

CHAPTER-V
OTHER TAX RECEIPTS

EXECUTIVE SUMMARY

Marginal increase in tax collection	In 2010-11, the collection of stamp duty and registration fees increased by 37.85 <i>per cent</i> over the previous year which was attributed by the Department to increase in valuation of property.
Internal audit not conducted	No information regarding setting up of internal audit wing in the Department was furnished to us though called for. Further, audit was also not conducted by the Finance Department during this period.
Analysis of arrears of revenue	There was marginal increase in arrears of revenue over the previous year. The Department did not furnish the information regarding addition and clearance of the arrears during the year(s). Figures of arrears outstanding for more than five years were also not made available by the Department. As per the information furnished by the Department, recovery of the entire amount of arrear of ₹ 1.57 crore was held up due to rectification/review of applications.
Results of audits conducted by us in 2010-11	<p>In 2010-11, we test checked the records relating to Electricity duty and entry tax where we found non/short realisation of duty/tax involving ₹ 73 lakh in five cases.</p> <p>During the course of the year, the Department did not intimate about acceptance of our observations.</p>
What we have highlighted in this Chapter	<p>In this Chapter we present illustrative cases of ₹ 48.06 lakh selected from observations noticed during our test check of records during 2009-10 relating to Stamp duty & Registration fees and Electricity duty in the office of the District Sub-Registrar and Dy. Commissioner of Commercial Taxes, where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
Our conclusion	<p>The Department needs to improve the internal control system including arranging for internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. The Department also needs to lower the cost of collection as the percentage of expenditure on collection was significantly higher than the All India average during 2006-11.</p> <p>It also needs to initiate immediate action to recover the non-realisation, undercharge of tax, etc pointed out by us, more so in those cases where it has accepted our contention.</p>

CHAPTER- V : OTHER TAX RECEIPTS

A. STAMP DUTY AND REGISTRATION FEES

5.1 Tax administration

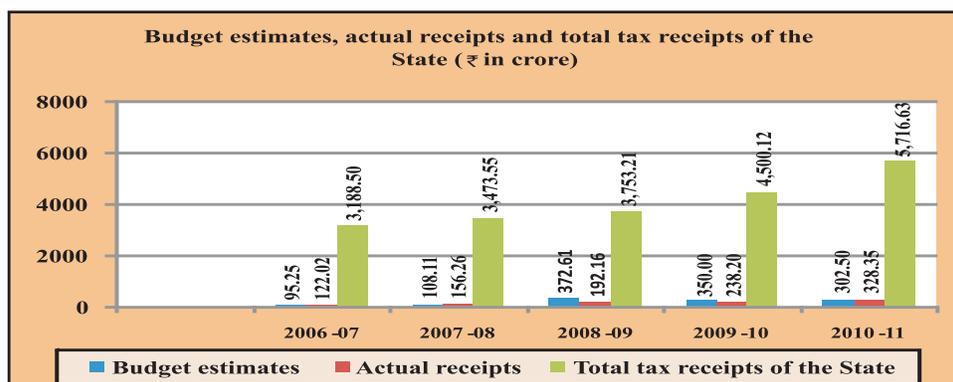
The levy and collection of Stamp Duty and Registration Fees in the State is governed by the Indian Stamp (IS) Act, 1899 and rules made thereunder and the Registration Act, 1908. On creation of the State of Jharkhand with effect from 15 November 2000, the existing Acts, Rules and executive instructions of the State of Bihar were adopted by the State of Jharkhand. At the apex level, the Inspector General of Registration, Jharkhand is responsible for administration of the Acts and Rules in the State. He is assisted by a Deputy Secretary, an Assistant Inspector General (AIG) at the headquarters, an Inspector of Registration and 24 District Sub-Registrars (DSRs)¹ and eight Sub-Registrars (SRs)². The Inspector of Registration is responsible for inspection of all the five divisions³ of the State, while DSRs and SRs are the primary units responsible for levy and collection of stamp duty and registration fees under the IS Act and the Registration Act.

5.2 Trend of receipts

Actual receipts from Stamp Duty and Registration Fees during the period 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and chart:

(₹ in crore)

Year	Budget estimates (BEs)	Actual receipts	Variation excess (+)/shortfall (-)	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	95.25	122.02	(+) 26.77	3,188.50	3.83
2007-08	108.11	156.26	(+) 48.15	3,473.55	4.50
2008-09	372.61	192.16	(-) 180.45	3,753.21	5.12
2009-10	350.00	238.20	(-) 111.80	4,500.12	5.29
2010-11	302.50	328.35	(+) 25.85	5,716.63	5.74



¹ Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ranchi, Ramgarh, Sahebganj, Simdega and Saraikela.

² Barhi, Chakardharpur, Ghatsila, Hussainabad, Jamua, Nagarutari, Rajdhanwar and Tenughat.

³ Dumka, North Chotanagpur, Kolhan, Palamu and South Chotanagpur.

It would be seen from the above that there was wide variation between the BEs and the actuals. It was as high as 45 per cent above the BE during 2007-08 and as low as 48 per cent during 2008-09 below the BE. Further, the BEs for 2007-08 were less than the actuals of the preceding year (2006-07) while during 2008-09 the BEs were more than the actual receipts for 2007-08 by 138 per cent. This indicates that the BEs were not prepared on realistic basis as BEs are an important part of the financial planning of the Government, these should be close to the actuals.

We recommend that the Government may issue suitable instructions for preparing the BEs on a realistic and scientific basis to ensure that these are close to the actual receipts.

5.3 Cost of collection

The gross collection under Stamp Duty and Registration Fees, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2006-07 to 2010-11 are mentioned in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the preceding year
2006-07	122.02	9.86	8.08	2.87
2007-08	156.26	7.81	5.00	2.33
2008-09	192.16	9.91	5.16	2.09
2009-10	238.20	10.98	4.61	2.77
2010-11	328.35	15.39	4.69	2.47

Source : Finance Account of the Government of Jharkhand for the year 2010-11 and Departmental figures.

The above table indicates that the percentage of expenditure on collection was higher than the All India average in each year.

We recommend that the Government may consider looking into the higher cost of collection and take steps to bring it down.

5.4 Working of internal audit wing

No information regarding setting up of internal audit wing in the Department was furnished to us though called for. Further, audit was also not conducted by the Finance Department during this period.

5.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 were ₹ 1.57 crore. The year wise position of arrears of revenue during the period 2006-07 to 2010-11 is depicted below:

(₹ in crore)

Year	Opening balance of arrears	Closing balance of arrears
2006-07	1.54	1.42
2007-08	1.42	1.63
2008-09	1.63	1.45
2009-10	1.45	1.53
2010-11	1.53	1.57

Though there was marginal increase in arrears of revenue from the previous

year, the Department did not furnish information regarding addition and clearance of the arrears during the year(s). Figures of arrears outstanding for more than five years were also not made available by the Department. As per the information furnished by the Department, recovery of the entire amount of arrear of ₹ 1.57 crore was held up due to rectification/review of applications.

The Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring.

5.6 Results of audit

Our test check of the records relating to electricity duty and entry tax in 2010-11 revealed non/short levy of duty/tax involving ₹ 73 lakh in five cases which fall under the following categories:

(₹ in lakh)

Sl. No.	Categories	No. of cases	Amount
Electricity Duty			
1	Short levy of electricity duty	1	46.00
2	Non/short levy of surcharge	1	17.00
3	Other cases	2	0.00
	Total	4	63.00
Entry Tax			
1	Non/short levy of tax	1	10.00
	Total	1	10.00
Grand total		5	73.00

During the course of the year, the Department did not intimate about acceptance of our observations.

In this Chapter we present a few illustrative cases of recoverable financial implication of ₹ 48.06 lakh pointed out by us during 2009-10, out of which the Government/Department has accepted audit observation of ₹ 48.06 lakh.

5.7 Non-observance of the provisions of Acts/Rules

The Indian Stamp Act, 1899 (as adopted by the Government of Jharkhand), the Registration Act, 1908, Bihar Government Estate (Khas Mahal) Manual, 1953, Bihar Electricity Duty Act, 1948, Bihar Financial Rules (as adopted by the Government of Jharkhand) and Rules made thereunder provide for:

- (i) *payment of registration fee at the prescribed rate;*
- (ii) *payment of stamp duty by the executants at the prescribed rate;*
- (iii) *non-disposal of leasehold land by sale; and*
- (iv) *payment of electricity duty at the prescribed rate.*

We noticed that the Registration Department did not observe some of the provisions of the Act/Rules in cases as mentioned in the succeeding paragraph:

5.8 Misclassification of instruments

Under the provisions of Government Estates (Khas Mahal) Manual, a leasehold land cannot be sold. It can, however, be leased or sub-leased to different persons. Stamp duty is chargeable as per Schedule I-A to Indian Stamp Act. Further, registration fee is chargeable at the rate of four *per cent* of consideration value in case of lease deeds while it is one *per cent* in case of sale deeds. Further, it has judicially been held* that in determining stamp duty payable on a document, the substance of the transaction has to be looked into and not merely the operative part of the instrument.

* Smt. Hemanta Kumari Patnaik Vrs. Surya Narayan Acharya AIR 1992 Orissa I.

We test checked (May 2010) the sale deeds in DSR, Jamshedpur which indicated that Tata Steel Ltd. (lessee) sub-leased (between 1931 and 1937 and renewed between 1965 and 1972) portion of leasehold land to 14 sub-lessees who after constructing some structures or otherwise sold out (between May and December 2008) the land and structures to other persons. The sub-lessee was authorised to transfer the property with prior permission of lessee under the paramount

ownership of the State Government. Though the plot of land mentioned in these deeds belongs to the State Government and was leased to Tata Steel Ltd., the registering authority classified the documents as sale deeds instead of transfer of sub-lease deeds and charged registration fees at the rate of one *per cent*, applicable for sale deeds, instead of four *per cent*, applicable for lease/transfer deeds. This resulted in incorrect execution of sale deeds of Government land besides non-fixing of responsibilities of erring officials/officers.

After this was pointed out, the DSR stated (May 2011) that documents were presented as sale deed for registration and the registering authority has no power to verify the title. The reply was not in consonance with the provisions of the Act and judicial pronouncement as mentioned *ibid*. The nature of documents should have been decided on whole of the contents of the document and not merely on the operative part of the instrument.

We reported the matter to the Department in June 2011 followed by a reminder in September 2011; their reply has not been received (February 2012).

B. ELECTRICITY DUTY

5.9 Short levy of electricity duty

Under the provisions of the Bihar Electricity Duty Act, 1948 as adopted by the Government of Jharkhand, the rate of electricity duty for mining purposes in all premises where the total load exceeded 100 British Horse Power is 15 paise per unit of energy sold or consumed. The duty on sale of electrical energy for industrial purposes is leviable at the rate of two paise per unit. It has judicially been held* that the process of mining comes to an end only when the ore extracted from the mines is washed, screened, dressed and then stacked at the mining site.

* Chowgule & Co. Vrs Union of India (1981) 47 STC-124 SC

We noticed (November 2009) during test check of assessment records in Katras commercial taxes circle that an assessee sold 3.70 crore units of electrical energy to a coal washery during 2002-03 and 2003-04. As such, the electricity duty was to be levied at the rate of 15 paise per unit as the entire electrical energy was used for mining purposes. The assessing authority (AA) while finalising the assessment for 2002-03 and 2003-04 in September 2006

incorrectly treated it as an industrial process and levied duty at the rate of two paise per unit. This resulted in short levy of electricity duty of ₹ 48.06 lakh.

After we pointed out the matter, the AA raised additional demand of ₹ 48.06 lakh in July 2011. Report on realisation is awaited (February 2012).

We reported the matter to the Government in June 2011 followed by a reminder in September 2011; their reply has not been received (February 2012).