cent*, was at various stages of recovery.

Total arrears outstanding in the 12 selected districts as of March 2011 stood at ₹ 10.55 crore.

[6] The total revenue receipt was as per finance account whereas the component-wise figures were as per that furnished by the Department/Excise commissioner.

5.2.7 Production of intoxicants

Deficiencies noticed in the production processes of intoxicants are discussed in the following sub-paragraphs:

5.2.7.1 Production of Molasses

(i) Molasses is being manufactured, stored and sold by the sugar factories without the necessary licence

Molasses, a by-product of Sugar Refinery is an intoxicant under Section 2 of the B & OE Act, 1915. As per the Sections 13, 16, 19 and 20 of the Act, no intoxicant can be manufactured, stored, possessed and sold except under the authority and subject to the terms and conditions of the licence granted by the Collector of the district. AEP for 2010-11 prescribed License Fee at the rate of ₹ one lakh for trading of Molasses. The EDC is required to inspect the sugar factories at least once in a year. In the event of unlawful import, export, transport, manufacture, possession and sale etc., of Molasses penalty of ₹ 20,000 to ₹ 50,000 per case is leviable against the offender under section 47 (g) (i) of the above Act by initiating cases for prosecution and conviction by the Court of Law.

During scrutiny of the licence fee register of DEOs, we noticed that during 2010-11 all the five sugar factories in test checked districts were engaged in manufacture and storage of Molasses. Three[7] of them were engaged in trading of Molasses without any licence and without depositing the prescribed Licence Fees.

Molasses Rules were not framed so far and the EC functioning as the Controller of Molasses issued No Objection Certificates for procurement of Molasses from these sugar factories without ensuring that the licences were issued for trade of Molasses. None of the five sugar factories was inspected by the respective EDCs during the period covered under the audit to detect such lapses. Despite the clear provision in the Act and AEP for initiating cases for prosecution in the event of unlawful trading and sale of Molasses, the EC and the respective Collectors did not take any action against the sugar factories. Thus, Collectors and EC failed to comply with provisions of the Act regarding regulation and control of trading in Molasses, besides foregoing Licence Fee of ₹ 3 lakh and minimum penalty of ₹ 0.60 lakh.

On this being pointed out, the EC stated (July 2012) that the matter would be brought to the notice of the Government for necessary action. The reply is silent on the inaction of the EC and EDC to enforce the provision of the Excise Laws.

[7] Baragarh Coop. Sugar Industries, Baragarh, Bijayananda Coop. Sugar Mills, Bolangir and Laxmipati Balaji Suguar and Distillery Pvt. Ltd. Baramba.

(ii) Non-realisation of Utilisation Fee on Molasses

As per Rule 6D of the Orissa Excise (Exclusive Privilege) Rules, 1970 read with the Annual Excise Policy for 2010-11, for shortfall in utilisation of the annual Minimum Guaranteed Quantity (MGQ) of Molasses fixed by the Collector, the licencee is required to pay the Utilisation Fee (UF) on the quantity of shortfall at the rate of ₹ 130 per MT along with a penalty of 15 *per cent* of such UF. In the event of non-payment of the dues, the licence is liable for cancellation and the amount to be realised as arrear land revenue under the Orissa Public Demand Recovery (OPDR) Act 1962.

During scrutiny of the copies of the licences and the pass register of the DEO, Ganjam with the stock utilisation register of Molasses of the Officer in Charge (OIC) of Aska Cooperative Sugar Industries Ltd (ACSIL) we noticed that ACSIL did not utilise any Molasses against the MGQ of 11,361.60 MT fixed for the year 2010-11. Thus, there was total shortfall in utilisation of Molasses for which UF of ₹ 14.77 lakh and penalty of ₹ 2.22 lakh was to be realised from ACSIL. Though one OIC was posted at the Distillery with full time duty and there was a provision for monthly and quarterly inspections by the SE and EDC respectively, the short-realisation was not detected by them for raising the demand against the licensee.

On this being pointed out, the amount was demanded in November 2011. However, the same is yet to be realised (January 2013). No steps were taken for realisation of the Government dues through initiation of proceedings under the OPDR Act, 1962.

5.2.7.2 Production of other intoxicants

(i) Short-realisation of Licence Fee

As per the AEPs, the licencee of a Distillery and Bottling unit is required to pay Licence Fee at the prescribed slab rate on the basis of annual production capacity declared by him. As per the condition of the licence, the final assessment towards licence fee should be made after receipt of the report from the Director of Industries (DI) confirming the production capacity.

During scrutiny of the register of licences, copy of licence, stock taking reports and payment particulars in support of payment of licence fees in the DEO, Ganjam, we noticed that the licences of ACSIL were renewed on realisation of ₹ 13 and ₹ 25 lakh respectively considering the annual production capacities of intoxicants[8] between 15 and 30 lakh London Proof Litres (LPLs) during 2006-07 and between 10 and 30 lakh LPLs during 2010-11. However, during the above two years, the licencee produced 53.82 lakh LPL and ₹ 84.07 lakh LPL of CS respectively for which licence fees of ₹ 16 and ₹ 40 lakh were realisable from ACSIL. Thus, there was short-realisation of ₹ 18 lakh towards differential licence fee. Further, the SE did not obtain the confirmation of the declared production capacity from the Director of Industries for raising extra

[8] CS, RS and DS.

demand of Licence Fee through assessment. Licences were, thus, issued/renewed without verifying the confirmed production capacity of the unit.

On pointing this out, the SE, Ganjam agreed (June 2012) to raise the differential demand for realisation of the amount.

(ii) Non-provision for licence fee for other place of storage

As per Section 16 of the B and OE Act, 1915, no person shall, except under the authority and subject to terms and conditions of licence granted by the Collector, deposit or store any 'intoxicant' in any warehouse or other place of storage established, authorised or continued under the Act. In the event of violation of the Act, penalty was leviable under Section 47 of the Act. 'Spirit' comes under the category of intoxicant as per Section 2 of the Act. The AEPs for the years from 2006 to 2011 prescribed a licence fee of ₹ 5 lakh per annum for the warehouse of the licencee whereas no such fee was prescribed for other place of storage by the licencee.

During scrutiny of the records of EC, we noticed that a Distillery[9] under the control of DEO, Dhenkanal engaged in production of spirit from Molasses during 2006 to 2011 was not issued with any licence by the Collector for storage of intoxicant. Though the Distillery unauthorisely stored the intoxicants in the storage tanks which was to be termed as "other place of storage", the OIC posted at the Distillery and the SE, Dhenkanal did not initiate any action as per provisions of the Act against the licencee. Thus, due to non-prescription of Licence Fee in the AEPs, and non-issue of storage licence for other place of storage, there was a loss of revenue of ₹ 25 lakh.

After we pointed this out, the EC stated (July 2012) that compliance would be furnished after receiving necessary reply from the SE, Dhenkanal.

5.2.7.3 Wastage in production

(i) Excess wastage in production of Beer

Sub Rule 1 of Rule 47 of the BER, 1965 provides for allowance towards wastage of Beer up to 10 *per cent* of the monthly charge on which SED is not leviable. However, in para 208 of the Excise Technical Manual (ETM) five *per cent* wastage is allowed in the process of manufacturing of Beer.

During scrutiny of the production particulars of three[10] breweries in two districts we noticed that, the average percentage of wastage varied between 2.8 and 9.24 *per cent* during 2006 to 2011. Though there was a wide gap between the percentage of wastage prescribed in the rules and technical manual, there was no system to analyse and revise the percentage of wastage according to the specific condition prevailing in the breweries.

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9 M/s Shakti Sugar Limited, Distillery Unit, Dhenkanal.

10 Denzong Breweries (2.80%), Khurda, United Breweries Ltd. (6.29%), Khurda and Maikal Breweries (9.24%), Bolangir.

The Department has not examined the variation in the percentage of wastage which had direct impact in the production figures and hence on the revenue collection. By limiting the wastage to the percentage prescribed in the ETM the Department would have realised additional revenue of ₹ 2.80 crore towards SED and BF. Further, though 46 years have elapsed since implementation of above rules and the process of manufacture of alcohol including Beer has undergone several technical changes, the Department is yet to short out the discrepancies of wastage percentage prescribed in the Excise Technical Manual and the BER.

After we pointed this out, EC stated (July 2012) that the matter would be brought to the notice of Government for necessary action.

Audit recommends for re-fixation of the wastage percentage after proper technical evaluation of the process prevailing in the breweries.

(ii) Loss due to shortfall in yield of Beer

As per para 208 of ETM five percent wastage is allowed in manufacture of Beer. As per Para 243 of the ETM, in the event of variation in the output, the reason for low output is required to be recorded by the excise officer in the brew register. If no satisfactory explanation of low output, if any, is forthcoming, the SED may be levied on the shortfall from the standard output as per the rate prescribed in the AEPs. As per the AEP for 2007-08, SED at the rate of ₹ 21 per BL and BF at the rate ₹ three per BL is leviable on Beer.

(a) During scrutiny of the brew register of a Brewery[11] under DEO, Khurda, we noticed that by feeding specific inputs[12] in 16 charges[13] during 5-12 April 2007, the Brewery obtained 16,000 BL of wort from each charge for production of Beer. However, with increase of inputs by 10 *per cent* in the next 12 charges during 13-20 April 2007, the Brewery obtained the same quantity of wort per charge i.e. 16,000 BL. As inputs were increased by 10 *per cent*, there should have been proportional increase in the output. Hence, non-increase in the output is not clear. However, audit calculated the short-fall in the output by 19,200 BL at the rate of 1,600 BL per charge which resulted in loss of SED ₹ 3.83 lakh and BF of ₹ 0.55 lakh even after allowing the permissible wastage at the rate of five *per cent* on 19,200 BL as per the ETM. The OIC did not record any reason for the above shortfall in the yield of wort. The EDC though required to inspect the unit in each quarter did not inspect the unit. The SE, Khurda also failed to notice this during his monthly inspection.

(b) Similarly during scrutiny of records of another Brewery[14] under the same DEO, we noticed that though the input quantities remained same in 73 charges during May, June 2007 and February 2009, the outturn varied from charge to charge. This resulted in under exhibition of outturns by 82,500 BL of wort, which would have a net yield of 78,375 BL of strong Beer after

[11] Denzong Breweries, Khurda.
[12] 200 kg of malted corn 400 kg of Rice flake and 400 kg of Sugar.
[13] Input of specified quantity of rice flake, malted corn and sugar fed in one occasion for producing Beer.
[14] United Brewery Khurda.

allowing maximum permissible wastage at the rate of five *per cent*. OIC posted at the Brewery as well as the SE did not examine this to raise the demand which resulted in loss of revenue of ₹ 19.15 lakh towards SED (₹ 16.46 lakh) and BF (₹ 2.69 lakh).

After we pointed out the above cases, the SE stated (June 2012) that compliance would be furnished on proper verification of the case. However, in the Exit Conference the Department accepted our observation in both the cases.

(iii) Non-realisation of SED on wastage of spirit in transit

Intoxicants like ENA are imported into the State, by the bottling units for manufacturing IMFL under the permit issued by the EC and import pass issued by the respective SE. Rule 32 of the BER, 1965 provides for permissible wastage of spirit ranging between 0.1 *per cent* to 2 *per cent* on the basis of duration of transit. The period of transit though includes the day of arrival at the receiving point; excludes the date of despatch. The OIC posted at the bottling unit is required to supervise the storage of the intoxicant, record the stock endorsement on the pass and submit a copy of pass to the respective SE to keep watch over the intoxicant for which the pass was issued, actual receipt, wastage, period of journey etc. and issue intimation for demand of SED, wherever necessary if wastage is more than the permissible limit. The consignee is required to pay the SED on receipt of intimation from the concerned Excise Officer. The AEPs for 2007-09 prescribed SED at the rate ₹ 140 per LPL for IMFL obtained from ENA.

(a) During scrutiny of spirit stock register and copies of the transport passes in connection with transportation of ENA in respect of two[15] bottling units under the DEO Khurda, we noticed (May 2012) that the units imported 1,40,000 BL of ENA during 2007-09 in seven passes on which wastage up to 800 BL was permissible. However, they availed wastage of 1,517 BL of ENA which was in excess by 717 BL over the permissible limit.

The SE did not notice this excess wastage availed and hence did not intimate the consignee to pay the SED of ₹ 1.67 lakh.

After we pointed out the case, the SE, Khurda agreed (June 2012) to raise the demand for realisation of the amount.

[15] Oriental Bottling and Utkal Distilleries at Khurda.

(b) During scrutiny of ENA pass register and the stock account of spirit maintained by Sri Shakti Distillery, Rayagada under DEO Rayagada, we noticed (June 2012) that a tanker carrying 10,000 BL ENA of 169^0 proof strength left Kasipur (Uttaranchal) on 11 July 2006 for Rayagada, Odisha and met with an accident on the way on 13 July 2006. However, only 3,955 BL of ENA was received at the destination on 24 July 2006. Thus, there was a shortage of 6,045 BL of ENA against admissible wastage of 130 BL at the rate of 1.3 *per cent* on 10,000 BL of ENA transported during 13 days of journey. This resulted in excess wastage of 5,915 BL (9,996 LPL) of spirit on which SED of ₹ 12.50 lakh was leviable. The SE, Rayagada was required to intimate the consignee for payment of the above SED on the basis of the endorsement of the OIC recorded on the copy of the pass received, but he failed to do so though he was aware of such excess wastage of ENA through the OIC of the unit.

Rule 32 of BER, 1965 prescribes the limit for transit wastage of ENA/Spirit between 0.1 and two per cent on the basis of the journey period. In case of abnormal wastage, the S.E is required to collect the SED which may be refunded in the event of waiver order received from the EC. As per the AEP for 2006-07, SED at the rate ₹ 125 per LPL was to be levied on IMFL obtained from ENA.

After we pointed out the case, the EC agreed (July 2012) to instruct the concerned SE to take necessary action for realisation of the amount.

CHAPTER-V : STATE EXCISE DUTY AND FEES

EXECUTIVE SUMMARY

Marginal increase in tax collection	In 2011-12 the collection of Excise Revenue increased by 2.15 *per cent* as compared to the Budget Estimate which was attributed by the Department to opening of more new legal outlets, increase in lifting of IMFL / Beer and more utilisation of Mahua Flower.
Working of Internal audit	The Internal Audit Wing (IAW) of the Department was created only in September 2010 for audit of its units from 2010-11 onwards. The internal audit for 2008-09 and 2009-10 covered only four[1] out of 31 DEOs by the end of March 2011. This had its impact in terms of the weak internal control in the Department leading to substantial leakage of revenue. It also led to omissions on the part of the Superintendents of Excise remaining undetected till audit was again conducted.
Recovery by the Department against the observations pointed out by audit in earlier years	During the period 2006-11 audit pointed out non/short-levy, non/short-realisation of State Excise Duty (SED) and Fee etc., with revenue implication of ₹ 117.28 crore in 4,342 cases. Of these, the Department accepted audit observations in 1,722 cases involving ₹ 31.57 crore; but recovered only ₹ 1.90 crore in 309 cases. The average recovery position, being 6.02 *per cent*, as compared to acceptance of objections, was very low and it ranged between 0.23 and 28.29 *per cent*.
Results of audit in 2010-11	In 2011-12, Performance Audit (PA) on the **"Working of Excise Department"** was conducted which revealed several systemic deficiencies and non / short-realisation, non-levy, loss of revenue etc. involving ₹ 958.35 crore. In 2011-12, test check of records of 15 units revealed non/short-realisation, non-levy, loss of revenue etc. involving ₹ 44.24 crore in 28,192 cases. The Department accepted non-levy / short-realisation of duty of ₹ 15.27 crore in 26,570 cases pointed out by audit during the year 2011-12. An amount of ₹ 0.45 crore was recovered in 50 cases relating to 2011-12 and earlier years.
Highlights	In this Chapter, Illustrative cases with revenue implication of ₹ 225.80 crore selected from the observations noticed in the PA and during test check of records relating to assessment records of SED and Fees in the District Excise Offices (DEOs) are highlighted, where audit noticed that the provisions of

[1] Balasore, Bolangir, Dhenkanal and Nabarangpur.

5.2.7.4 Establishment cost and extra-hour operation charges

(i) Non-realisation of establishment cost and extra-hour operation charge

As per Rule 20 of BER, 1965, all operations in a Distillery, Bottling Unit, Brewery which requires the presence of an excise officer shall be stopped on Sundays, other public holidays and specially declared holidays. As per the provisions of Rule 34 of the above Rules, the production unit may function for the second shift with prior permission of the EC and additional staff shall be posted as determined by the EC. The cost of the Excise establishment shall be borne by the unit with payment of extra hour fee at the rate of ₹ 1,000 for each hour of operation beyond the scheduled hours in addition to the overtime fees payable to the excise staff at the rate of one seventh of a day's pay per hour. The EC instructed the DEOs in February1989 for realisation of cost of establishment from the licencees of FL bonded warehouses including the warehouse of the FL manufacturers.

During scrutiny of production register, establishment charge claim files and correspondences on extra hour operations of 12 manufacturing units located in five[16] districts we noticed, that in three[17] districts, an amount of ₹ 1.05 crore was not realised towards establishment cost (₹ 6.95 lakh) and extra hour of operation charge for 9,467 hours (₹ 98.18 lakh) against five[18] manufacturers.

Though the SEs, being the Drawing and Disbursing Officers were aware of the staff posted in the bottling units and the extra hour operation through the monthly reports obtained from the OICs concerned, they did not act promptly to raise the demand and collect the Government dues.

After we pointed out the case, the SE, Sambalpur and Bolangir agreed (April and May 2012) to raise the demand. The SE, Ganjam stated (June 2012) that the demand has been raised, whereas the SE, Khurda stated (June 2012) that demand would be raised after verification.

[16] Balasore, Bolangir, Ganjam, Khurda and Sambalpur.
[17] Bolangir, Ganjam and Sambalpur.
[18] ACSIL, Maikal Breweries , Hi-tech bottling, United Spirits and Fortune spirits

(ii) Non-raising of demand for establishment cost against Distillery

As per Rule 20 of BER, 1965 read with para 30 of Board's instructions, an Excise Officer shall be posted in the distillery to supervise the operations. The EC instructed (January 1990) the Collectors to realise the cost of establishment from Bottling units and Warehouses; but did not include the Distilleries in the order.

From the information obtained from the DEO, Dhenkanal in connection with reimbursement of establishment charges, we noticed that an amount of ₹ 19.64 lakh was paid by the SE Dhenkanal towards pay and allowances of an OIC and a constable posted at Sakti Sugar & Distillery Ltd. for the period from January 2006 to March 2011. However, the SE, Dhenkanal did not raise any demand for reimbursement of the above establishment charges against the distillery in the absence of instructions from EC for deposit of the same into Government account.

After we pointed this out, the EC stated (July 2012) that action would be taken for realisation of establishment cost from the Distillery.

5.2.7.5 Non-levy of Excise Duty on breakage in the warehouse

The B&OE Act 1915 and Rules made thereunder do not provide for any warehouse breakages. Hence, the OIC is required to ensure that the stock account of the brewery should reflect the opening stock, beer produced, beer issued and closing stock without any warehouse breakage.

From the stock taking report of Maikal Breweries under the DEO, Bolangir, we noticed (May and September 2012) that the Brewery exhibited breakage of 492.501 cases of Beer in its warehouse during 2006-11 on which SED of ₹ 0.68 lakh was to be levied and realised. The SE Bolangir as well as OIC of Brewery failed to notice this for which demand for ₹ 0.68 lakh was not raised.

During the Exit Conference the Department accepted the observation of audit.

5.2.7.6 Excise Adhesive Label (EAL)

As per Rule 115B of the BER, Excise Adhesive Label (EAL) shall be affixed to each bottle/can of IMFL/Beer and on each pouch/container of CS. In the case of IMFL and Beer imported from outside the State, one Inspector of Excise (IE) shall have his store or office in the Registered Office of OSBC. The OSBC in each case of import permit for procurement of stock from outside the State shall present the pass to the above IE with a requisition as to the number of EALs required to be issued to ensure that no bottle/can is received from outside the State without affixture of EAL. The IE is required to maintain the detailed accounts of the EALs received, issued, used and damaged, collect the EAL fee on the date of issue and credit the same to the Government account.

During scrutiny of records of EAL stock register of SE, Khurda and IE, OSBC, we noticed that the accounts on utilisation and balance of the labels with the manufacturer of other States, from where IMFL/Beer are imported to the State, was not available with the IE specifically posted at OSBC. There is no mechanism to monitor such account by the SE/EC. In the absence of proper accounts of the EALs issued by the IE posted at OSBC and details of their utilisation, there was ample scope for misuse of the labels and consequent leakage of revenue.

Audit suggests that the Department should devise a mechanism to monitor EAL accounts of IE vis-à-vis the number of bottles of IMFL/Beer imported to the State in order to check possible misuse of the labels.

5.2.8 Storage and transportation of intoxicants

The Distilleries as well as wholesalers of Molasses import a part of their requirement from other States on the basis of No Objection Certificate from the EC.

5.2.8.1 Registration of brand label

(i) Inadequacy of Annual Excise Policies

As per Rule 41A of BER, 1965, FL manufactured in the State or imported into the State shall not be stored in a warehouse or issued for sale unless the brand names and labels are approved and permits are issued by the EC on payment of the prescribed fees. The permit once issued shall remain in force up to 31 March of the financial year. The AEPs provide for realisation of application fee at the rates of ₹ 5,000 (2006-07 and 2007-08) and ₹ 10,000 (2008-09 onwards) besides annual Label Registration Fees (LRF) at the prescribed slab rates on the basis of quantity of IMFL supplied to OSBC during the preceding calendar year. There is no slab rate for supply of IMFL of defence brand as such fees at the flat rate of ₹ 10,000 per brand are separately prescribed for military canteens in the AEPs. Beer is also treated as FL as per Section 4 of B and OE Act, 1915.

During scrutiny of the label approval orders of the EC and cross check of the data on calendar year-wise supply of FL to OSBC, we noticed that one[19] manufacturer under DEO Bolangir obtained approval for a new label (Maikal 5000) for the year 2008-09 in August 2008 on payment of label registration fee at the minimum slab rate of ₹ 50,000. Based on the supply of 1,100 cases of Beer to OSBC in the calendar year 2008, the label for the next year 2009-10 was also renewed on payment of ₹ 50,000. However, the licencee produced 1.11 lakh cases of Beer in 2009-10, for which LRF of ₹ 2.20 lakh was leviable, As the manufacturer disposed of the entire stock by 31 March 2010, he did not register the label for 2010-11 .In the absence of provision in the AEP for realisation of differential LRF for production in excess of the quantity for which the label was approved, there was loss of LRF of ₹ 1.70 lakh.

After we pointed out the case, the EC replied (July 2012) that it was the prerogative of the manufacturer to register the brand labels and he can do little on the present provision in the AEP. However, he assured that the observation would be intimated to Govt. for taking a policy decision on the matter.

The observation was discussed in the Exit Conference and it was accepted by the Department.

Audit recommends introduction of a provision under AEP for payment of additional Label Registration Fee for excess production/supply of IMFL/Beer of the brand in the financial year for which label was originally registered on the basis of supply in the preceding calendar year.

[19] Maikal Breweries, Bolangir.

(ii) Non/short-levy and realisation of label registration fee

During scrutiny of the approval orders of the EC on label registration, data on calendar year-wise supply of Beer/IMFL manufacturing units collected from the concerned DEOs and arrival (receipt) figures of liquor at OSBC depots, we noticed that there was non/short-levy and realisation of ₹ 1.40 lakh towards label registration fee and application fee during the period 2007-11 in respect of six brands pertaining to three[20] manufacturers due to improper application of the slab rates prescribed in AEPs on the basis of quantity supplied to OSBC during the corresponding previous calendar year.

After we pointed out these cases, the EC agreed (July 2012) to take steps to realise the amount in the case of two manufacturers and in respect of one[21] manufacturer, he stated that it was a typographic error.

Failure to compute the LRF correctly and lack of care in making entry in the approval orders on label registration resulted in revenue of ₹ 1.40 lakh remaining unrealised.

This was brought (October 2012) to the notice of the Government. The reply is awaited (January 2013).

5.2.8.2 Loss of Bottling fee

In the AEP for 2002-03, the Government decided to supply CS of 40 degree Under Proof (UP) strength in bottles and instructed to ASCIL, to switch over the supply from poly packs to bottles in phases. The objective behind this was to supply unadulterated CS of good quality to the consumers, while earning extra revenue on account of BF. However, ACSIL, the sole supplier of CS, was unable to supply the CS in bottles. The AEPs for the years 2004 to 2011 provided for entire supply of CS in bottles instead of poly packs (pouches) with effect from 1 July 2004 and realise bottling fee at the rate of 25 paise per bottle.

During scrutiny of records of EC and DEO, Ganjam, we noticed that the Government directed (June 2004) the EC to submit proposal for grant of exclusive privilege to manufacture and supply of CS in bottles by other units as ACSIL was unable to supply the same in bottles.

Despite the reluctance of ACSIL to supply CS in bottle, the EC as well as Govt. did not engage any other unit to supply CS in bottles. Finally, ACSIL started supplying CS partly in bottles with effect from February 2009 and continued with the same arrangements till March 2011. Between July 2004 and March 2011, the unit supplied 25.69 crore pouches each containing 200ml. of CS. Due to non-supply of CS in bottles with effect from July 2004 up to March 2011, there was loss of revenue of ₹ 6.42 crore[22], out of which ₹ 4.80 crore[23] pertains to the period covered under the Audit.

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[20] Heritage Distilleries, Nimapara, Oriental Bottling (P) Ltd., Khurda and United Sprits Limited Ltd. Ganjam.

[21] Heritage Distilleries, Nimapara.

[22] (0.25 x ₹ 25.69 crore).

[23] (0.25 x ₹ 19.21 crore).

After we pointed out the case, the EC stated (July 2012) that ACSIL was a cooperative organisation, for which decision regarding switching over to the supply of CS in bottles was delayed. However, the Government's decision of June, 2004 should have been carried out by coordination between the Departments of Excise and Co-operation to ensure availability of unadulterated CS and thereby avoid loss of revenue.

5.2.8.3 Non-levy of penalty on short-supply of country spirit

As per AEPs, the authorised supplier of CS will be penalised to the extent of ₹ 10 lakh, if he fails to make timely supply of CS. ACSIL is the sole manufacturer authorised to supply CS in the State. The quantity of CS to be supplied during a specified period and periodicity of penalty were not specified in the AEP.

During scrutiny of records of the EC, Odisha, DEOs, Ganjam and Cuttack, we noticed that the ACSIL could not supply the required quantity of CS in 2009-10 and 2010-11as per market demand. So the CS shop licensees could not lift their MGQ for those years from ACSIL through the depots of OSBC. Hence, it was liable to be penalised with ₹ 20 lakh at rate of ₹ 10 lakh per annum for short-supply of CS. A penalty of ₹ 10 lakh was realised from ACSIL for the year 2008-09 based on the audit observations in para 5.3.4 of the Audit Report for the year ended 31 March 2010. However, no penalty was levied by the Commissioner for 2009-10 even after lapse of more than two years.

After we pointed out the case, the EC stated (July 2012) that the matter was under enquiry.

5.2.8.4 Non-realisation of depot Licence Fee

As per the AEPs for the year 2006-11 OSBC is required to pay annual depot licence fee at the rate of ₹ 5 lakh per depot for the depots established by the Corporation as per the licence issued by the Collector of the concerned district.

During scrutiny of the records of DEO, Sambalpur in April 2012, we noticed that OSBC was operating two depots[24] at different places of Sambalpur, during the period covered under the audit against payment of annual depot licence fee for one depot only. As the depots are functioning at different locations and premises, OSBC was to pay the annual depot licence fee for both the depots. The Collector, being the licencing authority, did not insist on OSBC for obtaining two licences for two depots on payment of prescribed depot licence fee. Thus there was non-levy/realisation of ₹ 25 lakh for the years 2006-07 to 2010-11.

After we pointed this out, the SE Sambalpur, while attributing reasons for separate location of depots to lack of accommodation, stated (April 2012) that passes were issued from and accounts were kept at the depot at Bohidar Nuapali. The reply is not tenable as the licence was not obtained for the second depot against payment of prescribed depot licence fee.

[24] IMFL depot at Bohidar Nuapali and Beer depot at Bareipali.

After we pointed out the case, the EC stated (July 2012) that the matter would be brought to the notice of the Government for necessary action.

5.2.8.5 Transport fee on intoxicants

(i) Non-realisation of Transport Fee on RS

As per section 12(1) of B & OE Act, 1915, no intoxicants can be transported without obtaining a pass for the purpose. IMFL, Beer CS and RS are defined as intoxicants under Section 2 of the Act and hence pass is issued for their transportation. As per the AEPs, Transport Fee (TF) on RS used for the purpose, other than preparation of IMFL/CS, is to be levied at the rates ranging between ₹ 4 and ₹ 5 per BL during the period 2006-11. Since levy of TF was not exempted for transportation of RS to Hospitals and Charitable Institutions, the pass for such spirit was required to be issued by the SE on realisation of requisite fee from the applicant.

During scrutiny of the pass issue registers, we noticed that in eight[25] districts, 77 passes were issued for transport of 71,352.75 BL of RS to Hospitals and Charitable Institutions (CIs) on which, TF of ₹ 3.38 lakh was leviable. However, despite issuing the transport pass, the SEs concerned did not realise the fees in advance.

After we pointed out the cases, the SE Bargarh, agreed (June 2012) to raise demand after due examination, whereas the SE, Jajpur agreed (June 2012) to take action after examination of the matter. The SEs Ganjam, Mayurbhanj and Rayagada stated (June and July 2012) that necessary steps would be taken after obtaining clarification from the EC. The replies of SE, Angul, Balasore and Bolangir are yet to be received (January 2013). The replies are not tenable as the SEs should have obtained the clarification before issuing passes.

(ii) Revenue could not be earned due to want of provision for Transport Fee on IMFL, Beer and CS

The AEPs for the years from 2006-11 do not provide for levy of TF on IMFL, BEER and CS, though such fees are provided for transportation of other intoxicants like RS, ENA, and DS at the minimum rates ranging between ₹ 2.50 and ₹ 3 per BL.

From the data available with OSBC, we noticed that during the period covered under audit, 3,042.78 lakh BL (338.09 lakh cases[26]) of IMFL, 4,623.17 lakh BL (592.71 lakh cases[27]) of Beer and 701.40 lakh BL (140.28 lakh cases[28]) of CS were lifted by the retailers of the State from OSBC. Transport fee in the name of permit fee and movement fee were levied in the States of Punjab and Jharkhand for transportation of IMFL and Beer. For want of provision in the AEPs for levy of TF for such intoxicants by the Department, revenue of ₹ 246.16 crore could not be earned.

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[25] Angul, Balasore, Baragarh, Ganjam, Jajpur, Mayurbhanj and Rayagada.
[26] One case of IMFL= 9BL
[27] One case of Beer = 7.8 BL
[28] One case of C.S. = 5 BL

5.2.8.6 Loss of revenue due to non collection of differential duty on belated arrival of stock at the OSBC depots

As per Section 17 of B&OE Act, 1915, no intoxicant shall be removed from any distillery, brewery, warehouse or other place of storage, unless the SED levied and paid as per the AEPs or bond has been executed for the payment thereof. OSBC procures stock of IMFL and Beer on payment of the SED from the manufacturers on presentation of the pass. After obtaining the stock, one copy of pass with the endorsement of stock arrival particulars is required to be submitted to the pass issuing authority (SE, Khurda) for his record and reference. The Officer-in-charge (OIC) posted in each OSBC depot was not authorised to record the stock arrival reports.

From a scrutiny of the pass issue register of SE, Khurda, we noticed that the copies of the FL 16 with endorsements of stock of arrivals were not being received by the SE, Khurda. As a result, monitoring the arrival of the consignments within the validity period of the passes issued could not be done.

We noticed that the validity period of passes issued in March 2010 on realisation of SED at the prevailing rates expired on 31 March 2010, but in a number of cases the consignments were received in the OSBC depots and recorded on the Goods Received Note (GRN) after 1 April 2010 i.e. after expiry of the validity period. Government revised the rate of SED on IMFL from ₹ 140 to ₹ 150 per LPL with effect from 1 April 2010 and OSBC also revised the prices at which stock was to be issued to the retailers after inclusion of SED at higher rates fixed. However, the differential duty amounting to ₹ 50 lakh on the stock received on or after 1 April 2010 on the basis of the passes issued in March 2010 should have been realised from OSBC. Neither the Corporation deposited the amount nor the SE, Khurda raised any demand for such differential duty. The OIC posted in the OSBC depots failed to detect such cases and did not insist for revalidation of the passes before storing the intoxicants. Thus, failure in internal control mechanism of the Department resulted in non-realisation of differential SED of ₹ 50 lakh**.**

After we pointed out the case, the SE, Khurda replied (June 2012) that OSBC was paying the differential duty without any calculation sheet. The reply is not tenable because the SE, Khurda did not watch the correctness of the amount due and the amount paid by OSBC consequent to the revision of duty from 1 April 2010.

5.2.8.7 Non-realisation of differential duty on closing stock of IMFL/Beer from OSBC Ltd.

Government entrusted the wholesale trading of IMFL and Beer to OSBC Ltd. as per the Notification of 1 February 2001. The entire stock obtained by OSBC was stored in its depot and issued from the depots to the retailers at the issue price inclusive of SED. In the AEP for the year 2010-11, the SED was revised upwardly for IMFL by ₹ 10 and for Beer by ₹ 1 to ₹ 3 based on brand of Beer.

Consequent upon the revision of SED, OSBC revised the issue price of IMFL and Beer with effect from 1 April 2010 and collected the enhanced ED from the retailers on the closing stock as on 31 March 2010. However, the enhanced ED so collected was not deposited by OSBC to the SE Khurda. As on 31 March 2010, there was a balance of 15.84 thousand LPL of IMFL, 36.60 thousand BL of Beer, on which differential SED of ₹ 1.96 crore was to be deposited by OSBC. The SE did not take any action to realise the amount from OSBC even after 27 months of enhancement of the duty.

After we pointed out the case, the SE, Khurda replied (May 2012) that demand notice has been issued to the OSBC and the realisation was awaited.

5.2.9 Settlement of Excise shops and retail sale of intoxicant

Retail sale of intoxicants is made to public only through the licensed outlets. The licencees of IMFL 'On' and 'Off' and CS shops obtain their required quantity of liquor from OSBC. The outstill licencees procure mohua flower, produce OS liquor and sell the same to the consumers in their shops. The Bhang stores functioning under the SEs lift Bhang from the Central Bhang Gola (Store) of the EC. The Bhang[29] shop licencees lift the required quantity of Bhang from the Bhang stores. Besides the LF, Government have prescribed SF, TF etc. on some intoxicants. To safeguard the State revenue, Government have also fixed MGQ for the licencees and the lifting and sale of the intoxicants are monitored by the networks of excise administration functioning throughout the State.

5.2.9.1 Renewal of excise shops without enhancement in consideration money/licence fee led to revenue loss

As per para 3 A of sale notice circulated by Govt. in September 1999, the EP holder shall pay monthly consideration money at the increased rate of 10 *per cent* over the previous year's consideration money (C.Money).

During scrutiny of licence fee register and settlement files of all types of excise shops of selected 12 DEOs and AEPs, we noticed that the new excise shops were settled for 2005-06 as per the revised system of lottery introduced from 1 April 2005, whereas the old shops were settled on renewal basis at the rates enhanced by 10 *per cent* of the highest Consideration Money (C.Money) of the preceding three years. However, during the year 2006-07 such old shops were settled at

[29] Bhang means the leaves of a wild hemp plant called as canabis sativa.

the same rate of C.Money for the previous year i.e. 2005-06 without enhancement of C.Money on the ground that 10 *per cent* increase over the highest of preceding three years was not a regular practice and non-participation of bidders for the shops in Sundargarh district. Such explanation for a single district was not applicable for the 30 districts of the State. Due to renewal of old shops without enhancement of C.Money there was loss of revenue of ₹ 85.08 crore during the period covered under the audit.

After we pointed out the cases, the EC and the DEOs replied (April to July 2012) that the shops were renewed for 2006-07 as per the provision of the AEP.

The fact however, remains that the reply is silent as to why there was no increase when the terms and condition of the sale notice clearly stipulated that, the C.Money for the year 2006-07 was to be increased by 10 *per cent* of the previous year.

5.2.9.2 Non-implementation of zonal system

To introduce the Maximum Retail Price (MRP) for liquor, the annual Excise Policy for 2004-05 envisaged a zone wise uniform licence fee for the shops with effect from 1 October 2004 by reviewing the potentials of existing IMFL shops and formation of four types of zones by proper identification of their locations by the SEs concerned.

We noticed that during 2004-05, the zone wise fixation of uniform licence fee could not be introduced upto the date of audit though MRP was introduced since 2008-09.

The exact loss due to non-adoption of zones could not be worked out by audit in the absence of any data on formation of zones.

The matter may be examined by the Government and uniform licence fee may be fixed at the earliest date by formation of zones.

5.2.9.3 Loss due to incorrect fixation of Consideration money

The AEPs prescribe the MGQ in LPL/BL of lifting of intoxicants like IMFL/Beer by a licenced Excise off shop against payment of ₹ 1,000 towards C.Money during a financial year. The C.Momey of a shop is to be determined on the basis of demand survey in the area and taking into consideration the C.Money of the nearby existing shops.

(a) During scrutiny of the records on settlement of shops of the selected DEOs, we noticed that no survey was made to assess the actual demand in the areas, where the shops are settled by the Department. From the shop-wise details of C Money fixed, its MGQ and actual lifting for the period covered in audit furnished by eleven districts[30] we noticed that majority of the shops lifted more than the MGQ fixed for IMFL/Beer.

[30] Baragarh district did not furnish the annual lifting position of IMFL 'Off' shops and Ganjam and Sambalpur districts furnished the information partially.

Though actual lifting of liquor was more than the MGQ fixed, the Department was getting C.Money on the basis of MGQ fixed only. This was due to incorrect fixation of MGQ and C.Money without the demand survey of shops. Further, there was no system in existence or provision in the AEPs for re-fixation of the monthly C.Money in the event of abnormal excess lifting of liquor than the MGQ fixed.

Scrutiny of the cost structure of IMFL/Beer for 2007-08 further revealed that licence fee of ₹ five per 180 ml bottle of IMFL and 650 ml bottle of Beer and ₹ 20 for 750 ml bottle of scotch was included therein. Consequently, the licence fee of ₹ 80.76 core collected during the period 2007-11 on account of sale of IMFL/Beer in excess of MGQ through the MRP went to the retailers as an additional benefit instead of credit of the same to Government account. However, Government had to forgo this revenue due to incorrect fixation of MRP.

5.2.9.4 Non/Delayed Settlement/Abolition of Excise shops

(i) Loss of revenue due to non-settlement of IMFL 'OFF' shops

According to the AEPs for 2006-07 to 2010-11, all the existing IMFL, 'OFF', 'Country Spirit' and 'Out Still' shops were to be renewed for the next year with the applicable C.Money of the shop. Where the shops are not renewed, the Collector of the district may take immediate steps to settle the unsettled shops by way of inviting application and drawal of lottery. In case the above shops remain unsettled even after the drawal of lottery, those may be allowed to run through any Government Undertaking, Co-operative organisation from 2006-07 onwards in the interest of revenue of the Department.

During test check of licence fee register, AEPs and settlement files etc. of seven[31] excise districts, we noticed that 15 IMFL 'OFF' shops and two CS shops remained unsettled during the last five years, which resulted in loss of Excise Revenue of ₹ 14.75 crore consisting of C.Money (₹ 2.86 crore) and SED (₹ 11.89 crore).

After we pointed out the cases, the SE, Ganjam, Balasore, Cuttack and Bargarh stated (April to June 2012) that the licence of the shops could not be renewed due to high price; SE, Mayurbhanj and Bolangir stated (May 2012) that the shops could not be settled due to public objection whereas SE, Dhenkanal replied (April 2012) that compliance will be furnished after verification of records.

However, no steps were taken by any DEOs to run the unsettled shops through the OSBC, Co-operative Organisations and Government Undertakings.

[31] Balasore, Bargarh, Bolangir, Cuttack, Dhenkanal, Ganjam and Mayurbhanj.

(ii) Loss of Revenue due to delayed sanction of Excise shops

As per the Government notification of October 2003, the Collectors of the districts after inviting objections for settlement of excise shops are to furnish proposals, through the EC, to the Government for sanction. Thereafter, the licence is issued to the sanctioned shops, by inviting applications on fixed monthly consideration money as approved by Government and by drawal of lottery vide Government notification dated 28 April 2005. The whole process of inviting applications and drawal of lottery shall be completed in 10 days. The Acts and Rules do not prescribe any time period by which the shops recommended by the EC would be sanctioned by the Government.

During test check of settlement files of shops and licence fee registers of four[32] SEs, we noticed that the proposals for settlement of 52 IMFL 'OFF' shops, nine CS shops, 10 Bhang shops for the years from 2009-10 and 2010-11 were sent to Government, which were sanctioned after lapse of periods ranging from 51 to 188 days. Due to delay in sanction, revenue of ₹ 4.44 crore was foregone by the Department towards C Money (₹ 0.99 crore and SED (₹ 3.45 crore)**.**

After we pointed out these cases (May and July 2012) three[33] SEs stated (between May 2012 and July 2012) that the delays were not at their level, but at Government level whereas the SE, Cuttack replied (May 2012) that the delay in sanctioning of the shops by Government is a procedural delay.

(iii) Delay in abolition of IMFL 'OFF' shops

As per Rule 31 of OER, 1965, licence for the wholesale or retail vend of intoxicants may be granted for one year from 1 April to 31 March of the following years. The Acts and Rules do not prescribe any procedure for abolition of excise shop.

During scrutiny of settlement files of SE, Balasore, we noticed that four[34] IMFL 'OFF' shops remained unsettled due to stay orders of the Hon'ble High Court of the State. The Collector submitted (June 2010) proposal to the Government through the EC for abolition of these shops and opening of new shops in these areas, which was accepted (August 2010) by the Government, though the cases were *subjudice* from 2002 onwards. Due to delay in submission of proposals for abolition of the shops, without any reasons on record, Government sustained loss of revenue ₹ 7.24 crore towards C Money (₹ 1.37 crore) and SED (₹ 5.87 crore) for the period 2006-11.

After we pointed out these cases (April 2012) the SE, Balasore did not give any comment (April 2012) as all the writ petitions against the six shops were pending in the Hon'ble Court.

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[32] Cuttack (10 'OFF' shops, 9 CS shops and 10 Bhang shops), Ganjam (27 'OFF shops'), Jajpur (4 'OFF' shops) and Mayurbhanj (11 IMFL 'OFF' shops).

[33] Ganjam, Jajpur and Mayurbhanj.

[34] Angargadia, Nayabazar, Telenga Sahi and Vivekananda Marg.

(iv) Delay in granting of licence of IMFL 'ON' shops

According to the Government guidelines (October 2002), for processing of the applications for sanction of 'ON' shops in the Hotel, Restaurant etc., the Collector shall forward the applications, other documents and inquiry report of the IE to the EC, under intimation to the Government, within two months from the date of receipt of applications in his office. The EC shall transmit the application to Government, with the proposed MGQ of the shop within two months from the date of receipt from the Collector. However, no time limit was prescribed by the Government for sanction of 'ON' shops after receipt of proposal from the EC.

During scrutiny of licence fee register, and settlement files of "ON" shops in respect of five DEOs[35], we noticed that in 19 cases, there were delays, from the application, in processing and sanction of licences to the 'ON' shops at the levels of Collectors and EC ranging from 3 to 384 days which could have earned revenue of ₹ 19.39 lakh towards licence fee. However, Government took 12 to 282 days for sanction of the shops in respect of ten cases relating to three districts.

After we pointed out the cases the SEs, Cuttack, Balasore and Ganjam stated (May and June 2012) that the delay was due to adoption of procedural arrangements. The SE, Mayurbhanj stated (May 2012) that the delay was at the Government level where as the SE, Bolangir stated (May 2012) that the compliance would be furnished after verification of records.

5.2.9.5 Non-realisation of composite Label Registration Fee (LRF) and User Charges

As per the AEPs, the retail licensees have to register the labels of different brands of IMFL/Beer at the district level annually on payment of composite Label Registration Fees (LRFs) at the rate of ₹ 5,000 (2006-07 and 2007-08) and ₹ 10,000 (2008-09 to 2010-11) per shop. Each licencee of IMFL/CS/OS shop is also required to pay a non-refundable User Charge of ₹ 5,000 *per annum* in addition to the LRF. As shop is a place where goods were sold, the military canteens selling IMFL/Beer are also licenced shops. Hence, they are liable to pay LRFs and User Charges at the rates prescribed in AEPs.

During scrutiny of the licence fee registers and challan registers of five[36] DEOs, we noticed that 14 military canteens were licensed to sell excisable goods, did not pay the composite LRFs and Users Charges for the years 2006-07 to 2010-11 The DEOs concerned could not detect this to raise and realise a demand of ₹ 8.90 lakh.

After we pointed out the cases, SE, Ganjam and Khurda replied (June and July 2012) that they would obtain clarification from the Competent Authority, whereas SE, Cuttack agreed

[35] Balasore, Bolangir, Cuttack, Ganjam and Mayurbhanj.
[36] Bolangir, Cuttack ,Ganjam, Khurda and Rayagada.

(May 2012) to realise the amount. SE, Bolangir and Rayagada did not furnish any specific reply stating that it was a policy of the Government.

5.2.9.6 Short-realisation of SED due to delay in implementation of Government order

Government revised (19 October 2009) the rates of SED on Canned Beer up to 5 *per cent* v/v from ₹ 10 to ₹ 13 per BL and above 5 *per cent* volume for volume from ₹ 12 to ₹ 15 which was to come into force with immediate effect.

During scrutiny the records of DEO Khurda, we noticed that 78 import passes for procurement of 7,43,000 BL of Canned Beer were issued to OSBC by the SE, Khurda between 19 October 2009 and 7 November 2009 on realisation of SED at the pre-revised rates despite clear instruction from Government revising the rates. Against realisable SED of ₹ 111.47 lakh, the SE realised ₹ 89.08 lakh only, which resulted in short-levy/realisation of SED of ₹ 22.39 lakh.

After we pointed this out, the SE replied (May 2012) that the OSBC authorities were informed of the audit observation and final compliance would be furnished on receipt of reply from OSBC.

5.2.9.7 Prescription of different rates of SED on Beer

As per AEPs for 2007 to 2011, the rates of SED prescribed on Beer made in India and Canned Beer ranged between ₹ 18 to ₹ 22 and ₹ 10 to ₹ 15 respectively basing on the strength of Beer.

During scrutiny of the records of EC we observed (June 2012) that SED for Canned Beer and bottled Beer is different although alcoholic strengths of both are similar. Hence, there was no justification in fixation of SEDs at different rates on Canned Beer and Beer made in India on the basis of mode of packaging only. Although the EC could not supply the detailed figures of receipt of Canned Beer by OSBC during the financial years 2007 to 2011, from the stock arrival reports of OSBC for the calendar years from 2008 to 2010, we noticed that 205.20 lakh BL of Canned Beer were received by OSBC. We calculated that due to prescription and levy of duty at lower rates on Canned Beer, there was a loss of SED of ₹ 13.88 crore during the above period**.**

After we pointed out the case, the EC replied (July 2012) that the policy was finally decided by the Government and the EC has nothing to do on the matter. The reply of Government is awaited (January 2013).

5.2.9.8 Non-realisation State Excise Duty on short-lifted quantity of IMFL and Beer

As per Rule 6A of the Orissa Excise Exclusive Privilege (FL), Rules, 1989, the licencee shall lift the monthly MGQ of liquor in respect every FL ON/OFF shop, failing which the licensee is liable to make good the loss of SED at the end of the year according to the prescribed rates of AEP with fine of 10 *per cent* on the deficit SED. The Collector may permit the licensee to lift the shortfall quantity of MGQ of previous month in the subsequent month. The EC may accord the permission for lifting the short drawn MGQ in any subsequent month other than the month of March. However, no unlifted quantity of FL shall be lifted beyond the last day of February except on specific permission of EC with reason thereof.

As per the Circular of the EC issued in November 2001, the OIC posted in the OSBC depots is required to furnish the shop-wise details on lifting to the SE for enabling him to keep track on MGQ lifting. The IE and SIE are responsible for shortfall in lifting by the IMFL shops under their jurisdiction.

Scrutiny of MGQ register and monthly statements on lifting of liquor by the licencees under two[37] DEOs, we noticed that five[38] IMFL 'OFF' shops, short-lifted 61.03 thousand LPL of IMFL and 96.16 thousand BL of Beer against the MGQ of 1.41 lakh of IMFL and 1.77 lakh BL of Beer respectively during the years 2007-08 to 2010-11. Thus, the licencees had to pay SED/Fine at the appropriate rates for the short-lifting of MGQ. Neither the licensees deposited the SED of ₹ 1.15 crore including fine of ₹ 10.41 lakh on the short-lifted quantity nor did the Superintendent raise any demand for realisation of the same**.** We further noticed that there was no system in place for furnishing the list of defaulters, who failed to lift the MGQ, by the SE to the EC. So the EC was unable to watch the non-compliance for short-lifting and act as per the Rules.

After we pointed out the case, the SEs replied (January and May 2012) that demand would be raised after examining the matter.

We recommended the Department for providing a system for monthly submission of a list of licensees who failed to lift the MGQ by the SE to the EC for monitoring such cases at the EC's level.

[37] Balasore and Mayurbhanj.
[38] Badasahi, Badhuri, Bisoi, Motiganj and Palabani.

5.2.9.9 Non-realisation of State Excise Duty and Transport Fee on Denatured Spirit

As per the B &OE Act, 1915, no intoxicant shall be removed from any distillery, brewery, warehouse or other place of storage, unless the SED and TF have been paid or bond executed for the payment. As per the AEPs for the years 2006-07 to 2010-11, SED varying between ₹ 2 and ₹ 3 and TF varying between ₹ 3 and ₹ 4 per BL of DS were realisable. Licence for whole sale trading of denatured spirit is issued in Form DS 1 and that for retail sale is issued in Form DS 2.

During scrutiny of DS issue register and copy of DS pass retained by OICs at ACSIL and M/s Shakti Sugar & Distillery Ltd. under two[39] DEOs, we noticed (May and July 2012) that SED of ₹ 17.05 lakh was not realised in respect of 6.05 lakh BL of DS supplied to five DS I licensees of Khurda district through 143 passes.

Further scrutiny of the DS pass register of DEO, Khurda and copy of pass retained by OIC, ACSIL under DEO, Ganjam we noticed that pass for transportation of 8.50 lakh BL of DS was issued through 3,323 passes (one DS I and 3,322 DS 2) without realisation of TF of ₹ 32.09 lakh.

After we pointed out the above cases SE, Khurda replied (July 2012) that the SED was paid by DS 2 licensees at the time of lifting DS from DS 1 licencees. As regards transport fee, the SE, Khurda stated that it would be considered after obtaining clarification from the EC/competent Authority, whereas the SE, Cuttack stated (May 2012) that transport fee was not realisable from DS II licensees as per EC's order of July 2007.

The reply is not acceptable as the SED is realisable before removal of DS from the Distillery or bonded warehouse and TF is leviable in the event of transportation of DS from one place to other place.

[39] Ganjam and Khurda.

5.2.9.10 Irregularities on inter-district transportation of Mohua Flower (MF)

As per the B & OE Act, 1915 and Rules made thereunder, MF is an intoxicant and it cannot be transported without a pass. The SE of the exporting district is required to issue passes based on the import permit received from SE of the importing district. The import permit as well as pass is prepared in quadruplicate copies. One copy of the import permit with storage endorsement of the SE of exporting district is required to be presented to the SE of the importing district for his verification. One copy of the pass with storage endorsement of the SE of the importing district is to be returned by the exporter to the SE who issues the pass. As per the AEPs, TF & UF on MF ranged between ₹ 10 to ₹ 15 and ₹ 225 to ₹ 250 respectively during the period 2006-11.

On scrutiny of the MF transport pass registers of five[40] transporting DEOs, we noticed that SEs concerned issued 1,711 passes to the licensees of their districts for transportation of 1.69 lakh quintal of MF without receiving the permits from the SEs of the importing districts. Copies of the passes with storage endorsement of the SEs of the districts receiving MF were also not received by the SEs of the districts transporting MF in respect of the above quantities of MF. Thus, there is no scope on the part of the pass issuing authority (SE of transporting districts) to verify the actual arrival of the consignments at the desired destination. Under these circumstances, the TF being much less than the UF, possibility of evasion of UF to the extent of ₹ 3.80 crore by utilising the MF within the district and showing the same as transported to other district cannot be ruled out.

After we pointed out these cases, the EC agreed (July 2012) to issue appropriate instruction to the DEOs. Thus, non-observance of the prescribed procedures for inter-district transportation of MF has a risk of adversely affecting the Government revenue.

[40] Angul, Bargarh, Dhenkanal, Rayagada and Sambalpur.

5.2.9.11 Poor lifting of 'Bhang' by the Bhang shops

The AEP of 2006-07 provided for renewal of the existing Bhang shops against collection of C Money fixed in the AEP for 2005-06 whereas the AEPs for 2007-08 to 2010-11 provided for renewal of such shops with collection of C Money increased by 10 *per cent* over and above the existing C Money fixed in the AEPs of previous years. The SED on lifting of Bhang was fixed at ₹ 220 per Kg for the year 2006-07 and ₹ 300 per Kg for the years from 2007-08 to 2010-11; but no MGQ was fixed for the Bhang shops.

The Bhang shops lifted Bhang from the Bhang Golas[41] of the concerned DEOs on payment of SED. The number of Bhang shops sanctioned and functioned during the period of audit, however, could not be made available to audit. From the information made available by EC, we noticed (September 2012) that the quantities of Bhang lifted from the Central Bhang Gola, Cuttack was very low in comparison to that realised in the form of C Money and SED received from the Bhang shops under eight DEOs during the period covered under the audit as given in the table below:

Year	OB (in Kg)	Receipt (in Kg)	Total (in Kg)	Issue (in Kg)	CB (in Kg)	Revenue collected on Bhang (₹ in lakh)	
						C.Money	*Excise duty*
2006-07	16.00	0.00	16.00	0.00	16.00	61.73	0.26
2007-08	16.00	300.00	316.00	251.00	65.00	64.03	0.84
2008-09	65.00	2,726.10	2,791.00	610.00	2,181.10	73.73	1.22
2009-10	2,181.10	0.00	2,181.10	250.00	1,931.10	73.23	0.94
2010-11	1,931.10	0.00	1,931.10	550.00	1,381.10	83.73	1.55
TOTAL	**4,209.20**	**3,026.10**	**7,235.20**	**1,661.00**	**5,574.30**	**356.45**	**4.81**

(Source: Information collected from EC, Odisha)

As seen from the above table, the collection of C Money of ₹ 356.45 lakh was 74 times of the total collection of SED of ₹4.81 lakh; whereas the cost of 1,661 Kg of Bhang issued during 2007 to 2011 was ₹ 2.16 lakh only at the rate of ₹ 130 per Kg. Moreover, the opening stock of 16 Kg of Bhang in the Central Gola as on 01 April 2006 increased to 1,381.10 Kg as on 31 March 2011 due to poor lifting (1,661 Kg) against procurement (3,026.10 Kg) during the period covered in audit. In view of this unusual functioning of Bhang shops with high C money and low turnover, there was scope for illegal business like lifting of Bhang from unauthorised sources. Thus, non-fixation of MGQ, inadequacy of inspection, ineffective enforcement activities and lack of close watch over the shops resulted in low realisation of SED, as well as not ruling out illegal sale.

During the period covered in the audit 23.34 thousand Kg of Bhang valued at ₹ 30.34 lakh at the rate of ₹ 130 per Kg) was seized by the excise authorities. However, it could not be disposed of resulting in non-realisation SED of ₹ 70.02 lakh.

[41] Gola means store.

We brought the matter to notice of EC (September 2012) and his reply is awaited (January 2013).

5.2.9.12 Seized hemp plants with large revenue potential were not disposed off through auction

Section 66 and 67 of the B and OE Act, 1915 and Rules 136 and 137 of BER, 1965 provide the procedures for confiscation of the intoxicants including Bhang by the Magistrate or Collector. Whenever the offender or person entitled to possession of Bhang is not known or cannot be found, the case shall be inquired into and determined by the Collector who may order confiscation of the same after expiry of one month from the date of seizure and makeover such goods to the SE for disposal. If the cost of transportation of intoxicant exceeds its estimated value, it should be destroyed by the Magistrate under information to concerned SE. Where the confiscated intoxicants are perishable in nature, it may be sold immediately. The confiscated Bhang in any area shall be sold by auction to the highest bidder by the SE subject to a reserve price equal to the amount of SED leviable and cost price payable thereon at the place of sale, if it is not required by the Central Bhang Gola for sale through retail vendors in specified area within a specified period under special orders of EC. The sale value of Bhang was fixed at 130 per kg and the SED was fixed at the rate of ₹ 220 per kg during 2006-07 and ₹ 300 per kg during 2007-11.

Activity Reports of the Department for last five years ending 31 March 2011, revealed that 232.86 lakh hemp plants[42] (*Cannabis Sativa*) valued at ₹ 2,328.60 crore at the average rate of ₹ 1,000 per plant were seized and destroyed by Excise enforcement personnel through raids in the areas of illegal cultivation by unknown cultivators in 17 districts of the State. Details of such raids, steps undertaken for confiscation of the hemp plants and reason for non-sale of the same through Central Bhang Gola or auction to the highest bidder against receipt of sale proceeds thereof and SED etc., could not be furnished by the EC. We observed that there was no shortage of Bhang in the Central Bhang Gola as discussed in the preceding sub paragraph and hence leaves of hemp plants seized should have been collected for manufacture of 116.43 Kg Bhang at a nominal yield of 0.5 Kg per plant valued at ₹ 151.36 crore for sale through auction. Besides, there was possible loss of ₹ 335.19 crore towards SED based on the valuation done by the State Government.

5.2.10. Monitoring and control

The aim of the Department is to

- enhance Excise Revenue in the course of regulating the supply of good quality intoxicants into the market without comprising with the social values;

[42] It is a wild plant and its leaves are collected for manufacture of Bhang.

- implement the Excise Laws in force in connection with manufacture, possession, storage, transport along with marketing of intoxicant and
- prevent inflow of illicit liquor into the State.

The authorisation for manufacture, possession and marketing is controlled by way of issuance of licences. The Acts/Rules empower the DEOs to watch this aspect by obtaining monthly returns and conducting periodical inspections of the premises of licensees at regular intervals. For transportation of intoxicant, there is provision to regulate it through issue of pass. There is a system for conducting checks by squads formed at the State / District levels to control the illegal Excise activities. The Excise Commissioner, through quarterly review meeting, monitors the activities of all the districts and submits reports to the Excise Department.

We noticed the following deficiencies in connection with monitoring and control activities of the Department.

5.2.10.1 Absence of a System of recording complaints

We observed that there is no system of registering and monitoring the complaints received from general public. Without a system of recording the complaints information on complaint received and action taken thereon at a given point of time was not available to enable the Excise authority for taking timely decision.

5.2.10.2 Shortfall in inspection of Excise Shops, Sugar Factories and Manufacturing Units

As per the B and OE Act, 1915 read with the instructions issued from time to time by the EC, the Excise Officers are required to inspect the excise shops and manufacturing units as per the following norms:

Excise officer	Norms for inspection			
	IMFL 'Off'/ 'ON' shop	OS shops	CS shops	Bottling units and Distilleries
EDC	As many as possible in every inspection	As many as possible in every inspection	As many as possible in every inspection	Once in a quarter
SE	Once in two months	Once in a month	Once in a quarter	Once in a month
DSE	Once in a quarter	Once in a quarter	Once in a quarter	No provision
IE	Once in a month	Twice in a month	Once in a month	No provision
SIE	Once in a fortnight	Thrice in a month	Once in a fortnight	No provision

We noticed that no specific norm/target was fixed for inspection by the EC and EDC. In absence of this there is no scope to quantify the deficiency. The reports on conducting inspection and enforcements measures taken up are to be incorporated in the monthly work done statements in Form No. GL 49 and 50 for SIE and IE respectively. The EC could not furnish any information regarding details of inspection of Excise shops done during the period covered in the audit.

We noticed that the three EDCs had no information regarding inspection of shops between 2006 and 2011. One[43] out of the three EDCs inspected only

[43] Sambalpur (ND)

one[44] manufacturing unit for the period 2009-10, though they were required to inspect all the 19 units each year. Out of twelve districts selected for the audit, 11 districts did not maintain any records in support of inspection done. In one[45] district, the SE did not conduct any inspection of shops and manufacturing unit whereas the IE and SIE under him conducted inspection of different categories of shops only once in a year. This aspect was also not discussed in the review meetings conducted periodically by the EC. Thus, inspection conducted was inadequate and ineffective.

5.2.10.3 Enforcement Activities

With a view to controlling the illegal excise activities in the State, the EC in his circular of March 2001 and May 2006 fixed the monthly norm for raids i.e., 20 for Charge SI, 15 for IE and 30 for each Mobile Unit posted at different stages of enforcement. The Department also instructed (April 2001, September and November 2006) to form Multi-Disciplinary Squad (MDS) in each district to conduct extensive raids on the Illicitly Distilled (ID) units and organisation of night patrolling to check suspected vehicles carrying sprit, illicit and duplicate liquor. As per the AEP for 2006-07 where CS is prevalent, a committee at the district level was to be formed with the Collector of the district as chairman, Superintendent of Police as the Vigilance Officer and SE as the Convener cum Secretary for formulation of strategies to prevent ID liquor and for detection of sources of spurious non duty paid CS.

From the information furnished by the DEOs (April to July 2012), we noticed that all the selected four[46] CS trading districts did not form the district level committees for detection of illicit distillation of CS. No information was also made available on the performance of the district mobile units and night patrolling units. In seven[47] out of 12 districts, MDSs were not formed and the remaining five[48] districts could not furnish any information on the performance of such squads. Enforcement activities were, thus, not carried out adequately in close association with the experienced personnel of other Departments to control ID liquor and to prohibit excise crimes in the State.

[44] Maikal Breweries, Bolangir
[45] Bolangir
[46] Balasore, Cuttack, Jajpur and Khurda.
[47] Balasore, Bargarh, Ganjam, Jajpuir, Khurda, Mayurbhanj and Sambalpur.
[48] Angul, Balasore, Cuttack, Dhenkanal and Rayagada.

5.2.10.4 Excise Offence Cases, Seizure and Conviction

Sections 69 and 70 of the B and OE Act, 1915 empower the excise personnel to inspect, search, seize the excise materials, arrest and detain any person for Excise Offences. The DEO is required to maintain the registers like Register of cases (C 7), Register of persons convicted (C 8) and Final Report of cases (C 6) in connection with the excise offence cases.

The information on detection of cases are reported by the DEOs to the EC and discussed in the periodical review meetings. The excisable materials seized in course of enforcement activities are to be retained till finalisation of the case and later on be disposed of as directed by the Court. However, where the seized materials are susceptible to speedy and natural decay, the same may be disposed of under the direction of the Court at any time. The number of cases detected, value of material seized, persons arrested and persons convicted during the period covered in the PA are given in the table below:

Year	Cases detected	Cases decided	Cases convicted	Percentage of conviction	Cases acquitted	Percentage of acquittal
2006-07	17,367	Not available				NA
2007-08	14,762	Not available				NA
2008-09	13,586	9,055	584	6.45	8,471	93.55
2009-10	13,598	6,469	478	7.39	5,991	92.61
2010-11	14,043	5,268	309	5.87	4,959	94.13
Total						

(Source: Activity Report of the Department, Minutes of quarterly review meetings of the EC)

Year-wise data on prosecution cases filed at the Court could not be made available to audit. The Department did not have any information on the quantity and value of disposable materials out of the total quantity of excise materials seized, materials disposed of and the amount realised thereon as per the direction of the Courts. The accumulated value of materials yet to be disposed of as of March 2011 was also not on record. This indicated the casual attitude of the Department to the enforcement related activities.

As seen from the above table, the rate of conviction against the cases decided ranged between 5.87 *per cent (*2010-11) and 7.39 *per cent (*2009-10). The reason for such low rate of prosecution and conviction was not on record.

5.2.10.5 Internal Control Mechanism

Internal Control Mechanism (ICM) is an in-built mechanism by which an organisation can evaluate its own activities and performances to take corrective measures. For this purpose, the Department has a system of internal audit, periodical review meetings, inspection of subordinate offices and furnishing of periodical reports and returns to the SE/EC/Board/Government. The efficacy of the system of ICM is discussed in the following paragraphs:

(i) Internal Audit

The Board of Revenue (Board) is the chief revenue controlling authority of the State, whereas the Collectors are primarily responsible for the excise administration in the respective districts being assisted by the SEs as the Chief Executive Officers (CEOs) under their control. The B and OE Act, 1915

empowers the Board to frame Rules for regulating the establishment, inspection and supervision, management and control of any place of manufacture as well as supply or storage of any intoxicant. The Government have also delegated powers to the Board to function as the highest appellate authority of the State for deciding the disputes in excise matters. The Internal Audit (IA) of various units of the Department was conducted by the composite Internal Audit Wing (IAW) of the Board along with the other units of the Revenue and Disaster Management Department even after the separation of the Excise Wing from the erstwhile Revenue and Excise Department with effect from 1 December 1999. However, an IAW was exclusively created in the Department in September 2010 to undertake the Internal Audit of the units for the financial year 2010-11 onwards.

(ii) Manpower deployment in Internal Audit

There were no separate sanctioned posts for conducting audit of the different units of the Department at the level of Board of Revenue. The different posts sanctioned and men-in-position as on 31 March 2011, who were entrusted with the audit of all the units of the Department along with those of the Revenue and Disaster Management Department are given below:

Controlling authority	Name of the post	No. of post sanctioned	Man-in-position	Post vacant	Percentage of vacant post to sanctioned post
Board of Revenue, Odisha	AO	02	01	01	50
	AS	06	05	01	16.67
	Auditor	68	32	36	52.94
Excise Department	AO	1	NIL	1	100
	AS/AAO	2	2	NIL	NIL
	Auditor	10	4	6	60

The percentage of vacancies in the sanctioned posts at the levels of Board and the Department ranged from 16.67 to 52.94 *per cent* and 60 to 100 percent respectively. The shortage of manpower resulted in accumulation of heavy arrear of Internal Audit as discussed in following sub-paragraph.

(iii) Arrears of Internal Audit

Scrutiny of records (July 2012) about completion of Internal Audit (IA) and issue of Internal Audit Reports (IARs), revealed that the IA was not conducted by the Board in respect of many units, as detailed under, which resulted in heavy arrears.

Year	No. of Units in arrear as on 1 April	No. of Units to be audited for the year	Total number of Units to be audited	No. of units audited	No. of units yet to be audited
2006-07	85	30	115	--	115
2007-08	115	30	145	--	145
2008-09	145	30	175	--	175
2009-10	175	30	205	--	205
2010-11	205	31	236	04	232

(Source: Information obtained from Government and Board of Revenue)

The Board stated (August 2012) that 249 IARs consisting of 4,221 paras involving ₹ 81.57 crore were outstanding for settlement as of 31 March 2010

without furnishing the unit wise details of the same. The Department, however, stated (March 2012) that after formation of separate IAW in September 2010, the IA of four units only out of 31 for the period 2010-11 were completed by 31 March 2011.

5.2.10.6 Manpower deployment of the Department

The Department with regulatory and enforcement activities needs adequate and capable technical manpower to assist the Board/EC in discharging their functions. The posts sanctioned by the Government prior to 2006-07 were not reviewed and revised to reassess the requirement of manpower despite enhancement of revenue from ₹ 430.07 crore to ₹1,094.26 crore and increase in number of IMFL/CS/OS shops from 1,666 to 2,414 (45 *per cent*) during the period covered under the audit. We also noticed that the number of charge offices functioning at grass-root levels remained stagnant for the last two decades. The number of posts sanctioned and men in position as of March 2011 was as follows:

Group of posts	No. of posts sanctioned		Men-in-position		No. of posts vacant/ (percentage of vacancy)	
	Deptt.	Directorate & field	Deptt.	Directorate & field	Deptt.	Directorate & field
Group'A'	6	35	3	19	3 (50)	16 (46)
Group 'B'	9	35	4	29	5 (56)	06 (17)
Group 'C'	35	1,734	13	1,377	22 (63)	357 (21)
Group'D'	11	17	09	16	2 (18)	1 (6)
TOTAL	**61**	**1,821**	**29**	**1,441**	**32 (52)**	**380 (21)**

Source: Information furnished by the Department and EC

We noticed that the sanctioned posts of Principal Secretary (01), Deputy Secretary (01), Audit Superintendents (02), Auditors (10) and Excise Deputy Commissioners (03) were lying vacant as on the date of audit. The vacancy (52.45 *per cent*) at the Department as well as at the Directorate and field level (20.87 *per cent)* indicated that the staff in position were not adequate to discharge the duties assigned to them effectively.

5.2.10.7 Training

There is provision for imparting training to Sub Inspectors (SIs) only at Biju Patnaik State Police Academy, Bhubaneswar. No facility for training was available to other cadres of Commissionerate and field level units whose number as on 31 March 2011 was 1,276. On scrutiny of records of 12 selected districts, we noticed that only six newly recruited SIs and four in service SIs of three[49] districts were imparted training during the period covered under audit against 165 SIs on roll as on 31 March 2011. Thus, the coverage of training imparted to the personnel entrusted with the Excise Administration of the State was inadequate.

[49] Bargarh, Dhenkanal and Rayagada.

5.2.10.8 Non-collection of pass fee on Country spirit

The EC instructed (March 1996 and November 2001) that the departmental OIC attached to the OSBC depot should issue the retail transport passes in FL 16 to the retailers against receipt of the pass fee at the prescribed rate and deposit the same to the DEO concerned for deposit appropriate head of account. The OICs of OSBC depots of three[50] DEOs neither issued any pass in the prescribed form nor collected any pass fee from the CS retailers on 50,900 consignments.

The SEs concerned as well as EC did not notice this lapse which indicated weak Internal Control Mechanism of the Department.

5.2.10.9 Liquor Tragedies

In nine tragic incidents, 231 lives were lost between February 1989 and June 2009 which included three incidents covered in the period of audit with a death toll of 40 lives. The liquor tragedy which occurred in Ganjam district in March and April 2006 was enquired into by a Retired Judge of the High Court, and the tragedies which occurred in Khurda district in May 2009 and in Bolangir district in June 2009 were enquired into by the respective Revenue Divisional Commissioners of the State. The enquiring authorities made 39 recommendations for adoption by the Government. The point wise action taken by the Government on such recommendations were not made available to audit. However, audit observed that based on the recommendations, the Orissa Excise Bill 2006 was passed by the 13th Orissa Legislative Assembly in their 14th session which is awaiting assent of the Hon'ble President of India for implementation in the State. Disciplinary actions were also initiated against departmental officers found responsible for the above liquor tragedies by commissions of enquiry. Promotional facilities were created for the staff and infrastructure facilities were being improved.

The Government did little to strengthen the enforcement wing for preventing the manufacture and sale of ID and spurious liquors both in CS and OS consuming districts. Another liquor tragedy occurred in Cuttack and Khurda districts during February 2012 with a loss of 38 lives which was under inquiry by a commission headed by a Retired Judge of the High Court.

5.2.11 Conclusion

Audit noticed that despite increase in revenue collection, performance of the Department and the Annual Excise Policies were inadequate. Efficient supervision of production of intoxicant is a key challenge before the Excise authorities with adequate monitoring. The Molasses manufactured by the sugar factories, their disposal and utilisation were not regulated due to non-framing of Molasses Rules. Wastage norms for breweries were not determined realistically with respect to latest technology in the Breweries. Establishment charges and extra-hour operation charges of Excise Staff posted in the manufacturing units were not realised on time. There is no provision in the AEPs for levy of transport fee on IMFL, Beer and CS though such fees are levied for other intoxicants i.e. RS, DS and ENA, MF and Molasses.

[50] Balasore, Cuttack and Khurda.

Differential SED on closing stock of OSBC in the event of upward revision of SED was not demanded against OSBC. The proposal in the AEP for 2004-05 for formation of zones in order to levy and collect uniform licence fee from the excise shops is yet to be implemented. The existing excise retail outlets were not settled afresh by inviting applications and holding lottery, despite clear cut orders of the Government. Though Bhang shops were settled for high C.Money, the poor lifting of Bhang indicated extraneous (illicit) sources of supply and sale. Hemp plants seized under raids were not disposed off as per Law thereby loosing substantial revenue.

System of inspection and enforcement was poor as the DEOs did not keep any record of such activities for further monitoring to control ID liquor and to prohibit excise crimes in the State.

5.2.12 Recommendation

Government may consider the following to improve the performance of the Department:

- Sugar factories manufacturing Molasses may be brought under the ambit of State Excise and Molasses Rules may be framed.
- Wastages allowed during manufacture of Beer, may be worked out on realistic basis to avoid loss of revenue.
- Government may exercise control over the intoxicants procured, stored and issued by OSBC.
- The Department may conduct demand surveys to fix zone-wise location of shops and determine Uniform Licence Fee/Consideration Money.
- Department may fix MGQ for Bhang shops as in the case of other Excise shops.
- Department may implement pass system for transportation of CS to prevent its illegal transportation.
- System of enforcement and monitoring may be strengthened to prevent unlawful excise activities.

5.3 Audit observations

We scrutinised the assessment records of excise duty and fees in the District Excise Offices (DEOs) and found several cases of non-observance of the provisions of the Act/Rules/Annual Excise Policies (AEPs) leading to non/short-levy and realisation of excise duty, fees and fine etc., and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the Superintends of Excise (SEs) are pointed out by us each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Department to improve the internal control system including strengthening of internal audit so as to avoid recurrence of such irregularities.

5.4 Non-observance of the provisions of the Acts/Rules/AEPs and instructions of Government

The Bihar and Orissa Excise (B&OE) Act, 1915 and Rules made thereunder by the Government as well as the Board of Revenue (BOR) read with the Excise Manual, AEPs and notifications of Government provide for levy and collection of State Excise Duty (SED) and fees like Utilisation Fee (UF), Import Fee (IF), Bottling Fee (BF), Transportation Fee (TF) etc., at the prescribed rates;

The SEs while finalising the assessments did not observe the above provisions in some cases as mentioned in subsequent paragraphs which resulted in non/short-levy and non-realisation of SED/fees, fine etc. of ₹ 6.76 *crore.*

5.4.1 Short-levy of Bottling Fee

As per Section 38 of B&OE Act, 1915 read with the AEPs for 2008-11 Bottling Fee (BF) at the rate of ₹ 4 per Bulk Litre (BL) is leviable for manufacture of Beer of own brand and ₹ 5 per BL for manufacture of Beer other than own brand.

During test check of records of M/s SKOL Breweries Ltd., Paradeep, Odisha, a licencee for manufacture of Beer, in the office of the SE, Jagatsinghpur, we noticed (between February and October 2011) that the label names of three[51] brands of Beer, under which production was made, were not owned by the unit. However, the unit produced 5.59 crore BL[52] of these brands of Beer from 2008-09 to 2010-11 and paid bottling fee at the rate of ₹ 4 per BL applicable for 'own brand' instead of ₹ 5 leviable for 'other than own brand'. This resulted in short-levy of BF of ₹ 5.59 crore.

On this being pointed out, the SE, Jagatsinghpur raised demand of ₹ 2.02 crore in June 2011 for the year 2009-10 and additional demand of ₹ 3.57 crore for 2008-09 and 2010-11 in May 2012.

We reported the matter to the EC, Odisha (February 2012) and also to the Government (April 2012). The reply is yet to be received (January 2013).

[51] (1) Hayward 5000, the original super strong Beer, (2) Knock out High Punch Strong Beer, (3) Royal Challenge premium lager Beer.

[52] 1.94 crore BL in 2008-09, 2.02 crore BL in 2009-10 and 1.63 crore BL in 2010-11.

5.4.2 Non-levy of duty on short-lifting of Minimum Guaranteed Quantity of liquor

As per rule 6A of Odisha Excise Exclusive Privilege (Foreign Liquor) Rules, 1989, the licencee of Foreign Liquor (FL) 'On'/'Off' shops shall lift the Minimum Guaranteed Quantity (MGQ) of liquor as fixed by the Excise Commissioner (EC), as per the terms and conditions of the licence issued by the Collector; failing which the licencee is liable to make good the loss of SED at the end of the year as per the rates prescribed in the Annual Excise Policy (AEP) for that year with 10 *per cent* fine on the deficit SED.

During test check of the records of four[53] SEs we noticed (between May and November 2011) that the licencees of twenty[54] 'Off' shops short-lifted 34,413.307 LPL[55] of IMFL and 69,715.987 BL[56] of Beer during 2009-10 and 2010-11. This was not detected by the concerned SEs in time for raising necessary demands resulting in short-realisation of SED of ₹ 62.62 lakh[57] and fine of ₹ 6.26 lakh[57].

After we pointed this out all the SEs replied (November 2011) that demand would be raised for realisation of the Government dues. Further reply is yet to be received (January 2013).

We reported the matter to the E C, Odisha in February 2012 and also to the Government in July 2012. The reply is yet to be received (January 2013).

[53] SE, Jagatsinghpur, SE, Jajpur, SE, Kendrapara, SE, Khordha.

[54] SE, Jagatsinghpur (01 shop), SE, Jajpur (02 shops), SE, Kendrapara (13 shops), SE, Khordha (04 shops).

[55] London Proof Litre.

[56] Bulk Litre.

[57] SE Kendrapara –₹ 12.29 lakh, SE, Jajpur –₹ 9.34 lakh, SE, Jagatsinghpur –₹ 1.01 lakh, SE, Khordha –₹ 46.24 lakh.

5.4.3 Short-levy of transportation fee on Mahua Flower

Rule 6 C of the OE (Exclusive Privilege) Rules, 1970 read with Rule 11 of the OE (*Mahua Flower*) Rule, 1976 and the provision of the AEPs for the years 2009-10 and 2010-11, provide for realisation of Transportation Fee (TF) at the rate of ₹ 15 per quintal of MF against the MGQ of MF fixed by the Collector of the District for lifting and utilisation in a financial year in addition to realisation of Utilisation Fee (UF) at prescribed rates. Thus, the licensee has to pay the TF on the entire MGQ irrespective of lifting/utilisation.

During test check of records of the SEs of six[58] districts we noticed (between December 2010 and September 2011) that 189 outstill shops under their jurisdiction lifted and utilised 1.99 lakh quintals of MF against MGQ fixed at 3.89 lakh quintals fixed by the respective Collectors of the districts for the year 2009-10 and 2010-11. Thus, there was short-fall in lifting and utilisation of 1.89 lakh quintals of MF. Though UF at the prescribed rates were realised on the entire MGQ, in case of short-utilisation/lifting, TFs were found to be short realised (16.87 lakh) and not realised (17.33 lakh) which resulted in non/short realisation of TF of ₹ 34.20 lakh.

On this being pointed out, SEs, Angul, Dhenkanal and Keonjhar replied that ₹ 11.54 lakh was realised out of ₹ 19.80 lakh demanded and SE, Bolangir and Ganjam agreed to issue the demand while SE, Sambalpur replied that the matter was referred to the EC, Odisha.

We reported the matter to the Government in May 2012. The reply is awaited (January 2013).

[58] Angul, Bolangir, Dhenkanal, Ganjam, Keonjhar and Sambalpur.

5.4.4 Non-imposition of fine on destruction of expired Beer

As per Rule 39A (7b) and (c) read with Rule 135(2a) and (c) of the BER, 1965, when any intoxicant is found unfit for human consumption on chemical examination, its issue shall be held up and the stock destroyed under orders of the Collector up to 250 BL of Beer and of the EC beyond that quantity. Further, if the deterioration in quality is due to long storage or other factors, the licencee shall be held responsible for this and be liable to pay fine equal to five times the prescribed duty payable on the stock so spoiled and destroyed.

During test check of the records of SE, Bolangir we noticed (September 2011) that 9,694.100 BL of Beer manufactured by a licensee viz. M/s Maikal Breweries Private Limited, Sarmuhan, Belpara, Bolangir in July/August 2009 was found to be in stock as on 31 March 2010. The same was, however, destroyed (24 November 2010) as it had already exceeded six months from the dates of manufacturing. SED of ₹ 2.13 lakh (at the rate of ₹ 22 per BL as per AEP 2010-11) only was realised from the above licencee (with prior approval of the EC, Odisha dated 6 November 2010) and fine of ₹ 10.65 lakh (five times the ED of ₹ 2.13 lakh) realisable on the stock destroyed was not imposed on the licencee as the same was not mentioned in the orders of approval of EC for destruction of the time expired Beer. This was against the interest of revenue of the Department.

We reported the matter to the EC, Odisha in February 2012 and also to the Government in March 2012. The reply is yet to be received (January 2013).

5.4.5 Non-realisation of transport fee on Denatured Spirit

As per section 2(21) of the B & OE Act, 1915, 'transport' means to remove from one place to another within the State. As per Section 38 of B &OE Act, 1915 every licence, permit or pass shall be granted on payment of such fee as the Board may direct as per the rate prescribed. Accordingly item No.12(I) of the AEP for 2010-11, provides for levy and realisation of TF on DS at the rate of ₹ 4 per BL.

On scrutiny of the DS pass issue register, license files and the copies of passes in the office of the SE, Cuttack, we noticed (July 2011) that during the year 2010-11, 368 passes were issued to 24 licensees for transportation of 89,485 BL of DS. Though the pass fees at the rate of ₹ 50 per pass were realised, the TF of ₹ 3.58 lakh (at the rate of ₹ 4 per BL) were not demanded and realised.

After we pointed this out, the SE, Cuttack replied (July 2011) that since TF was collected from the wholesale dealer of DS, it was not leviable on subsequent issue to retailers. However, the AEP provides for realisation of TF on transport of DS. Further, TF is leviable and realisable on each occasion of removal of DS from point to point inside the State.

We reported the matter to the EC, Odisha (April 2012) and also to the Government (May 2012). The reply is yet to be received (January 2013).

CHAPTER-VI : FOREST RECEIPTS

EXECUTIVE SUMMARY

Substantial increase in tax collection	In 2011-12 the collection from the forestry and wildlife sector increased by 109.42 *per cent* as compared to the Budget Estimates which was attributed by the Department to the deposit of arrear dues by the Orissa Forest Development Corporation Limited (OFDC).
Very low recovery by the Department against the observations pointed out by audit in earlier years	During the period 2006-11 audit pointed out non / short-levy, non / short-realisation of royalty, interest and other irregularities etc., with revenue implication of ₹ 48.32 crore in 16,259 cases. Of these, the Department accepted audit observations in 11,213 cases involving ₹ 22.40 crore; but recovered only ₹ 2.81 crore in 372 cases. The average recovery position, being 12.54 *per cent* as compared to acceptance of objections, was very low and ranged between zero *per cent* and 83.72 *per cent.*
Results of audit in 2010-11	In 2011-12, Records of 40 units relating to forest receipts were test checked and non / short-levy of interest, non-disposal of timber seized in undetected forest offence cases, non-realisation of royalty and other irregularities involving ₹ 3.06 crore in 1,693 cases were noticed in audit. The Department accepted non / short-levy of interest, non-realisation of royalty, non-disposal of timber seized in undetected forest offence cases and other deficiencies of ₹ 3.02 crore in 1,626 cases pointed out by audit during the year 2011-12. An amount of ₹ 0.31 crore was recovered in 60 cases during the year 2011-12 relating to the earlier years.
Highlights	In this Chapter, Illustrative cases of ₹ 4.89 crore selected from the observations noticed during the test check of records maintained in the offices of the Principal Chief Conservators of Forests (PCCFs), Regional Conservators of Forests (RCFs) and Divisional Forest officers (DFOs) are presented, where audit found that the provisions of the Acts / Rules / Orders / instructions were not adequately adhered to. It is a matter of concern that similar omissions have been pointed out by audit repeatedly in the Audit Reports for the past several years; but the Department has not taken corrective action. Though these omissions were apparent from the records, which were made available to audit, the above authorities were unable to detect these deficiencies.

Conclusions	The Department needs to issue instructions for strict compliance of the codal provisions read with their orders / instructions including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by audit are avoided in future. It also needs to initiate immediate action to recover the royalty and interest on belated payment of royalty and dispose of the timbers seized in undetected (UD) cases pointed out by audit and more so in those cases where audit contentions were accepted by the Department.

6.1.1 Non-tax revenue administration

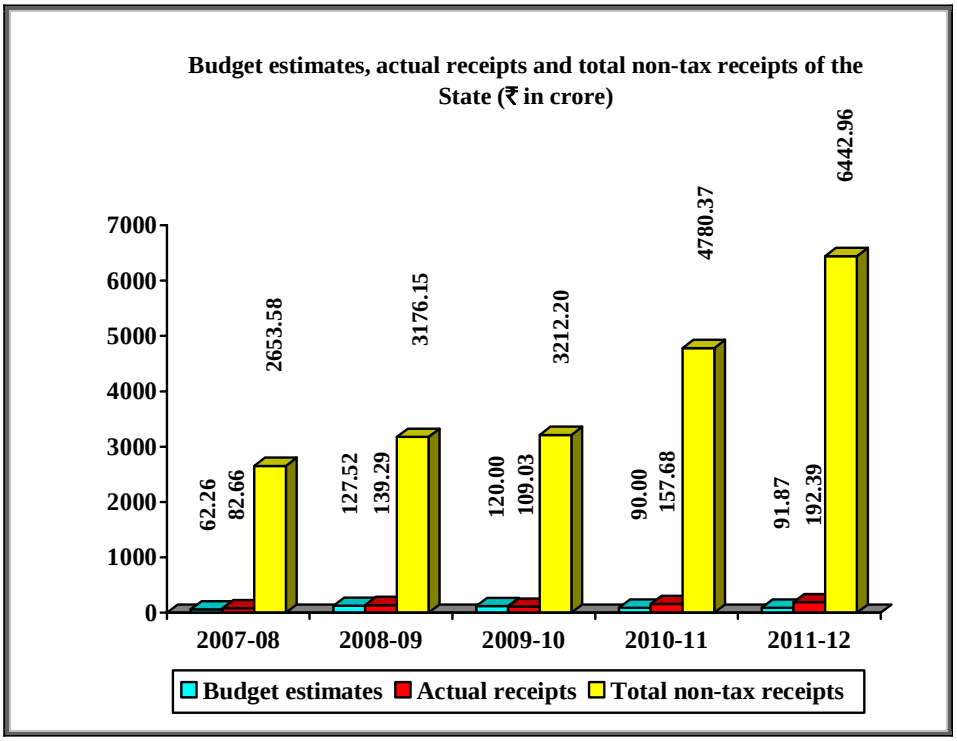
Demand and receipts under forestry and wildlife sector is regulated by the Indian Forest Act, 1927, the Orissa Forest Contract (OFC) Rules, 1966, the Orissa Forest (OF) Act, 1972, the Orissa Forest Department (OFD) Code, 1979 read with Government orders and instructions issued from time to time. The above Act, Code and Rules are administered by the Principal Chief Conservators of Forests (PCCF) under the overall supervision of the Principal Secretary, Forest and Environment Department being assisted by Headquarter and field level staff. The Divisional Forest Officers (DFOs) assess and realise forest receipts like royalty from sale of kendu leaf, timber and other forest produce and environmental forestry receipts from the zoological parks.

6.1.2 Trend of receipts

Actual receipts from the forestry and wildlife sector during the years 2007-08 to 2011-12 along with the total non-tax receipts of the State during the same period is depicted in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2007-08	62.26	82.66	(+)20.40	(+)32.77	2,653.58	3.12
2008-09	127.52	139.29	(+)11.77	(+)9.23	3,176.15	4.39
2009-10	120.00	109.03	(-)10.97	(-)9.14	3,212.20	3.39
2010-11	90.00	157.68	(+)67.68	(+)75.20	4,780.37	3.30
2011-12	91.87	192.39	(+)100.52	(+)109.42	6,442.96	2.99



The trend of receipts showed that it fluctuated from year to year. The contribution of forest receipts to total non-tax receipts of the State has been declining since 2008-09 to 2011-12 and it accounted for only 2.99 *per cent* of the non-tax receipts in 2011-12.

The reasons for wide fluctuations in Budget Estimates (BEs) and actuals were attributed to excess deposit of royalty towards kendu leaf, timber and other forest produces for the year 2007-08, whereas no reason was stated for the year 2008-09 and 2009-10. The reasons for increase in collection during 2010-11 and 2011-12 as compared to the previous year was attributed to deposit of ₹ 119.17 crore and ₹ 157.70 crore respectively by the OFDC towards Royalty on Kenduleaf.

The huge variation between the BE and the Actuals indicates that the BEs were not realistic.

Audit recommends that the Government may consider issuing instructions to the Department for framing the BEs on a firmer and realistic basis.

6.1.3 Analysis of arrears of revenue

Arrears of revenue as on 31 March 2012 was ₹ 73.27 crore. Details of arrears outstanding for more than five years were not available with the Department. The various stages at which the arrears were pending could also not be furnished by the Department due to non reconciliation of the figures between the Department and the OFDC Limited.

6.1.4 Impact of Audit

Revenue impact

During the last five years i.e. 2006-07 to 2010-11, we pointed out loss, non / short-levy, non / short-realisation of royalty, interest and other irregularities etc., with revenue implication of ₹ 48.32 crore in 16,259 cases. Of these, the Department accepted audit observations in 11,213 cases involving ₹ 22.40 crore and recovered ₹ 2.81 crore in 372 cases. The details are given in the following table.

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	45	3,946	25.93	3,933	11.24	105	2.05	18.24
2007-08	45	1,895	3.07	1,377	1.05	39	0.03	2.86
2008-09	45	3,314	3.69	1,856	0.86	226	0.72	83.72
2009-10	51	4,487	6.70	2,829	5.46	02	0.01	0.18
2010-11	45	2,617	8.93	1,218	3.79	--	--	--
Total	**232**	**16,259**	**48.32**	**11,213**	**22.40**	**372**	**2.81**	**12.54**

The recovery position as compared to acceptance of objections was very low, accounting for only 12.54 *per cent*.

Appropriate steps may be taken to ensure that recovery in the cases accepted by the Department recovery is effected immediately.

6.1.5 Results of Audit

We test checked the records of 40 units relating to forest receipts in 2011-12 and found non / short-levy of interest, non-disposal of timber seized in undetected forest offence cases, non-realisation of royalty and other irregularities involving ₹ 3.06 crore in 1,693 cases.

During the year, the Department accepted non / short-levy of interest, non-realisation of royalty, non-disposal of timber seized in undetected forest offence cases and other deficiencies of ₹ 3.02 crore in 1,626 cases pointed out in 2011-12. An amount of ₹ 30.92 lakh was recovered in 60 cases during 2011-12 relating to earlier years.

6.2 Audit observations

We scrutinised the records maintained in various forest divisions as well as in the offices of the PCCF, Conservators of Forests (CFs) and DFOs and found several cases of non-compliance to the provisions of the Act and Rules read with the orders issued by the Government from time to time, which resulted in non-levy and non-realisation of Government revenue as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out these omissions repeatedly; but not only do the irregularities persist, these remain undetected till an audit is conducted.

The Government may consider issuing instructions for strict compliance to the codal provisions read with their orders/instructions and to improve the internal control mechanism so as to avoid recurrence of such omissions.

6.3 Non-compliance to legal provisions and Government orders

The Orissa Forest Contract Rules, 1966 and Government orders of February 1977 and August 2005 prescribe for:

(i) timely disposal of seized material, and

(ii) levy of interest on Orissa Forest Development Corporation (OFDC) Ltd. for belated payment of royalty at prescribed rates.

Non-compliance of some of the above legal provisions and orders in the cases mentioned in the succeeding paragraphs resulted in non-levy and non-realisation of Government revenue of ₹ 4.89 crore.

6.3.1 Non-disposal of sandal wood seized in forest offence cases

The Government instructed (August 2005) for early disposal of forest produces seized in Un-Detected (UD) forest offence cases and Offence Report (OR) cases by different DFOs of the State in order to avoid loss of revenue due to deterioration in quality and value on account of prolonged storage. As per standing arrangement, sandalwood seized in different Forest Divisions were being sold at different rates fixed from time to time by the Government through three retail outlets functioning under the DFO, Forest Resource and Survey Division (FR&SD) Cuttack.

During test check of the records of 18[1] forest divisions during the period between November 2002 and May 2012, we found that 20,835.425 kilograms of sandalwood seized in 319 UD forest offence cases and Offence Report (OR) cases during 1979-80 to 2010-11 were lying undisposed as on the date of audit. The stock of sandalwood with DFO, Jeypore was lying undisposed since 1979-80, while in the remaining divisions the OR cases were lying undisposed for periods more than one to 18 years. The prolonged storage of sandalwood is also fraught with the risk of deterioration in quality. Considering the market price of a minimum of ₹ 1,000 per kilogram as adopted in the neighbouring State of Andhra Pradesh, the value of seized sandalwood works out to ₹ 2.08 crore. Thus, inordinate delay in revision of rate of sandal wood by the Government and stoppage of sale resulted in blockage of Government revenue of ₹ 2.08 crore.

After we pointed out the cases, the Government stated (September 2012) that fixing up of the sale price for disposal of sandalwood was under process, after finalisation of which the seized sandalwood would be disposed of through OFDC Ltd.

[1] Angul, Balasore WL, Balliguda, Bhubaneswar, Cuttack, Dhenkanal, Deogarh, Ghumusar (North), Ghumusar (South), Jeypore, Karanjia, Khariar, Khordha, Koraput, Paralakhemundi, Phulban, Rairangpur and Rayagada.

6.3.2 Non-disposal of timber and poles seized in Undetected Forest Offence Cases

The Government issued instructions (August 2005) for early disposal of timber and poles seized in undetected forest offence cases (UD) either by public auction or by prompt delivery to the OFDC Limited within two months from the date of seizure.

During test check of the records of 17 DFOs[2] between the period from February 2009 and February 2012, we found that 11,722.63 cft. of timber, 1,300 poles along with 334 stacks and 73.5 quintal of firewood valued at ₹ 20.60 lakh seized in 547 UD during 2007-08 to 2010-11 were lying undisposed. Inaction of the Department in disposing the timber and poles either by public auction or by delivery to the OFDC resulted in non-realisation of revenue of ₹ 20.60 lakh.

After audit pointed out the cases, the Government stated (September 2012) that during the period from 2007-08 to 2010-11 seized in 549 forest offence cases relating to 17 Forest Divisions 11,774.13 cft of timber 1,250 poles, 289.5 stacks and 57.5 quintal of firewood valued at of ₹ 20.44 lakh were seized. Out of this, 2,861.02 cft of timber, 173 no. poles 58 stack of firewood with money value of ₹ 4.90 lakh involved in 119 cases were disposed off and balance 8,913.11 cft of timber, 1,077 no poles, and 231 stack and 57.5 quintal of firewood with money value of ₹ 15.54 lakh are to be disposed off. However, no specific plan on action plan to dispose off the forest produce was formulated.

6.3.3 Non-levy of interest on belated payment of royalty

As per the OFC Rules, 1966, if a contractor fails to pay any installment of royalty for sale of forest produce by the due date i.e., 31 March each year, he is liable to pay interest at the rate of 6.25 *per cent* per annum on the amount of default for the period of delay in payment. The Government, in February 1977, instructed that OFDC being a contractor was also liable to pay interest for default in payment of royalty.

During test check of the records of 15 DFOs[3], between October 2009 to May 2012, we noticed that OFDC paid royalty of ₹ 10.68 crore on 807 lots for the period from 1999-2000 to 2010-11 belatedly, between June 2008 and September 2011, with delays ranging between two and 112 months. However, interest of ₹ 2.60 crore leviable for belated payment was not levied by the DFOs against OFDC.

After we pointed out the cases, the Government stated (September 2012) that all the concerned DFOs raised demand of ₹ 2.53 crore against OFDC Ltd. for the late payment of royalty.

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[2] Athamalik, Baliguda, Baragarh, Bolangir, Bonai, Boudh, Ghumsur (North), Ghumsur (South), Kalahandi, Karanjia, Keonjhar, Koraput, Malkangiri, Rayagada, Sambalpur (North), Satkosia WL and Sundergarh.

[3] Baliguda, Baragarh, Baripada, Bamra (WL), Bolangir, Bonai, Deogarh, Jeypore, Keonjhar, Mahanadi (WL), Paralakhemundi, Rairakhol, Rairangpur, Rayagada and Rourkela.

CHAPTER-VII : MINING RECEIPTS

EXECUTIVE SUMMARY

Steady increase in tax collection	In 2011-12 the collection from mining receipts increased by 20.16 *per cent* as compared to the Budget Estimate and 37.32 *per cent* over the previous year which was attributed by the Department to the enhancement of the rate of royalty of iron ore, chromite etc. by the Indian Bureau of Mines (IBM). The increase was, however, due to adoption of the royalty on *ad valorem* basis fixed by the Central Government in August 2009 in lieu of the per tonne basis fixed and adopted earlier.
Low recovery by the Department against the observations pointed out by audit in earlier years	During the period 2006-11 audit pointed out non / short-levy, non / short-realisation of royalty, dead rent, surface rent etc., with revenue implication of ₹ 1,685.72 crore in 1,297 cases. Of these, the Department accepted audit observations in 759 cases involving ₹ 918.08 crore; but recovered only ₹ 9.72 crore in 164 cases. The average recovery position, being 1.06 *per cent*, as compared to acceptance of objections was very low and it ranged between 0.01 *per cent* and 28.34 *per cent*.
Results of audit in 2010-11	In 2011-12, Records of 19 units relating to mining receipts were test checked and found non / short-demand of royalty, dead rent / surface rent, non / short-recovery of interest and irregularities of miscellaneous nature involving ₹ 1,299.33 crore in 306 cases. The Department accepted underassessment and other deficiencies involving mining receipts of ₹ 1,114.24 crore in 159 cases, pointed out by audit during the year 2011-12. An amount of ₹ 2.57 crore was recovered in 62 cases during the year 2011-12 which included ₹ 0.71 lakh in a single case for the year 2011-12 and the remaining pertained to the earlier years.
Highlights	In this Chapter, illustrative cases of ₹ 215.83 crore selected from the audit observations noticed during the test check of records relating to assessment and collection of mining receipts in the offices of the Director of Mines (DM), Deputy Directors of Mines (DDMs) and Mining Officers (MOs) are presented, where audit observed that the provisions of the Acts / Rules were not adequately adhered to.

	It is a matter of concern that similar omissions have been pointed out by audit repeatedly in the Audit Reports for the past several years, but the Department has not taken adequate corrective action. It is also matter of concern that though these omissions were apparent from the records, which were made available to audit, the MOs / DDMs were unable to detect these mistakes.
Conclusions	The Department needs to revamp its revenue recovery machineries to ensure recovery of the non-realisation, undercharge of royalty / fees etc. pointed out by audit, more so in those cases, where it has accepted audit contentions.

7.1.1 Non-tax revenue administration

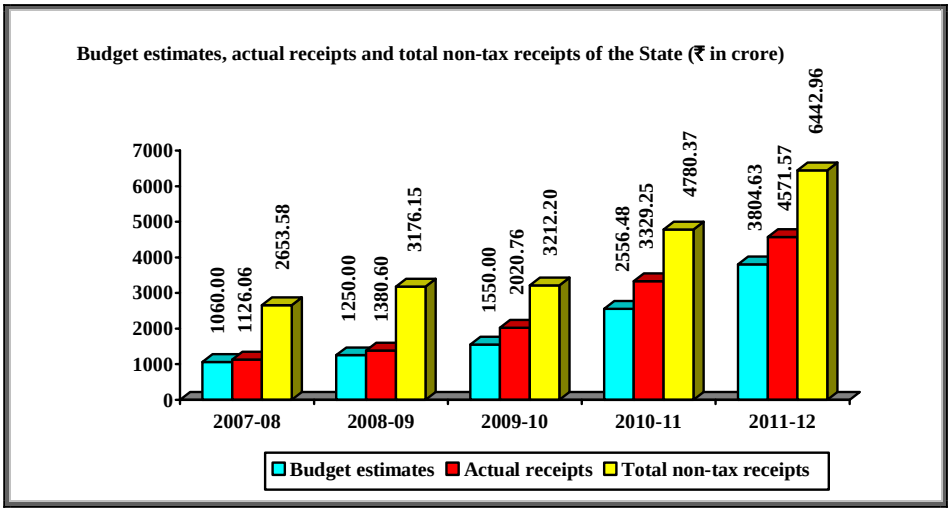
Assessment and collection of mining receipts are regulated by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960 and Mineral Conservation and Development (MCD) Rules, 1988 and Orissa Minerals, Prevention of Theft, Smuggling and Illegal Mining and Regulation of Possession, Storage, Trading and Transportation (OM, PTS and IMRPSTT) Rules 2007 framed thereunder. The above Act / Rules are administered by the Director of Mines (DM), Orissa under the overall supervision of the Principal Secretary to the Government in the Department of Steel and Mines. He is assisted by the headquarters staff and the Deputy Directors of Mines (DDMs) and Mining Officers (MOs) at the Circle levels who are the AAs of mining receipts like royalty, fees and fines etc. on raising and removal of minerals.

7.1.2 Trend of receipts

Actual receipts from mining during the years 2007-08 to 2010-11 along with the total non-tax receipts during the same period are exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2007-08	1,060.00	1,126.06	66.06	6.23	2,653.58	42.44
2008-09	1,250.00	1,380.60	130.60	10.45	3,176.15	43.47
2009-10	1,550.00	2,020.76	470.76	30.37	3,212.20	62.91
2010-11	2,556.48	3,329.25	772.77	30.23	4,780.37	69.64
2011-12	3,804.63	4,571.57	766.94	20.16	6,442.96	70.95



The receipts from mining have been steadily increasing over the years and accounted for a major source (70.95 *per cent)* of the total non-tax revenue of the State in 2011-12. The Department attributed the increase to enhancement of the rate of royalty of iron ore, chromite etc. by the Indian Bureau of Mines (IBM). However, it was noticed by audit that the increase was due to adoption of the royalty on *ad valorem* basis fixed by the Central Government in August 2009 in lieu of the per tonne basis fixed and adopted earlier.

7.1.3 Analysis of arrears of revenue

Arrears of mining receipts was ₹ 1,844.92 crore as on 31 March 2012, which included ₹ 9.31 crore outstanding for more than five years. Of this, ₹ 1,334.68 crore was under dispute, ₹ 1.46 crore under certificate proceedings, ₹ 1.62 crore locked up in litigation in the High Court/ other judicial fora, ₹ 2.34 crore under write off proposals and the remaining ₹ 504.82 crore only was recoverable.

Department may take special efforts to resolve the cases under dispute at different stages and recover the arrears accordingly.

7.1.4 Impact of Audit

Revenue impact

During the last five years 2006-07 to 2010-11 we pointed out non / short-levy, non / short-realisation of royalty, dead rent, surface rent, interest etc., with revenue implication of ₹ 1,685.72 crore in 1,297 cases. Of these, the Department accepted audit observations in 759 cases involving ₹ 918.08 crore and recovered ₹ 9.72 crore in 164 cases. The details are shown in the following table.

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	15	423	55.08	53	14.27	16	3.13	21.93
2007-08	15	104	225.85	80	9.14	45	2.59	28.34
2008-09	15	188	202.52	114	7.52	58	1.06	14.10
2009-10	20	356	269.95	346	37.42	42	2.88	7.70
2010-11	15	226	932.32	166	849.73	3	0.06	0.01
Total	**80**	**1,297**	**1,685.72**	**759**	**918.08**	**164**	**9.72**	**1.06**

The Department recovered only 1.06 *per cent* of the amount accepted by it.

The Department should revamp its revenue recovery mechanism to ensure that they can recover at least the amounts, involved in the accepted cases immediately.

7.1.5 Results of Audit

During the year 2011-12, we test checked the records of 19 units dealing with mining receipts and found non / short-demand of royalty / dead rent / surface rent, non / short-recovery of interest and other irregularities involving ₹ 1,299.33 crore in 306 cases.

During the year, the Department accepted underassessment and other deficiencies of ₹ 1,114.24 crore in 159 cases pointed out in 2011-12. An amount of ₹ 2.57 crore was recovered in 62 cases during the year 2011-12 which included ₹ 0.71 lakh in a single case for the year 2011-12 and the remaining cases related to the earlier years.

7.2 Audit observations

We scrutinised the records maintained in the office of the Director of Mines (DM), Deputy Directors Mines (DDMs) and Mining Officers (MOs) where we noticed cases of non/short-levy of royalty, unlawful raising of minerals, shortage of minerals and loss of revenue as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. The Government may consider issuing instructions for an effective internal control mechanism to be in place to prevent recurrence of such omissions.

7.3 Non-observance of the provision of Acts/Rules

The MMDR Act, 1957, MC Rules, 1960, MCD Rules, 1988 and OM, PTS and IMRPSTT Rules 2007, the notifications and instructions of the Government issued from time to time provide for assessment, demand and realisation of:

- *royalty at prescribed rates against different grades of minerals from the leaseholders of mines;*
- *the cost of minerals unlawfully raised over and above the production level of 1993-94 as well as in excess of the permissible limit when it is already disposed of;*
- *the cost of minerals illegally extracted and transported by seizure and disposal of same;*
- *interest for delayed payment of mining dues; and*
- *penalty prescribed for offences committed.*

Non-observance of some of the above provisions as mentioned in the succeeding paragraphs resulted in underassessment, short/ non-demand and realisation of ₹ 215.83 crore.

7.3.1 Extraction of minerals without Environment Clearance

7.3.1.1 Extraction of coal in excess of the approved limit without prior Environment Clearance (EC)

Under Section 21(5) of the Mines and Mineral Development and Regulation (MMDR) Act, 1957, no person shall undertake any mining operation in any area except in accordance with the terms and conditions of the mining lease granted. Whenever any person raises without any lawful authority, any mineral from any land, the Government may recover from such person the mineral so raised or where such mineral has already been disposed of, the price thereof along with rent, royalty or tax for the period during which the land was occupied by such person without any lawful authority. GoI, Ministry of Environment and Forest (MoEF) in their notifications of January 1994, October 2004 and September 2006 directed that for existing mining projects, in case of increase in production, prior Environment Clearance (EC) from the Central Government is to be obtained by the lease holder. As per paragraph III (C) of GoI, MoEF notification dated 28 October 2004, if the annual production of any year from 1994-95 onwards exceeds the annual production levels of 1993-94 and earlier years it would also constitute an expansion and hence EC was necessary for such expansion and production of minerals.

During test check of the lease deeds and records relating to the production and the despatch of coal, monthly returns in the office of the Mining Officer (MO), Sambalpur, we noticed (November 2011) that a lessee[1] was engaged in extraction of coal over 828.764 ha of land. As per the approved mining plan dated 5 August 1992 and EC dated 24 January 1992, the approved production was 30 lakh tonne per annum. The Company extracted 103.01 lakh MT of coal during 2004-05 and 2005-06 as against the approved extraction of 60 MT. Thus, there was excess extraction of 43.01 lakh MT of coal.

We further noticed that the lessee obtained (July 2006) EC for extraction of 50 lakh tonne per annum during 2006-07 to 2010-11; but extracted 497.98 lakh MT of coal against approved extraction of 250 lakh MT. Hence, there was excess extraction of 247.98 lakh MT of coal .

After we pointed this out, the Director of Mines, Odisha intimated that demand notice of ₹ 1,295.85 crore was issued to the Project Officer, Samaleswar OCP by DDM, Sambalpur on 6 September 2012. Further reply is awaited (January 2013).

We also reported the matter to the Government in July 2012. The reply is yet to be received (January 2013).

[1] Samaleswari Open Cast Project (SOCP) presently under M/s. Mahanadi Coalfields Limited (MCL).

7.3.1.2 Unlawful extraction of iron/manganese ore

During a test check of the records in office of the Deputy Director of Mines (DDM), Joda Mining Circle, we noticed (August 2010) that two[2] lessees exceeded their production levels of 1993-94 and continued mining operations without obtaining ECs from the GoI MoEF. They extracted 17.73 lakh MT of iron ore and 0.07 lakh MT of manganese ore valued at ₹ 145 crore during the years 2004-05 to 2009-10 which was unlawful and hence the cost of minerals was to be recovered. Though the mining operations for one lessee was suspended since 06 February 2010 and the other since October 2009, no action was taken by the DDM, Joda to realise the cost price of the minerals unlawfully raised.

After we pointed out the above cases, the Director of Mines (DM), Odisha stated (December 2011) that the EC was not necessary in cases other than renewal of mining lease. The reply is not acceptable as the excess production over and above the production levels of 1993-94 is treated as expansion in view of the clarification of GoI, MoEF in their notification of October 2004 and EC from GoI MoEF was necessary for such expansion.

We reported the matter to the Government in August 2012. The reply is awaited (January 2013).

7.3.2 Non-levy of cost price and penalty

Under Section 21(4) of the MMDR Act, 1957 read with Rule 12 of the OM, PTS and IMRPSTT Rules 2007, whenever any person raises, transports or causes to be raised or transported without any lawful authority any mineral from any land, such mineral shall be liable to be seized by the authority specially empowered and disposed off after due investigation and prosecution of the case in the Court of Law. The cost of minerals raised may also be recovered from that person. The GoI, MoEF in their notifications of January 1994 and October 2004 clarifed that if the annual production of any lessee from 1994-95 onwards exceeds the production level of 1993-94, it would constitute an expansion and directed that even for existing mining projects, in case of increase in production, the prior Environment Clearance (EC) from the GoI, MoEF is to be obtained by the lease holder.

(a) During check of lease file, inspection notes and monthly returns of two mines[3] under the jurisdiction of the Mining Officer, Baripada in September 2011, we noticed that Mining Officer, Baripada in course of physical verifications of the closing stock of mineral conducted on 17 June 2009 and 23 March 2011 for Maharajpur Iron Ore Mines and Bhitarmunda Iron Ore

[2] i) Joruri Iron and Manganese Mines of M/s Tarini Mineral (P) Ltd over 66.368 hectares of land and
ii) BPJ Iron Ore Mines of M/s Orissa Mining Corporation Ltd. over 861.521 hectare of land were granted lease valid from 06 February 1990 to 05 February 2010 and from 27 February 1970 to 26 February 2000 respectively.

[3] Bhitarmunda Iron Ore Mines of M/s B.C. Dagra and Maharajpur Iron Ore Mines of M/s D.C. Das.

Mines respectively through his Inspectors of Mines detected a shortage of 3,544.913 MT of iron ore (Maharajpur 1.26 MT and Bhitarmunda 3,543.653 MT) with reference to book balance of the mines concerned. The value of the ore found short-calculated at IBM the rate is ₹ 15.79 crore and it was required to be recovered from the lessees of the mines who despatched the minerals unlawfully without any transit pass of the Department.

We noticed that, though show cause notices were issued to both the lessees during September 2009 to August 2011 to realise the cost price of the mineral found short; no follow up action was taken by the Department either to realise the cost price and or to institute prosecution cases against them.

(b) We further noticed that the above lessees extracted 4.88 lakh MT[4] in excess of the production levels of 1993-94 and earlier years during 2004-05 to 2008-09 without obtaining Environment Clearance in contravention of GoI (MoEF) notifications of October 2004. Though both the lessees continued with excess productions each year during the above period unlawfully, the Department did not take any action for realisation of the cost price of mineral valued at ₹ 46.24 crore (at IBM rate).

After we pointed this out, the Government stated (October 2012), that the MO, Baripada had raised demand of ₹ 40 lakh against M/s B.C. Dagara and ₹ 15.40 crore against M/s D.C Das in December 2011 and added raising of further demand of ₹ 46.24 crore against the above lessees would not be appropriate since one[5] of them had approached the High Court of the State. The contention of the Government is not acceptable since no stay order of the High Court could be furnished to us for non-raising of further demand.

7.3.3 Underassessment of royalty on steam coal

The GoI, Ministry of Energy (Department of Coal), in their notification of 16 July 1979, prescribed the classes and grades into which coal shall be classified and fixed the pit head prices at which coal or coke may be sold by the colliery owners. As per the said notification, Run-of-Mines (ROM) coal is coal comprising all sizes, as it comes out of the mines, without crushing or screening. The fraction of ROM coal as is retained on a screen, when subjected to screening, is called steam coal which attracts a higher rate of royalty than ROM coal.

During test check of the monthly returns, wagon loading statements and assessment orders of a lessee[6] in the office of the DDM, Talcher, we noticed (August 2011) that the lessee despatched 45.35 lakh MT of 'F'grade coal of size in excess of 100 mm, between April 2010 and March 2011, from its Lingaraj Open Colliery Project (LOCP) in addition to despatch of 'F' grade coal below 100 mm size of the above coal. As the coal despatched was of two sizes, more than 100 mm and less than 100 mm, the fraction that was above 100 mm size was to be

[4] (1) Maharajpur Iron Ore Mines – Production 2004-09 – 4.46 lakh MT, Excess production with reference to 1993-94 production – 4.46 lakh MT.
(2) Bhitarmunda Iron Ore Mines - Production 2004-08 – 0.47 lakh MT, Excess production with reference to 1993-94 production level – 0.42 lakh MT.

[5] M/s. D.C. Das

[6] M/s Mahanadi Coal Limited (MCL).

categorised as steam coal as per the notification[7], since this size is obviously segregated through a screening process. Thus, the lessee was liable to pay royalty of ₹ 40.11 crore at the rate applicable to steam coal as per the royalty charts of CIL issued from time to time. However, we noticed that while assessing the lessee, the Assessing Authority (AA) had not taken this into account and ₹ 36.03 crore only was paid by MCL towards royalty at the rates applicable to ROM coal. This resulted in underassessment and resultant short-levy of royalty of ₹ 4.08 crore.

After we pointed out the case, the DDM, Talcher stated (August 2011) that action will be taken after verification of records.

We reported the matter to the DM, Odisha in February 2012 and the Government (April 2012). The reply is yet to be received (January 2013).

7.3.4 Loss of revenue due to non-seizure of mineral procured without lawful authority

Under Rule 3 of OM, PTS & IMRPSTT Rules, 2007, no person can carry on the business of buying, possessing, storing, selling, supplying, transporting or delivering for sale or processing of minerals at any place or other-wise deal with any mineral except under and in accordance with the terms and condition of a trading license issued under the Rules. Rule 12 of the above Rules further provides that the Competent Authority (CA) or any officer specially authorised in this behalf by the Government shall seize under Section 21(4) of MMDR Act, 1957, any mineral raised, transported or caused to be raised or transported, stored without any lawful authority along with vehicle, equipment used for the said purpose and dispose of the mineral seized.

From a test check of the records of the MO, Bhawanipatna we noticed (February 2011) that a license issued on 15 February 2008 to M/s Vedanta Aluminum Ltd. (VAL) under the Rule 3 of OM, PTS and MRPSTT Rules, 2007 for two years expired on 14 February 2010 and the subsequent licence issued on 24 February 2010 was effective from that date up to 23 February 2012. However, M/s VAL procured 70.04 thousand MT of Bauxite during 15 February 2010 to 23 February 2010 without any valid license for that period. The MO, being the Competent Authority, did not seize the above minerals costing ₹ 1.83 crore[8] unlawfully procured for disposal and realisation of revenue.

After we pointed the case out, the MO, Bhawanipatna raised a demand of ₹ 2.70 crore against M/s VAL for such unlawful procurement and transportation of bauxite. However, the Government stated (20 July 2012) that the Competent Authority fixed ₹ 35,000 only towards penalty in his order dated 22 February 2012 as per the direction of the Appellate Authority dated 18 February 2012. Hence Section 21(4) of MMDR, 1957 might not be

[7] Ministry of Energy (Department of Coal) Notification No.28012/8/79-CA dated 16.7.1979.

[8] Calculated by us at the rate approved by IBM for the month of February 2010.

applicable and implementation of Rule 3 of OM, PTS and IMRPSTT Rules, 2007 is proper for imposition of penalty under Rule 18 ibid.

The reply is not acceptable since cost of minerals illegally transported should have been seized under Rule 12 of OM, PTS and IMRPSTT Rules, 2007.

7.3.5 Non-levy of interest on delayed payment of mining dues

Under Rule 64A of the Mineral Concession (MC) Rules, 1960, for belated payment of rent/royalty, simple interest at the rate of 24 *per cent* on the unpaid amount is chargeable from the sixtieth day of the expiry of the due date of payment of such rent/royalty.

During check of the records like assessment files, monthly returns of royalty/ dead rent/ surface rent and treasury challans of seven mining Circles[9] we noticed (between September 2010 and November 2011) that mining dues like royalty/dead rent/surface rent etc. of ₹ 27.09 crore[10], payable by 34 licensees during the period from 15 January 2005 to 15 January 2011, were paid belatedly between May 2009 and August 2011. The interest liability of ₹ 1.51 crore[11] on such delays, ranging from 13 days to 2,191 days, was not levied and realised from the concerned lessees.

After we pointed out these cases, all the DDMs/MOs agreed to raise the demands.

We reported the matter to the Director of Mines, Odisha in March 2012 and to the Government in July 2012. Government stated (October 2012) that ₹.2.20 lakh only was realised.

[9] Baripada, Joda, Koira, Koraput, Phulbani, Sambalpur and Talcher.
[10] Royalty of ₹ 26.86 crore and DR/SR of ₹ 0.23 crore.
[11] Interest on royalty of ₹. 1.46 crore and interest on DR/SR of ₹ 0.05 crore

7.3.6 Short-levy of royalty on 'F' grade coal

Under Section 9 of the MMDR Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed or consumed by him or his agent, manager, employee, contractor or sub-lessee from leased area at the rate specified in the second Schedule to the Act. The GOI, Ministry of Coal in their notification dated 1 August 2007 amended the rate of royalty, which shall be a combination of a specific amount and a certain percentage of ad-valorem rate of the basic pit head price of coal excluding taxes, levies and other charges. The price of 'F' grade Run-of-Mine (ROM) coal has been fixed at ₹ 480 per tonne by the Coal India Limited (CIL) on 15 October 2009 and it was increased to ₹ 570 per tonne on 27 February 2011. Accordingly, the rate of royalty on ROM coal was revised by CIL from ₹ 77 to ₹ 79 per MT with effect from 16 October 2009 and from ₹ 79 to ₹ 83.50 per MT from 27 February 2011 onwards.

From a test check of the assessment files, monthly returns and daily collection registers of a lessee, Samaleswari Open Cast Project (SOCP) under MCL, we noticed (December 2010) that royalty on despatch of 33.80 lakh MT of F' grade ROM Coal during 16 October 2009 to 31 March 2010 was levied at the rate of ₹ 77 per MT instead of ₹ 79 per MT which resulted in short-levy/realisation of royalty of ₹ 67.60 lakh.

Similiarly from a test check of the records in respect of two other lessees[12] of the same office, we noticed (October/ November 2011) that royalty on despatch of 6.78 lakh MT of F' grade ROM Coal during 16 October 2009 to 31 July 2010 was levied at the rate of ₹ 77 per MT instead of ₹ 79 per MT and royalty on despatch of 3.59 lakh MT 'F' grade ROM coal during 27 February 2011 to 31 March 2011 was levied at ₹ 79 per MT instead of ₹ 83.50 per MT. This resulted in short-realisation of royalty of ₹ 29.74 lakh from the two lessees.

Thus, total short-levy /realisation of royalty in respect of three lessess stood at ₹ 97.34 lakh. In correct application of the rates of royalty indicated the lack of internal control.

After we pointed out the above cases, the Government stated (October 2012) that demand notices were issued (November 2011 and September 2012) to the three lessees for realisation of the amounts and one[13] of the lessees denied the liability, whose case is subjudice in Hon'ble High Court of Orissa. However, recovery of royalty in all the three cases is pending (January 2013).

[12] Lajkura OCP of M/s MCL, Talbira –I Coal Mine of M/s Hindalco Industries Ltd.
[13] M/s Hindalco Ind. Ltd.

7.3.7 Non-realisation of cost price of minerals raised without valid licence

Under Rule 24A of the Mineral Concession Rules, 1960, an application for renewal of a mining lease should be made by the lessee to the State Government at least 12 months before the expiry of lease. If the renewal of the mining lease is not disposed off by the Government before the date on which the lease would have expired, the period of that lease shall be deemed to have been extended till the State Government passes an order thereon. However, the State Government may condone the delay in an application for renewal, not made within the above stated time limit, if the application has been made before the expiry date of the lease.

During test check of the records of the MO, Baripada, we noticed (September 2010) that the original lease granted to M/s Kuldiha Quartzite Mines for 20 years with effect from 26 June 1983 expired on 25 June 2003, since the lessee did not apply for the Renewal of Mining Lease (RML) within the prescribed period i.e. at least 12 months before the expiry of the lease. Moreover, the RML application belatedly filed on 17 June 2003 i.e. nine days before the expiry date of lease was not condoned by the State Government. Though the mine was not covered under any lease to mine beyond 25 June 2003 under the deemed provision, the above lessees extracted 11.99 thousand MT of Quartzite (mineral) between 26 June 2003 and 31 August 2009. The Mining Officer, being the Competent Authority, despite declaring the above mines as non-working, did not seize the minerals produced/despatched unlawfully during the above mentioned period or realise the cost thereof amounting to ₹ 40.75 lakh[14].

After we pointed out the case, the Government stated (August 2012) that for realisation of cost price ₹ 40.75 lakh, the Tahasildar, Bahalda and Rairangpur were requested on 30 May 2012 for submission of property list of Sri D.C. Das for filing of certificate proceedings against him. Further reply is awaited (January 2013).

[14] Calculated by us at the available statistics on the average sale price of ₹ 321/MT prescribed by the Indian Bureau of Mines (IBM) for September 2009 in the absence of rates for earlier periods.

CHAPTER-VIII : OTHER DEPARTMENTAL RECEIPTS

8.1 Results of Audit

We test checked the records of 18 units relating to departmental receipts in the Departments of Energy, General Administration (Rent) and Co-operation during 2011-12 and found non-realisation of revenue, non/short-levy of revenue and other irregularities of ₹ 441.65 crore in 345 cases.

During the year 2011-12, the concerned Departments accepted non/short-levy, loss of revenue, etc., of ₹ 60.26 crore in 265 cases pointed out in 2011-12. While the Energy Department recovered ₹ 0.12 crore in two cases, the Co-operation Department recovered only ₹ 0.94 lakh in a single case.

8.2 Audit observations

We conducted test check of assessment records and other related documents of the Energy Department and found non/short-levy and realisation of revenue towards electricity duty as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test checks carried out by audit. Such omissions have also been pointed out by audit earlier; but these persist and remain undetected till the next audit. The Government may, therefore, consider issuing instructions for effective internal control mechanism to avoid recurrence of such omissions.

8.3 Non-compliance of provisions of Acts/Rules

Sub Section (1)(c) and (d) of Section 3 the Orissa Electricity Duty (OED) Act, 1961 and Rules made thereunder read with notifications and clarifications of the Government issued from time to time provide for:-

(i) Self assessment/payment of Electricity Duty (ED) due at the prescribed rate of 20 paise per unit on auxilliary/captive consumption of energy by an Industrial Unit (IU) having a captive power plant within the prescribed period of 30 days from the month of consumption of energy.

(ii) levy of interest on belated payment of electricity duty at the rate of 18 per cent per annum.

(iii) initiation of penal action for non-filing of periodcal returns in time.

We noticed non-compliance of some of the above provisions which resulted in non/short-levy/realisation of revenue of ₹ 132.77 crore.

8.3.1 Non-levy of Electricity Duty and interest

As per Section 3(1)(d) of OED, Act, 1961 read with Rule 3(ii)(a) of the OED Rules and Notification of the Government dated 1 January 2006, ED is payable to the Government at the rate of 20 paise per unit by a person generating energy for his captive consumption within 30 days from the month of generation and consumption. As per the second proviso to Section 5(1)(c) of OED Act, 1961, in case of default interest at the rate of 18 *per cent* per annum is leviable.

During test check of records (February 2012) of Superintending Engineer (Project)-cum-Electrical Inspector (Generation), Circle I, Keonjhar, we noticed that M/s SCAW Industries Pvt. Ltd. (now M/s Narbheram Power and Steel (P) Ltd.), an industrial unit (IU) installed a 8 MW Turbo Generator (TG) set for its captive generation and started generation of power since March 2005. As per monthly returns , the IU generated 101.469 MU of energy from March 2005 to April 2010, out of which 27.474 MU were exported to Grid Corporation of Orissa Limited (GRIDCO) leaving a balance of 73.995 MU which attracted payment of ED. The IU paid ₹ 10.16 lakh towards ED (₹ 4.99 lakh on 27 September 2008 and ₹ 5.17 lakh on 20 March 2009). The balance ED payable up to April 2010 was ₹ 2.09 crore including interest of ₹ 71.16 lakh. The IU, however, started paying their monthly ED dues regularly from May 2010.

Government replied (August 2012) that SE (P)-Cum-EI (G), Circle I, Keonjhar had filed a certificate case against the firm for an amount ₹ 2.66 crore including interest up to March 2012.

8.3.2 Short-levy of Electricity Duty and interest thereon

During test check of records (October 2011) of Superintending Engineer (Project)-cum-Electrical Inspector (Generation), Circle-I, Keonjhar, we noticed that M/s Indian Metal and Ferro Alloys Limited generated 773.939 MU of energy from April 2010 to March 2011 (as per monthly returns), out of which 47.465 MU of energy was exported to GRIDCO (as per annual audited accounts) leaving a balance of 726.474 MU of energy for self consumption on which the IU was liable to pay ED. However, the IU exhibited 717.801 MU of energy towards self consumption, thereby showing less self consumption of 8.673 MU of energy. This led to short-levy of ED of ₹ 17.35 lakh and interest of ₹ 1.23 lakh.

We reported the matter to the Government (May 2012). The reply is yet to be received (January 2013).

8.3.3 Non-levy of Electricity Duty on auxiliary consumption

As per the OED Act, 1961 and Rules made thereunder read with the clarification of the Government notification dated 6 November 1999, the Auxiliary Consumption (AC) of total generation of energy of an Industrial Unit (IU) having a power plant was exempt from payment of ED up to 5 November 1999. As per Government notification dated 1 January 2006 ED on AC was leviable at the rate of 20 paise per unit. Further as per the second proviso to Section 5(i)(c) of OED Act, 1961, in case of default in payment of ED on time, interest at the rate of 18 *per cent* per annum is also leviable. As per para 18.10(A) of the Industrial Policy Resolution (IPR), 2001, captive power plant would be exempted of ED payable for a period of five years from the date of commissioning of the plant.

During test check of the monthly returns and other connected records of the (SE (P)- cum-EI (G), Circle-I, Keonjhar during October 2011, we noticed that M/s Bhusan Steel Ltd. generated 934.64 MU of energy during the period August 2009 to March 2011 through its two Captive Generating plants (33 MW and 77 MW).Though the IU exhibited 107.107 MU of energy towards auxiliary consumption in its monthly returns, it did not pay any ED thereon and the (SE (P)- cum-EI (G),Circle- I did not take action for levy of ED. This led to non-levy of ED of ₹ 2.14 crore and interest of ₹ 0.29 crore.

After we pointed out the case, the Governement stated (December 2012) that the ED is leviable on the electricity sold out side other than to captive user. In the instant case no electricity is sold to out side. The contention of Government is not acceptable to audit as this was inconsistant with thier order of January 2001 wherein Government decided to levy ED on AC of power generating units without any exception.

8.3.4 Non-levy of Electricity Duty and interest thereon

As per Section 3(1)(d) of OED, Act, 1961 and Rules made thereunder read with the notification of the Government dated 1 January 2006, ED is payable to Government at the rate of 20 paise per unit by a person generating energy for his captive consumption. In case of default in payment of ED on time, interest at the rate of 18 *per cent* per annum is also leviable as per second proviso to Section 5(1)(c) of the OED Act, 1961. As per para 18(10)(A) of the IPR, 2001 promulgated by Government of Odisha, Industrial Units (IUs) are exempted from payment of ED on fulfilment of certain terms and conditions for a period of five years from the date of commissioning of the plant.

During test check of monthly return and connected documents (February 2012) thereon of the Superintending Engineer (Project)-cum-Electrical Inspector (Generation), Circle II, Jeypore, we noticed that M/s Vedanta Aluminium Limited (VAL), Jharsuguda commissioned nine Captive Generation Plants (CGPs) of 135 MW capacity each during the period April 2009 to February 2010. VAL was accorded IPR exemption only in respect of four CGPs (Unit 2, Unit 3, Unit 4 and Unit 5) by the Competent Authority in September 2009 and no exemption was accorded in respect of other five[1] generation units. VAL generated 6,362.987 Mega Unit (MU) of energy from these five generating units during the period 2009-10 and 2010-11 and exported 649.907 MU of energy to GRIDCO leaving a balance of 5,713.080 MU of energy for self consumption; but it did not pay any ED on self consumption on grounds that application for exemption from payment of ED was under process. The stand of VAL is incorrect as no such exemption order was received till the date of audit and the Department failed to notice the above lapse, demand against the VAL not being raised, leading to non-payment of ED of ₹ 114.26 crore and interest of ₹ 13.80 crore.

[1] 1. Unit –I ,VI,VII, VIII and IX (135 MW each),

After we pointed this out, the Chief Engineer (Project)-cum- Chief-Electrical Inspector (Generation) issued a demand notice in June 2012 against VAL for realisation of ED of ₹ 262.73 crore in respect of five generation units up to March 2012.

We reported the matter to the Government in July 2012. The reply is awaited (January 2013).

Bhubaneswar
The

(S. R. DHALL)
Accountant General (E & RSA)
Odisha

Countersigned

New Delhi
The

(VINOD RAI)
Comptroller and Auditor General of India

Annexure 1
(Refer Para 2.4.6)

Statement showing number of dealers those belatedly furnished the true copies of the certified annual audited accounts to the respective AAs

Name of the Circles/Ranges	Year	Number of dealers liable to submit audited accounts	Number of dealers who did not furnish audited accounts	Due date for submission	Date up to which not submitted	Period of delay (number of days)	Penalty leviable but not levied (in ₹)
Angul Circle	2009-10	168	127	31-Oct-10	31-Aug-11	304	38,60,800
Barbil Circle	2009-10	211	144	31-Oct-10	31-Aug-11	304	43,77,600
BBSR-I Circle	2009-10	379	238	31-Oct-10	31-May-11	212	50,45,600
BBSR-II Circle	2009-10	678	396	31-Oct-10	30-Jun-11	242	95,83,200
BBSR-III Circle	2009-10	620	414	31-Oct-10	30-Jun-11	242	1,00,18,800
Bolangir Circle	2009-10	156	61	31-Oct-10	30-Nov-11	395	24,09,500
Cuttack-I (E) Circle	2009-10	443	288	31-Oct-10	29-Nov-11	394	1,13,47,200
Cuttack-I (W)Circle	2009-10	261	157	31-Oct-10	18-Nov-11	383	60,13,100
Cuttack- (C) Circle	2009-10	611	58	31-Oct-10	30-Sep-11	334	19,37,200
Cuttack I(City) Circle	2009-10	579	326	31-Oct-10	31-Oct-11	365	1,18,99,000
Dhenkanal Circle	2009-10	278	227	31-Oct-10	31-Aug-11	304	69,00,800
Jagatsinghpur Circle	2009-10	197	164	31-Oct-10	30-Sep-11	334	54,77,600
Jatni Circle	2009-10	316	101	31-Oct-10	30-Jun-11	242	24,44,200
Jajpur Circle	2009-10	350	336	31-Oct-10	31-Jul-11	273	91,72,800
Keonjhar Circle	2009-10	169	64	31-Oct-10	31-Aug-11	304	19,45,600
Sambalpur-II Circle	2009-10	87	51	31-Oct-10	31-Oct-11	365	18,61,500
Bargarh Circle	2009-10	347	215	31-Oct-10	31-Oct-11	365	78,47,500
Kendrapara Circle	2009-10	156	139	31-Oct-10	12-Dec-11	407	56,57,300
Nuapada Circle	2009-10	54	23	31-Oct-10	31-Dec-11	426	9,79,800
Rourkela-I Circle	2009-10	477	242	31-Oct-10	11-Jan-12	437	1,05,75,400
Cuttack-II Circle	2009-10	554	213	31-Oct-10	30-Nov-11	395	84,13,500
Jharsuguda Circle	2009-10	411	226	31-Oct-10	31-Oct-11	365	82,49,000
Kalahandi Circle	2009-10	219	142	31-Oct-10	31-Dec-11	426	60,49,200
Balasor Circle	2009-10	562	481	31-Oct-10	30-May-11	211	1,01,49,100
Mayurbhanja Circle	2009-10	365	358	31-Oct-10	5-Jan-12	431	1,54,29,800
Kantabanji Circle	2009-10	74	30	31-Oct-10	30-Nov-11	395	11,85,000
Sambalpur-I Circle	2009-10	438	160	31-Oct-10	31-Dec-11	426	68,16,000
Subarnpur Circle	2009-10	64	22	31-Oct-10	31-Jan-12	457	10,05,400
Deogarh Circle	2009-10	15	14	31-Oct-10	31-Jan-12	457	6,39,800
Nabarangpur Circle	2009-10	82	57	31-Oct-10	31-Jan-12	457	26,04,900
Nayagarh Circle	2009-10	89	68	31-Oct-10	29-Feb-12	486	33,04,800
Rourkela-II Circle *	2009-10	515	292	31-Oct-10	31-Jan-12	457	1,33,44,400
Rayagada Circle	2009-10	264	49	31-Oct-10	17-Jan-12	443	21,70,700
33 Circles		**10,189**	**5,883**				**19,87,16,100**

***** Rourkela-II Circle also cover Rajgangpur Assessment Unit.

Annexure 2
(Refer Para 2.4.9)
Statement showing non-levy of interest and penalty for delayed payment of tax

(₹ in lakh)

Name of the Range/ Circle	Number of dealers	Range of tax period for which analysis made	Number of tax periods for which tax paid belatedly	Amount of tax involved	Range of delay	Interest leviable but not levied	Penalty leviable	Total
BBSR-II Circle	25	March 2006 to January 2011	34	12,062.68	06 to 50	34.67	69.54	104.21
Barbil Circle	74	January 2008 to March 2011	139	359.9	05 to 239	3.45	7.07	10.52
Cuttack-I Range	3	April 2005 to March 2007	21	340.74	05 to 167	1.19	2.4	3.59
Bolangir Circle	1	October 2007 to March 2010	10	3.26	30 to 625	0.28	0.63	0.91
Sub Total	**103**		**204**	**12,766.58**	**5 to 625**	**39.59**	**79.64**	**119.23**
Rourkela-II Circle	144	April 2010 to March 2011	279	749.56	05 to 259	7.07	14.56	21.63
BBSR-IV Circle	16	April 2010 to December 2010	27	134.71	06 to 96	0.4	0.81	1.21
Rayagada Circle	23	April 2010 to March 2011	45	186.78	06 to 122	0.51	1.02	1.53
Balasore Circle	128	April 2010 to December 2010	215	325.96	05 to 298	4.01	8.32	12.33
BBSR-III Circle	17	April 2010 to March 2011	21	42.13	08 to 178	0.29	0.59	0.88
Ganjam-I Circle	23	April 2010 to October 2010	32	22.22	06 to 80	0.2	0.4	0.6
Jajpur Circle	104	April 2010 to March 2011	171	74.72	05 to 270	0.71	1.45	2.16
Keonjhar Circle	41	April 2010 to March 2011	49	38.36	05 to 278	0.22	0.46	0.68
Angul Circle	7	April 2010 to November 2010	9	69.07	07 to 153	0.21	0.42	0.63
Jagatsinghpur Circle	28	April 2010 to March 2011	46	174.27	05. to 322	3.43	7.14	10.57
Cuttack-I Central	35	April 2010 to March 2011	52	49.92	06 to 80	0.37	0.75	1.12
Sambalpur-II Circle	23	April 2010 to March 2011	31	21.11	12 to 419	0.45	0.96	1.41
Cuttack-I City Circle	28	April 2010 to March 2011	45	73.95	06 to 101	0.42	0.85	1.27
Bargarh Circle	26	April 2010 to March 2011	31	25.54	25 to 463	0.71	1.51	2.22
Cuttack-II Circle	38	April 2010 to March 2011	77	393.21	06 to 178	3.22	6.54	9.76
Jharsuguda Circle	108	April 2010 to March 2011	210	600.85	06 to 430	13.46	28.47	41.93
Kendrapada Circle	6	May 2010 to March 2011	12	29.84	06 to 39	0.11	0.22	0.33
Nuapada Circle	5	April 2010 to March 2011	17	70.85	06 to 207	0.78	1.59	2.37
Rourkela-I Circle	145	April 2010 to March 2011	332	460.16	06 to 455	8.65	18.19	26.84
Kalahandi Circle	29	April 2010 to March 2011	50	38.95	06 to 176	0.47	0.95	1.42
Mayurbhanj Circle	29	April 2010 to March 2011	33	29.41	07 to 239	0.35	0.71	1.06
Kantabanji Circle	9	April 2010 to March 2011	18	8.29	07 to 91	0.08	0.17	0.25
Sambalpur-I Circle	76	April 2010 to March 2011	127	142.98	06 to 127	1.34	2.74	4.08
Nabarangpur Circle	15	April 2010 to March 2011	20	16.28	08 to 312	0.22	0.48	0.7
Subarnapur Circle	5	June 2010 to March 2011	6	341.09	07 to 179	1.06	2.14	3.2
Sub Total	**1,108**		**1,955**	**4,120.21**	**5 to 463**	**48.74**	**101.44**	**150.18**
28 Circle and one range	**1,211**		**2,159**	**16,886.79**	**5 to 625**	**88.33**	**181.08**	**269.41**

GLOSSARY

Abbreviation	Expansion
AA	Assessing Authority
AC	Auxiliary Consumption
ACCT	Assistant Commissioner of Commercial Tax
ACSIL	Aska Cooperative Sugar Industries Limited
AEP	Annual Excise Policy
AG	Accountant General
APTO	Assistant Professional Tax Officer
ASIE	Assistant Sub-Inspector of Excise
ATN	Action Taken Note
AVR	Audit Visit Report
B&OE	Bihar and Orissa Excise
BE	Budget Estimate
BEFFMF	Board's Excise (Fixation of Fee on Mahua Flower)
BER	Board's Excise Rules
BMV	Bench Mark Valuation
BOR	Board of Revenue
C. Money	Consideration Money
CA	Competent Authority
CAG	Comptroller and Auditor General of India
CCT	Commissioner of Commercial Tax, Odisha
CDA	Cuttack Development Authority
CEI	Chief Electrical Inspector
CEO	Chief Executive Officer
CF	Conservator of Forest
CI	Charitable Institution
CIL	Coal India Limited
CMV	Central Motor Vehicle
CS	Country Spirit
CST	Central Sales Tax
CTO	Commercial Tax Officer
DAC	Departmental Audit Committee
DCB	Demand Collection and Balance
DCCT	Deputy Commissioner of Commercial Taxes
DCR	Demand Collection Register
DDM	Deputy Director of Mines
DEO	District Excise Officer
DEPB	Duty Entitlement Pass Book
DFO	Divisional Forest Officer
DI	Director of Industries, Odisha
DIG	Deputy Inspector General
DISTCO	Distribution Company
DLVC	District Level Valuation Committee
DM	Director of Mines
DP	Draft Paragraph
DSE	Deputy Superintendent of Excise

Abbreviation	Expansion
DSR	District Sub-Registrar
EAL	Excise Adhesive Label
EC	Excise Commissioner, Odisha
EC	Environment Clearance
ED	Electricity Duty
EDC	Deputy Commissioner of Excise
EF	Export Fee
EI	Electrical Inspector
EMD	Earnest Money Deposit
ENA	Extra Neutral Alcohol
ETM	Excise Technical Manual
FC	Certificate of Fitness
FD	Finance Department
FR&SD	Forest Resource and Survey Division
GA	General Administration
GoI	Government of India
GRIDCO	Grid Corporation of Orissa Limited
GRN	Goods Received Note
GRR	General Registration Register
GVW	Gross Vehicle Weight
HoDs	Heads of the Departments
HoOs	Heads of the Offices
IA	Internal Audit
IAR	Internal Audit Report
IAW	Internal Audit Wing
IBM	Indian Bureau of Mines
IBEUL	M/s Ind Barath Energy (Utkal) Limited
ICM	Internal Control Mechanism
ID	Illicitly Distilled
IDCO	Industrial Infrastructure Development Corporation of Odisha Ltd.
IE	Inspector of Excise
IF	Import Fee
IGR	Inspector General of Registration
IMFL	India Made Foreign Liquor
IOCL	Indian Oil Corporation Limited
IPR	Industrial Policy Resolution
IR	Inspection Report
IS	Indian Stamp
IT	Information Technology
ITC	Input Tax Credit
IU	Industrial Unit
JCCT	Joint Commissioner of Commercial Taxes
JIG	Joint Inspector General
L&T	Larsen and Toubro
LAC	Land Allotment Committee
LF	Licence Fee

Abbreviation	Expansion
LOCP	Lingaraj Open Coal Project
LR	Land Revenue
LRF	Label Registration Fee
LTU	Large Tax payer Unit
MC	Mineral Concession
MCO	Molasses Control Order
MDS	Multi-Disciplinary Squad
MF	Mahua Flower
MGQ	Minimum Guaranteed Quantity
MIS	Management Information System
ML	Mining Lease
MMDR	Mines and Minerals (Development and Regulation)
MO	Mining Officer
MoEF	Ministry of Environment and Forest
MPR	Miscellaneous Proceeding Register
MRP	Maximum Retail Price
MV	Motor Vehicle
MVG	Market Value Guidelines
MVT	Motor Vehicle Tax
NAC	Notified Area Council
NALCO	National Aluminium Company Limited
NH	National Highway
NTO	Net Taxable Turnover
OED	Orissa Electricity Duty
OEEP	Orissa Excise Exclusive Privilege
OEEPFL	Orissa Excise (Exclusive Privilege) Foreign Liquor Rules
OERC	Orissa Electricity Regulatory Commission
OET	Orissa Entry Tax
OFC	Orissa Forest Corporation
OFDC	Orissa Forest Development Corporation Limited
OGLS	Orissa Government Land Settlement
OIC	Officer In-Charge
OLA	Odisha Legislative Assembly
OLR	Orissa Land Reforms
OM, PTS & IMRPSTT	Orissa Mining, Prevention of Theft and Smuggling & Illegal Mining and Regulation of Possession, Storage, Trading and Transportation
OM	Orissa Minerals
OMMC	Orissa Minor Mineral Concession
OMV	Orissa Motor Vehicles
OPDR	Orissa Public Demand Recovery
OPLE	Orissa Prevention of Land Encroachment
OR	Off Road
OS	Out-Still
OSBC	Orissa State Beverages Corporation Limited
OST	Orissa Sales Tax
OTT	One Time Tax

Abbreviation	Expansion
OVAT	Orissa Value Added Tax
PA	Performance Audit
PAC	Public Accounts Committee
PCCF	Principal Chief Conservator of Forest
PCR	Permit Case Register
PR	Permit Register
PT	Professional Tax
R&DM	Revenue and Disaster Management
R&T	Registration and Turnover
RA	Registering Authority
RC	Certificate of Registration
RCF	Regional Conservator of Forest
RDA	Rourkela Development Authority
RF	Registration Fee
RI	Revenue Inspector
RML	Renewal of Mining Lease
ROM	Run-Of-Mines
RoR	Record of Right
RTO	Regional Transport Office
RTU	Rourkela Town Unit
SD	Stamp Duty
SE	Superintendent of Excise
SE	Superintending Engineer
SED	State Excise Duty
SIE	Sub-Inspector of Excise
SLSWCA	State Level Single Window Clearance Authority
SOCP	Samaleswari Open Cast Project
SPR	Special Permit Register
SR	Sub-Registrar
SRO	Statutory Regulatory Orders
STA	State Transport Authority
STPI	Software Technology Park of India
T&D	Transmission and Distribution
TC	Transport Commissioner
TG	Turbo Generator
TL	Transformation Loss
TO	Taxing Officer
TR	Tax Recovery
TRO	Tax Recovery Officer
TS	Thematic Study
TSL	Tata Steel Limited
TTO	Taxable Turn Over
UD	Un-Detected
UF	Utilisation Fee
VAL	Vedanta Aluminium Limited
VATIS	Value Added Tax Information System
VCR	Vehicle Check Register