

CHAPTER-VIII: OTHER DEPARTMENTAL RECEIPTS

8.1 Results of audit

We test checked the records of 44 units relating to departmental receipts in the departments of Co-operation, Energy, General Administration (Rent), Health and Family Welfare, Steel & Mines and Works during 2009-10 and found non-realisation of revenue, non/short levy of revenue and other irregularities of ₹ 247.58 crore in 812 cases which fall under the following categories.

Sl. No.	Categories	(Rupees in crore)	
		No. of cases	Amount
CO-OPERATION DEPARTMENT			
1.	Non-realisation of revenue	220	0.67
2.	Non/short levy of revenue	24	0.39
3.	Other irregularities	2	2.59
Total		246	3.65
ENERGY DEPARTMENT			
1.	Non-realisation of revenue	440	85.59
2.	Non/short levy of revenue	40	66.62
3.	Other irregularities	34	78.41
Total		514	230.62
GENERAL ADMINISTRATION (RENT) DEPARTMENT			
1.	Non-realisation of revenue	4	8.92
2.	Other irregularities	37	0.15
Total		41	9.07
HEALTH AND FAMILY WELFARE DEPARTMENT			
1.	Other irregularities	1	0.14
Total		1	0.14
STEEL AND MINES DEPARTMENT			
1.	Non/short levy of revenue	6	0.15
2.	Other irregularities	1	0.31
Total		7	0.46
WORKS DEPARTMENT			
1.	Other irregularities	3	3.64
Total		3	3.64
Grand Total		812	247.58

During the year 2009-10, the concerned departments accepted non/short levy, loss of revenue, etc., of ₹ 108.99 crore in 366 cases pointed out in 2009-10. Of this the Co-operation Department recovered ₹ 12.52 lakh in 18 cases during the year 2009-10.

After issue of the draft paragraphs the Department of Energy recovered ₹ 21.99 lakh pertaining to a single observation pointed out by us during 2009-10.

A few illustrative audit observations involving ₹ 101.19 crore are discussed in the following paragraphs.

8.2 Audit observations

We conducted test check of assessment records and other related documents of the Energy Department and check of records pertaining to departmental receipts of Home and Fisheries & Animal Resources Development (F&ARD) Departments and found loss, non-levy, non/short realisation of revenue towards electricity duty, police receipts and fishery receipts as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test checks carried out by us. Such omissions are pointed out by us repeatedly; but not only do the irregularities persist, these remain undetected till an audit is conducted. The Government may consider issuing instructions for effective internal control mechanisms to avoid recurrence of such omissions.

Energy Department

8.3 Non-compliance of provisions of Act/Rules, notifications and decisions

The Orissa Electricity Duty (OED) Act, 1961 and Rules made thereunder read with extant decisions of the Orissa Electricity Regulatory Commission (OERC) along with notifications of the Government provide for:-

- (i) Self assessment/payment of electricity duty (ED) due at the prescribed rates on auxilliary/captive consumption of energy within 30 days from the month of consumption, unless specifically exempted by the competent authority;*
- (ii) restricting the maximum transformation loss in respect of Hydro Electricity Projects (HEPs) at 0.5 per cent of gross generation of energy;*
- (iii) reducing the transmission and distribution (T&D) losses by the Distribution Companies (DISTCOs) like Central Electricity Supply Utility (CESU), Northern Electricity Supply Company (NESCO), Southern Electricity Supply Company (SOUTHCO) and Western Electricity Supply Company (WESCO) to certain percentages of total energy drawn from Grid Corporation of Orissa Ltd. (GRIDCO) for sale excluding sale to extra high tension (EHT) category of consumers; and*

(iv) levy of interest on belated payment of electricity duty.

We noticed non-compliance of some of the above provisions as mentioned in paragraphs 8.3.1 to 8.3.3 which resulted in non-levy/realisation of revenue of ₹ 61.98 crore.

8.3.1 Non-levy of electricity duty on auxiliary consumption of electricity

As per the OED Act, 1961 and Rules made thereunder read with clarification of the Government dated 6 November 1999 and notification dated 1 January 2006, ED at the rate of 20 paise is leviable per unit on the auxiliary consumption of energy and shall be paid to the Government account within the prescribed time. In case of default, interest at the rate of 18 per cent per annum is also leviable.

During test check of records of the Superintending Engineer (Project)-cum-Electrical Inspector {SE, (P)-cum-EI, Keonjhar} in July 2009, we noticed that M/s. National Aluminium Company Ltd., Angul which has a captive power plant, utilised 639.5642 MU of electricity for auxiliary

consumption¹ during March 2008 to March 2009, on which ED of ₹ 12.79 crore was leviable. Though the unit submitted returns regularly mentioning the amount of electricity utilised for auxiliary consumption, it did not pay ED thereon and the concerned EI also did not raise demand for non-payment of such Government dues. This resulted in non-levy of ED of ₹ 15.48 crore including interest liability of ₹ 2.68 crore for default in payment of ED to the Government account.

After we pointed out the case, the Government stated (October 2010) that demand for payment of ED as per Circular of November 1999 has been issued against the company. The company disputed the matter and filed a case in the Hon'ble High Court of Orissa. The final judgment was delivered on 6 May 2010 and the Company has been directed by the Hon'ble High Court of the State on 6 May 2010 for payment of ED on auxiliary consumption. The departmental authority has also asked the company on 15 September 2010 to deposit the ED. A report on realisation of dues is yet to be received (December 2010).

8.3.2 Non-levy of electricity duty

As per the OED Act, 1961 and Rules made thereunder, ED at the rate of 20 paise per unit is payable to the State Government by the Captive Power Plants (CPPs) for their captive consumption, within the prescribed period. In case of default, interest at the rate of 18 per cent per annum is also leviable.

During test check of records of the SE (P)-cum-EI (Generation), Circle No. 1, Keonjhar in July 2009, we noticed that two industrial units (IUs) generated electricity from their own CPPs during the period from April 2007 to March 2009, but did not make voluntary payment of ED of ₹ 6.83 crore anticipating

¹ Energy consumed in the process of generation by the power plants.

exemption certificate from the competent authority under the Industrial Policy Resolution (IPR). Withholding the payment of ED was irregular and the department's inaction in raising demand every month despite non-payment of Government dues by the IUs resulted in non-levy of ED of ₹ 8.52 crore including interest liability of ₹ 1.69 crore as on 31 December 2009. The details are as given in the following table:

Name of the IU	CPP Unit	Period of consumption	Total units of energy consumed captively	(Rupees in crore)	
				ED leviable	Interest leviable
M/s. Arati Steel Ltd.	40 MW capacity	May 2008 to March 2009	13,91,71,461	2.78	0.58
M/s. Shree Metaliks Ltd.	8 MW capacity	April 2007 to February 2009	7,18,52,020	1.44	0.44
	20 MW capacity	August 2007 to February 2009	13,08,34,970	2.61	0.67
Total			34,18,58,451	6.83	1.69

After we pointed out the cases, the Government sated in October 2010 that after deducting the exports (sales to GRIDCO) from the gross power generation, provisional ED demand of ₹ 3.03 crore including interest of ₹ 0.25 crore was raised in March 2010 against M/s Arati Steel Ltd. Similarly ED of ₹ 5.16 crore was levied against M/s Shree Metaliks Ltd. in July 2009. Since the latter industry had disputed the matter action would be taken for realisation of ED and interest after final disposal of the writ petition preferred by it before the Hon'ble High Court of the State. Further reports are yet to be received (December 2010).

8.3.3 Escapement of ED on deemed consumption

As per the OED Act, 1961 and Rules made thereunder read with Government notification dated 1 January 2006, ED is levied and paid on self consumption of energy by any person generating energy at the rate of 20 paise per unit. Further, as per the notification of Government of India of March 1992, circulated by the Chief Electrical Inspector (CEI) in March 2003, the maximum transformation loss in respect of HEP is limited to 0.5 per cent of the gross generation of energy.

8.3.3.1 During test check of the records of SE(P) & EI, Keonjhar in July 2009, we noticed that Orissa Hydro Power Corporation Ltd. (OHPCL) generated 1,865.148 MU of energy during 2007-08 and 2008-09. By allowing 9.326 MU towards admissible transformation loss at the rate of 0.5 per cent of generation, the company was required to pay ED on the balance 1,855.822 MU of energy. We noticed that the company had disclosed sale of 1,814.894 MU of energy to GRIDCO; auxiliary consumption of 3.221 MU and colony consumption of 21.869 MU on which ED had been paid. Hence, the balance 15.838 MU of energy was exigible to ED at the rate of ₹ 2 lakh per MU by treating the same as deemed self consumption of energy by OHPCL. This resulted in escapement of ED of ₹ 31.68 lakh.

After we pointed out the case, the Government stated (October 2010) that the transformation loss was not consumption of energy of levy of ED as per the verdict of the Hon'ble Supreme Court of India in the case of "State of Mysore Vrs West Coast Papers Mills Ltd. and another" reported in AIR 1975 and the notification of the Government of India and orders of Central Electricity Regulatory Commission (CERC) for adoption of the norm of transformation loss were simply guidelines for ideal performance of the HEPs. As per the report of the High Level Technical Committee (HLTC) set up by the department, the 30 *per cent* old inefficient generators, transformers and auxiliary equipments of Rengali HEP were allowed to continue in public interest in order to avoid draining of heavy resources for replacement of the same even if there was nominal extra transformation loss. The contention of the Government is not tenable because admissible transformation loss was prescribed by the Government of India and the same was upheld by the CERC in October 2000 after thorough examination of the operational norms and the loss levels of HEPs throughout the country and taking into account the technical and administrative problems faced by them. Moreover, the OED Act and Rules do not provide a definition of consumption excluding transformation loss so far. The fact remains that the norms fixed was circulated by the CEI of the State in March 2003 for compliance in the interest of revenue of the State, but the same was not adhered to by the HEP which resulted in escapement of ED.

8.3.3.2 During test check of the records EI, Balasore, Berhampur, Bhubaneswar and Rourkela in July-August 2009 and January-February 2010 and information collected from the four DISTCOs, we noticed short levy of ED of ₹ 37.66 crore in case of DISTCOs as the jurisdictional EIs did not take into cognisance the leviability of ED on the balance units of energy (for which electricity charges were payable by DISTCOs to GRIDCO) after selling to EHT consumers and allowing the admissible percentage of loss on transmission and distribution of energy fixed by OERC. The DISTCO-wise details of purchase and sale of energy and short levy of ED are given in **Annexure-XI**. An illustrative case is given below.

As per the OED Act, 1961 and Rules made thereunder read with notification of Government dated 1 January 2006, ED at the rate of six paise per unit is leviable on the energy consumed by a licensee or board in its own premises. Further, the OERC prescribed the norms for reduction of T&D loss ranging upto 25 to 33 *per cent* of drawal of energy from GRIDCO by the energy distributing companies (DISTCOs) of the State i.e. CESU, WESCO, SOUTHCO and NESCO for the years 2006-07, 2007-08 and 2008-09 excluding the energy sold by them to the EHT category of consumers.

During test check of records of EI, Balasore in July 2009 and collection of information from the corporate office of a DISTCO (NESCO), we noticed that the above company purchased 4,544.978 MU of energy during the year 2008-09 and sold 1,448.636 MU to EHT consumers. Thus the net energy available with the company stood at 3,096.342 MU from which 789.567 MU

was to be allowed towards T&D losses at the rate of 25.5 *per cent* as per the norms fixed by the OERC leaving a balance of 2,306.775 MU of energy on which ED was to be levied and realised at appropriate rates. But the company exhibited ED on sale of 1,525.073 MU of energy only and did not pay ED on balance 781.702 MU of energy which was consumed by them. This led to short levy and short realisation of ED of ₹ 4.69 crore at the rate of ₹ 60,000 per MU from the company which could not be detected by the EI.

After we pointed out the cases, the Government stated, in October 2010, that the loss of ED on account of T&D loss is not correct since such loss cannot be treated as consumption of electricity in view of the judgment of Hon'ble Supreme Court of India (AIR 1975) in case of State of Mysore Vrs. West Coast Paper Mills Ltd. recently referred to by the Hon'ble High Court of Orissa in the judgement dated 6 May 2010 in case of NALCO Ltd. Vrs. State of Orissa in OJC No. 2682. Therefore, the payment of ED by M/s CESU, WESCO, SOUTHCO and NESCO do not arise. Further, it was stated that OERC had recommended admissible T&D loss for efficiency of the system and stressed in their guidelines to minimise losses of different years to improve efficiency of the system. The department also contended that the T&D loss was caused because the load centers were at long distance of generating stations of T&D network. The views of the Government is not acceptable because in the post regulatory regime of energy distribution system after introduction of the Orissa Electricity Reform Act, 1995 no amendment of the OED Act and Rules with specific definition of the word "consumption" of energy excluding T&D losses has been made so far to support the views of the Government. With due honour to the judgement of the Apex Court, we did not comment on the leviability of ED on the loss sustained up to the limit fixed by the OERC after examining the T&D loss levels by various utilities of the country vis-à-vis the utilities of the State and taking into account all technical and administrative problems faced by them. Moreover, OERC directed (not recommended) the DISTCOs to attain the same. As losses on account of under achievement of loss reduction target are to be entirely borne by the licensee in terms of regulation 3(c) of the Orissa Electricity Regulatory Commission (Terms and Condition for Determination of Tariff) Regulation, 2004 the DISTCOs are required to bear the ED liability on the excess exhibition of T&D loss as it is treated as deemed consumption of energy by them. The fact remains that short levy of duty against the DISTCOs has been ignored by the departmental authorities against the interest of revenue of the State.

Home Department

8.4 Non-compliance of the provisions of Acts and Rules

We noticed cases of non-compliance of the provisions of the Police Act, 1861 and Rules made thereunder regarding deployment of police personnel to borrowing departments of Government and other organisations on average cost recovery basis and raising of correct demands on that score in time which resulted in short demand of ₹ 29.97 crore.

8.4.1 Short levy of deployment charges of police personnel

As per the Police Act, 1861 and Rules made thereunder, demand for average cost of pay and allowances along with leave salary contribution, pension contribution and other direct entitlements in respect of permanent police personnel deployed in different establishments of the Union/State Government and other organisations are levied annually.

During test check of records of State police headquarters (SPH) and 19 district police headquarters² (DPHs) between November and December 2009, we noticed that demands for average cost of deployment of police personnel in 80 borrowing agencies for the period from

January 2006 to March 2009 were raised as per the pre-revised pay scales. The demand for differential average cost as per the revised pay scales of the Sixth Pay Commission adopted by the department with effect from 1 January 2006 for the said period was not raised. This resulted in short levy of deployment charges of police personnel of ₹ 29.97 crore. The borrowing agency-wise short levy of demands of police receipts are detailed in the **Annexure-XII**. An illustrative case is given below.

During test check of records of SPH in December 2009, we noticed that demands of ₹ 2.87 crore, as per the pre-revised scales of pay and allowances etc. in respect of 63 police personnel of different cadres deployed in Reserve Bank of India (RBI), Bhubaneswar for the period from January 2008 to March 2009 were raised on average cost basis. The revised demands after the adoption of the revised pay scale effective from January 2006 in respect of the above staff worked out to ₹ 6.38 crore. But the SPH did not raise differential demands for ₹ 3.51 crore against RBI which resulted in short levy of deployment charges.

After we pointed out the cases, the Government stated in August 2010 that all DPHs were directed to submit the differential demand as per the revised cost of police guards. A report on further development is yet to be received (December 2010).

² Deputy Commissioner of Police, Bhubaneswar and Cuttack, Superintendent of Police, Railways, Cuttack and Rourkela, Superintendent of Police, Balasore, Bargarh, Gajapati, Ganjam, Berhampur, Jajpur, Kendrapara, Khurda, Koraput, Mayurbhanj (Baripada), Nayagarh, Puri, Rourkela, Sambalpur and Commandant 1st Battalion OSAP, Charbatia.

Fisheries and Animal Resources Development Department

8.5 Irregular implementation of the State Reservoir Fishery Policy/non-compliance to decisions/guidelines of Government for leasing out the departmental fish farms

The State Reservoir Fishery (SRF) Policy, 2003 stipulated for timely leasing out the fishing rights of reservoirs above 40 hectares of Mean Water Spread (MWS) area³ to:-

- (i) interested Primary Fishermen Cooperative Societies (PFCS), Self Help Groups (SHGs) etc. against prescribed rates of lease value and royalty; and
- (ii) private individuals/entrepreneurs/public undertakings/ registered companies etc. through open auction/sealed tender against receipt of bid values in time for eventual credit to Government account in time and execution of registered agreements with the lessees for such fishing rights in the prescribed format.

Further, the Orissa Treasury Code (OTC), 1943 prohibits departmental expenditure from the departmental receipts of sale proceeds.

We noticed that some of the above provisions had not been complied with which resulted in loss, non/short realisation as well as non-remittance of revenue of ₹ 9.24 crore as mentioned in paragraphs 8.5.1 to 8.5.4.

8.5.1 Short realisation of revenue against leased out reservoirs

As per the SRF Policy, initial settlement of the lease/auction of reservoirs as well as renewal thereof was to be done through execution of approved agreements. In case of unsatisfactory performance and violation of stipulated terms and conditions, the lease/auction should be cancelled at any time with due notice and the possession of lease area should be taken back by the department and damage claim may be made against the lessee.

During test check of records of 11 Assistant Director of Fisheries (ADFs) between October 2009 and January 2010, we noticed short realisation of revenue of ₹ 2.22 crore in respect of 45 reservoirs as the ADFs failed to apply the provisions of the SRF policy. ADF-wise details are given in **Annexure-XIII**.

After we pointed out the cases, the Government stated in July 2010 that the F&ARD Department was expediting the case to realise the lease values from the defaulting agencies. A report on realisation of lease values is yet to be received (December 2010).

³ The average of maximum and minimum water spread area.

8.5.2 Loss of revenue due to non-leasing of reservoir

As per the SRF Policy, Orissa, 2003, the fishing rights of reservoirs above 40 hectares of MWS area were transferred to the F&ARD Department for leasing out the same to the PFCS formed under the Orissa Co-operative Societies Act, 1962 or SHGs formed under the Orissa Self-Help Co-operative Act, 2001 against receipt of prescribed lease value. In case of major and medium reservoirs, the lease value will be ₹ 200 per hectare per year, of which ₹ 40 per hectare per year will be deposited into the Government account. In case of minor reservoirs the lease value will be ₹ 300 per hectare per year of which ₹ 60 per hectare per year will be deposited into the Government account. Besides, royalty shall be collected along with the lease value at the rate of ₹ 10, ₹ 20 and ₹ 40 per hectare per annum in respect of major, medium and minor reservoirs respectively and deposited into the Government account. Where no PFCS can be formed or the existing PFCS do not show interest in taking the reservoir on lease, the said reservoir will be leased out through open auction/sealed tenders and the entire lease value/royalty would be deposited into the Government account.

During test check of records of nine ADFs between October and December 2009, we noticed loss of revenue of ₹ 6.84 crore⁴ due to non-leasing of 10 reservoirs during 2004-05 to 2008-09. The ADF-wise details of loss of revenue are given in **Annexure-XIV**. An illustrative case is given below.

During test check of records of ADF, Bargarh in December 2009 we noticed that the MWS area of Hiraikud Major Reservoir (Sector-VI) was determined as 2,963 hectares in July 2004 by a

technical committee formed by the department. The department, however, failed to lease out the reservoir to any of the PFCS/SHGs or to private individual/entrepreneurs/public undertakings etc. through open auction or sealed tenders during the fishing years 2004-05 to 2008-09 even though the Government in its orders of June 2004 specifically instructed the field functionaries to do so. Thus, inaction on the part of the ADF led to loss of Government revenue of ₹ 31.11 lakh.

After we pointed out these cases, the Government stated, in July 2010, that although they instructed in June 2004 to lease out the reservoirs to the PFCS or to private individuals etc. through open auction, the members of PFCS, being poor, were unwilling to take the reservoirs on lease as the lease value and royalty were fixed at higher rates. Besides, open auction was invited for some reservoirs as per the policy of the Government, but no offer was received from suitable bidders. Further, they added that re-fixation of lease value was under consideration of the Government. The fact remains that the Government sustained loss due to unrealistic fixation of lease value and royalty in their fishery policy of 2003 and inaction on the part of the ADFs.

⁴ Lease value of ₹ 6.47 crore and royalty of ₹ 36.77 lakh.

8.5.3 Loss/non-realisation of revenue due to non-registration of lease deeds

As per the Indian Stamp Act, 1899 and Registration Act, 1908 read with the Orissa Stamp Amendment Rules, 2003 and Government notification dated 30 January 2001, lease deed of an immovable property is required to be registered against payment of stamp duty (SD) and registration fee (RF) at the prescribed rate of the lease value at the time of lease.

During test check of records of six ADFs in November and December 2009, we noticed loss of SD and RF of ₹ 1.86 lakh as the ADFs failed to register the lease deeds of 27 fish farms within the period of validity of the lease while SD and RF of ₹ 0.29 lakh was not realised in respect of two fish farms though the leases were still valid till the date of audit. The ADF-wise loss/

non-realisation of SD and RF in respect of 29 fish farms are detailed in **Annexure-XV**.

After we pointed out the case, the Government stated in July 2010 that for registration of lease deeds, the Director of Fisheries, Orissa was expediting the cases with the concerned registering authority of the district. A report on further development is yet to be received (December 2010).

8.5.4 Non-remittance of sale proceeds

As per the Orissa Treasury Code (OTC), 1943, amounts collected towards sale proceeds are required to be promptly deposited into Government account within seven days of receipt. Further, appropriation of departmental receipts of sale proceeds for departmental expenditure is strictly prohibited by the Finance Department.

During test check of records of six ADFs in November 2009, we noticed that sale proceeds of ₹ 15.98 lakh were unauthorisedly spent by the concerned ADFs towards departmental expenditure instead of remitting the same into the Government treasury. The ADF-wise non-remittance

of sales proceeds of ₹ 15.98 lakh is detailed in **Annexure-XVI**.

After we pointed out the cases, the Government stated in July 2010 that the farms had already received allotment for the year 2010-11 and it was anticipated that in the meantime the remaining sale proceeds of ₹ 15.98 lakh would have been deposited into the treasury. The fact remains that the ADFs were not authorised to do so. Reports on factual position of remittance and action of Government for such unauthorised utilisation of sales proceeds are yet to be received (December 2010).

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