

CHAPTER-VI

OTHER TAX RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter

In this Chapter we present illustrative cases of ₹ 3.69 crore selected from observations noticed during our test check of records during 2011-12 relating to Stamps and Registration fees and Taxes and Duties on Electricity 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.

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.

Marginal increase in tax collection

In 2011-12, the collection of Stamps and Registration Fees increased by 22.18 *per cent* over the previous year which was attributed by the Department to growth in real estate sector. We are of the view that the Department needs to streamline its budgeting process as significant variations between Revised budget estimates and Actual receipts were noticed persistently.

In 2011-12, the collection of Taxes and Duties on Electricity increased by 36 *per cent* over the previous year which was attributed by the Department to enhancement in the rate of Electricity Duty with effect from June 2011.

Internal audit not conducted

No information regarding setting up of an 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

Arrears of revenue remained virtually stagnant over the previous year. The Department did not furnish information regarding addition and clearance of the arrears during the year(s) as well as arrears outstanding for more than five years. 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 in impounded and referred cases.

Results of audits conducted by us in 2011-12

In 2011-12, we test checked the records relating to Stamps and Registration Fees and Taxes and Duties on Electricity where we found non/short realisation of duties, fees etc involving ₹ 8.74 crore in 1,335 cases. During the year 2011-12, the Departments accepted audit observations in 862 cases involving ₹ 3.69 crore.

Our conclusion

The Registration 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 2007-12.

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.

CHAPTER-VI: OTHER TAX RECEIPTS

A. STAMPS AND REGISTRATION FEES

6.1 Tax administration

The levy and collection of Stamps and Registration fees in the State of Jharkhand 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 the head of the Registration Department and is responsible for administration of the Acts and Rules in the State. He is assisted by a Deputy Secretary, an Assistant Inspector General at the Headquarters, an Inspector of Registration, 24 District Sub Registrars (DSRs¹) and eight Sub Registrars (SRs²). 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 Stamps and Registration fees under the IS Act and the Registration Act.

6.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned administrative department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

The revised Budget Estimates (REs) and actual receipts from Stamps and Registration fees during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and chart:

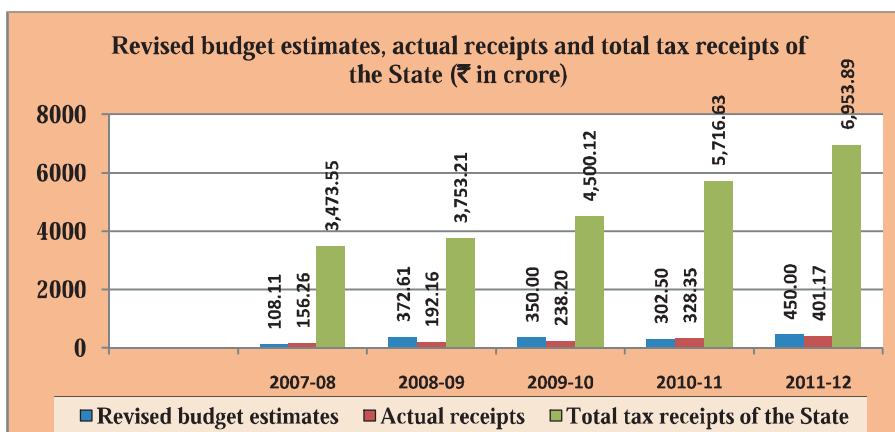
(₹ in crore)						
Year	Revised budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	108.11	156.26	(+) 48.15	(+) 44.54	3,473.55	4.50
2008-09	372.61	192.16	(-) 180.45	(-) 48.43	3,753.21	5.12
2009-10	350.00	238.20	(-) 111.80	(-) 31.94	4,500.12	5.29
2010-11	302.50	328.35	(+) 25.85	(+) 8.55	5,716.63	5.74
2011-12	450.00	401.17	(-) 48.83	(-) 10.85	6,953.89	5.77

Source: Finance Accounts for the year 2010-11 and revised estimates as per the Statement of Revenue and Receipts of 2012-13 of the Government of Jharkhand.

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

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

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



It would be seen from the above that there was wide variation between the REs and the actual receipts. The actual receipts were as high as 45 per cent above the RE in 2007-08 and as low as 48 per cent below the RE in 2008-09. In response to our query, the Finance Department stated (October 2012) that the budget is fixed after detailed discussion with the concerned Administrative Department and on the basis of the average of the last three years' actual receipts. However, we observed that the RE in 2011-12 was as high as 78 per cent when compared to the average of the last three years' actual receipts. This indicates that the budget estimates were not prepared on a realistic basis as per provisions of the Budget Manual. The Department attributed the reason for shortfall in receipts against the BE during 2011-12 to the fact that lesser number of instruments were presented for registration.

We recommend that the Department may consider streamlining its budgeting process as significant variations between the budget estimates and actual receipts were noticed persistently.

6.3 Cost of collection

The gross collection under Stamps and Registration fees, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the period 2007-08 to 2011-12, along with the all-India average percentages for the relevant preceding years are mentioned in the following table:

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the preceding year
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
2011-12	401.17	11.34	2.83	1.60

Source: Finance Accounts of the Government of Jharkhand.

The above table indicates that the percentage of expenditure on collection of Stamps and Registration fees was significantly higher than the all-India average each year though it has shown a decreasing trend in 2011-12, which is encouraging.

We recommend that the Government may look into the high cost of collection and take steps to bring it down further to the level of the all-India averages.

6.4 Working of Internal Audit Wing

No information regarding setting up of an Internal Audit Wing in the Department was furnished to us though called for (June 2012). Further, audit of the Registration Department was also not conducted by the Finance Department in 2011-12.

6.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 were ₹ 1.57 crore. The year-wise position of arrears of revenue during the period 2007-08 to 2011-12 is depicted below:

Year	₹ in crore)	
	Opening balance of arrears	Closing balance of arrears
2007-08	1.42	1.63
2008-09	1.63	1.45
2009-10	1.45	1.53
2010-11	1.53	1.57
2011-12	1.57	1.57

Source: Information furnished by the Registration Department

The Department did not furnish information regarding addition and clearance of the arrears during this period. As per the information furnished (September 2012) by the Department, recovery of the entire amount of arrear of ₹ 1.57 crore was held up due to rectification/review of applications in impounded and referred cases.

6.6 Results of Audit

Our test check of the records of 13 units relating to Stamps and Registration fees in 2011-12 revealed non/short levy of duty involving ₹ 2.02 crore in 1,325 cases which fall under the following categories:

Sl. No.	Categories	₹ in lakh)	
		No. of cases	Amount
1	Short levy due to misclassification of documents	1	0.40
2	Short realisation of Stamps and Registration fees due to late receipt of revised rates	1	0.002
3	Blocking of Government revenue due to non-disposal of impounded/referred cases	85	18.49
4	Other cases	1,238	183.43
Total		1,325	202.32

During the course of the year, the Department accepted non-levy of Stamps and Registration fees and penalty of ₹ 1.70 crore in 858 cases pointed out by us during 2011-12.

In this chapter we present a case on non-execution of lease deeds having recoverable financial implication of ₹ 1.70 crore.

Audit observations

6.7 Non-observance of provisions of Acts/Rules

The Indian Stamp Act, 1899 and the Registration Act, 1908 and Rules made thereunder provide for:

- (i) *payment of Stamp duty by the executants at the prescribed rate;*
- (ii) *payment of Registration fee at the prescribed rate; and*
- (iii) *registration of documents within the prescribed time limit.*

We noticed that the Registration Department did not observe the provisions of the Act/Rules in the case mentioned below:

6.8 Non-execution of lease deeds

Under the provisions of Section 17(1) (d) of the Registration Act, 1908, leases of immovable property for any term exceeding one year are to be compulsorily presented for registration within four months from the date of their execution. Stamp duty is chargeable as per Schedule I- A of Section-3 of the Indian Stamp Act and registration fees are leviable as per Table of Fees determined by the Government of Jharkhand from time to time. Further, as per Rule 47 of the Bihar Registration Rules, 1937 (as adopted by Jharkhand) if the documents are presented for registration after four months of their execution, the Registrar, after deciding that such documents should be registered, may direct the concerned District Sub-Registrars to register the documents after payment of fines not exceeding 10 times the registration fee as prescribed under Section 25 or Section 34 of the Registration Act, 1908.

We collected information (September to December 2011) from the Jharkhand State Pollution Control Board, Ranchi in respect of 20 mobile service providers⁴ and found that these companies had entered into lease agreements between 2007-08 and 2011-12 with land/building owners for erection of 858 mobile towers in five districts⁵, for periods between 4 years 11 months and 20 years on payment of annual rent in excess of rupees one hundred. We cross-checked this information with the records of the concerned

District Sub-Registrars (DSRs), but found that these lease documents were not presented for registration, though required to be registered under the Registration Act within four months from the date of execution of the lease agreements. Thus, owing to absence of a mechanism for cross-verification of information between

⁴ Wireless TT Info Services Ltd, Aditya Birla Telecom Ltd, Idea Cellular Infrastructure India Ltd, IDEA Cellular Infrastructure Services Ltd, Quippo Telecom Infrastructure Ltd, Bharti Infrate Ltd, Essar Telecom Infrastructure Ltd, ATC Tower Company of India Pvt Ltd, Dishnet Wireless, GTL Infra Ltd, Bharti Airtel Ltd, Tata Tele Services Ltd, Sistema Shyam Tele Services Ltd, Tower vision India Pvt Ltd, Aster Infrastructure Pvt Ltd, Vodafone Essar Spaceltd Ltd, Bharti Cellular, Xcel Telecom Pvt Ltd, ATC India Tower Corp Pvt Ltd and India Telecom Infra Ltd.

⁵ Bokaro, Deoghar, Dhanbad, Jamshedpur and Ranchi.

the Registration Department and other Departments, local bodies, authorities, etc. the Government was deprived of revenue of ₹ 56.28 lakh⁶ in the form of stamp duty and registration fees. Besides, maximum fine of ₹ 1.14 crore was also leviable as these documents were not presented for registration within the stipulated time.

After we pointed out the cases between January and March 2012, the Government accepted (September 2012) the observation and stated that the concerned Departments had been requested to ensure presentation of lease deeds for registration before issuing 'No Objection Certificate'. Further reply has not been received (February 2013).

We recommend that the Government may consider evolving a mechanism for inter-departmental exchange of information to ensure that documents required to be registered are presented for registration within the prescribed time limit.

6

(Amount in ₹)

Name of the DSR office	No. of agreements executed	Period	Consideration value	Rate of Stamp Duty	Stamp Duty leviable	Rate of Registration Fee upto 17.5.11-1% and from 18.5.11-3%	Registration Fee leviable	Total
DSR, Ranchi	11	11/2007 to 04/2010	7,64,400	3%	22,932	1%	7,644	30,576
	224	05/2007 to 03/2011	3,66,72,000	4%	14,66,880	1%	3,66,720	18,33,600
DSR, Bokaro	20	09/2008 to 09/2009	18,96,000	3%	56,880	1%	18,960	75,840
	108	06/2006 to 09/2010	95,67,600	4%	3,82,704	1%	95,676	4,78,380
DSR, Dhanbad	247	04/2007 to 02/2011	2,99,42,400	4%	11,97,696	1%	2,99,424	14,97,120
DSR, Deoghar	65	05/2007 to 03/2011	56,53,128	4%	2,26,125.12	1%	56,531.28	2,82,656.40
DSR, Jamshedpur	4	12/2008 to 11/2009	3,49,200	3%	10,476	1%	3,492	13,968
	177	04/2007 to 11/2010	2,77,75,200	4%	11,11,008	1%	2,77,752	13,88,760
	2	10/2011	3,84,000	4%	15,360	3%	11,520	26,880
Total	858		11,30,03,928		44,90,061.10		11,37,719.30	56,27,780.40

B. TAXES AND DUTIES ON ELECTRICITY

6.9 Tax administration

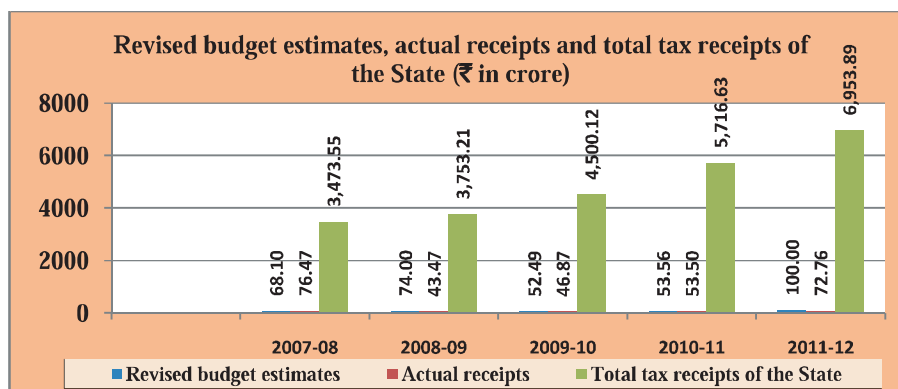
The Commercial Taxes Department is responsible for levy and collection of Taxes and Duties on Electricity under the provisions of the Bihar Electricity Duty Act, 1948 (BED Act) and Rules framed thereunder (adopted by the Government of Jharkhand). The Secretary-cum-Commissioner of Commercial Taxes, assisted by an Additional Commissioner, three Joint Commissioners of Commercial Taxes (JCCT), three Deputy Commissioners of Commercial Taxes (DCCT) and two Assistant Commissioners of Commercial Taxes (ACCT) at the Headquarters, is responsible for administration of the Act and Rules in the Department. The State is divided into five Commercial Taxes Divisions⁷ each under the charge of a JCCT (Admn.) and 28 circles, each under the charge of a DCCT/ACCT of the circle. The DCCT/ACCT assisted by Commercial Taxes Officers, is responsible for levy and collection of Taxes and Duties on Electricity.

6.10 Trend of receipts

The revised budget estimates (RE) and actual receipts from Taxes and Duties on Electricity during the period 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and chart:

(₹ in crore)						
Year	Revised 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	68.10	76.47	(+) 8.37	(+) 12.29	3,473.55	2.20
2008-09	74.00	43.47	(-) 30.53	(-) 41.26	3,753.21	1.16
2009-10	52.49	46.87	(-) 5.62	(-) 10.71	4,500.12	1.04
2010-11	53.56	53.50	(-) 0.06	(-) 0.11	5,716.63	0.94
2011-12	100.00	72.76	(-) 27.24	(-) 27.24	6,953.89	1.05

Source: Finance Accounts and revised estimates as per Statement of Revenue and Receipts of 2012-13 of Government of Jharkhand.



The revised estimates in 2011-12 were as high as 109 per cent of the average of the last three years' actual receipts. The Department attributed (August 2012) the reason for increase in the RE to enhancement in the rate of electricity duty with effect from June 2011.

⁷ Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Parganas.

6.11 Results of Audit

Our test check of the records relating to Taxes and Duties on Electricity in 2011-12 revealed non/short levy of duty/tax involving ₹ 6.72 crore in 10 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Short levy of Electricity Duty	6	2.94
2	Non/short levy of surcharge	4	3.78
Total		10	6.72

During the course of the year, the Department accepted non/short-levy of duty, incorrect rebate on surcharge, etc. of ₹ 1.99 crore in four cases of which three cases involving ₹ 1.83 crore were pointed out in 2011-12 and one case was pointed out in 2010-11.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 1.99 crore which are discussed in the succeeding paragraphs.

6.12 Non-observance of provisions of Act/Rules

The Bihar Electricity Duty Act, 1948 and Rules made thereunder, as adopted by the Government of Jharkhand, provide for payment of electricity duty and surcharge at the prescribed rates.

We noticed that the Commercial Taxes Department did not observe the provisions of the Act/Rules in the cases mentioned in the succeeding paragraphs.

6.13 Short levy of Electricity Duty

Under the provisions of the Bihar Electricity Duty Act, 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 *paisa* per unit of energy sold or consumed. The duty on sale of electrical energy for industrial purposes is leviable at the rate of two *paisa* per unit. It has been judicially 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. Vs Union of India (1981) 47 STC-124 SC

We noticed (September 2011) during test-check of the assessment records in Jharia Commercial Taxes Circle that three assessees consumed 14.05 crore units of electrical energy for mining purposes during the period between 2002-03 and 2009-10. As such, electricity duty was to be levied at the rate of 15 *paisa* per unit. The Assessing Authority

(AA), while finalising the assessments between March 2007 and August 2010, incorrectly treated the electricity consumed as industrial consumption and levied duty at the rate of two *paisa* per unit. This resulted in short levy of electricity duty of ₹ 1.83 crore.

After we pointed out the cases (May 2012), the Department/Government accepted the observation and stated (September 2012) that additional demand of ₹ 1.40 crore had been raised against two assessees while notice for hearing was issued in the third case. However, report on realisation is awaited (February 2013).

6.14 Incorrect allowance of rebate on surcharge

Under the provisions of the BED Act and Rules made thereunder, as adopted by the Government of Jharkhand, an assessee who deposits the amount of duty payable within the prescribed time limit, shall be allowed a rebate at the rate of one *per cent* of the amount of duty payable. Rebate on surcharge is not admissible as per section-3A of the BED Act.

We noticed (August 2010) during scrutiny of the assessment orders of a licensee in Jamshedpur Urban Commercial Taxes Circle that the AA, while finalising the assessments between February 2010 and July 2010, for the period 2004-05 to 2007-08, incorrectly allowed rebate of one *per cent* on the surcharge of ₹ 16.33 crore which was contrary to the

provisions of the Act mentioned *ibid*. This resulted in underassessment of electricity duty of ₹ 16.33 lakh due to incorrect allowance of rebate on surcharge.

After we pointed out the case (May 2012), the Government stated (September 2012) that additional demand for ₹ 16.33 lakh had been raised. However, a report on realisation is awaited (February 2013).