

CHAPTER-V
OTHER TAX RECEIPTS

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A. LAND REVENUE

5.1 Tax administration

The Bihar Tenancy Act, 1885, Chotanagpur Tenancy Act, 1908, Santhal Parganas Act, 1949, Bihar Land Reforms Act, 1950, Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, Bihar Bhoodan Act, 1954, Bihar Government Estate (*Khas Mahal*) Manual, 1953, Bihar Public Land Encroachment Act, 1956, Bengal Cess Act, 1880 and Executive orders issued by the Revenue and Land Reforms Department, Government of Jharkhand from time to time governing land revenue in Jharkhand are administered by the Secretary/Commissioner of the Revenue and Land Reforms Department. All important cases of settlement, framing of policies and sanction of alienation of Government land are decided at the Government level. The State is divided into five divisions¹ each headed by a Divisional Commissioner and 24 districts² each headed by a Deputy Commissioner. At the district level the Deputy Commissioner is assisted by the Additional Collector/Additional Deputy Commissioner (AC/ADC). Districts are divided into sub-divisions headed by a Sub-Divisional Officer (SDO) who is assisted by a Deputy Collector Land Reforms (DCLR). The sub-divisions are divided into circles each headed by a Circle Officer (CO).

The various receipts under ‘Land Revenue’ are land rent, *salami*³, commercial/residential rent, cess⁴ etc.

5.2 Results of audit

During 2013-14 we test checked the records of 30 units of Land Revenue, having revenue collection of ₹ 2.33 crore, out of 307 units. The test checked units revealed non/short levy of cesses and/or interest on arrears of cess, non/short fixation of *salami* and commercial rent, non-settlement of vested lands etc. involving ₹ 384.09 crore in 98 cases as detailed in **Table – 5.2**.

Table – 5.2

Sl. No.	Categories	Number of cases	(₹ in crore)
			Amount
1	Non/short levy of cesses/interest on arrears of cess	4	365.90
2	Non/short fixation of <i>salami</i> and commercial rent	5	1.90
3	Non-settlement of vested lands	8	0.78
4	Non-settlement of <i>sairats</i>	3	0.08
5	Other cases	78	15.43
Total		98	384.09

¹ South Chotanagpur (Ranchi), North Chotanagpur (Hazaribag), Santhal Parganas (Dumka), Palamu (Medininagar) and Kolhan (Chaibasa).

² Bokaro, Chatra, Dhanbad, Dumka, Deoghar, East Singhbhum, Garhwa, Godda, Giridih, Gumla, Hazaribag, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahebganj, Saraikela-Kharsawan, Simdega and West Singhbhum.

³ *Salami* is the market value of the land.

⁴ Education cess: 50 per cent, Health cess: 50 per cent, Agriculture Development cess: 20 per cent and Road cess: 25 per cent of the rent (Total 145 per cent).

During the course of the year, the Department accepted non-levy of *salami*, capitalised value of rent, cess etc. of ₹ 4.91 crore in 17 cases, which was pointed out by us in 2013-14.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 5.88 crore. These are discussed in the following paragraphs.

Audit observations

5.3 Non-observance of the provisions of Acts/Rules

The Bihar Government Estates (Khas Mahal) Manual, 1953 and instructions issued from time to time, as adopted by the Government of Jharkhand, provide for:

- (i) *levy of salami on fresh leases equal to prevailing market value of land besides annual rent at the rate of two and five per cent for residential and commercial purposes respectively of such salami; and*
- (ii) *levy of salami and capitalised value of both commercial rent and cess for permanent settlement of Government land.*

The Revenue and Land Reforms Department did not observe diligently the provisions of the Acts/Rules resulting in non/short realisation of Government revenue as mentioned in the succeeding paragraphs:

5.4 Non-raising of demand for capitalised value of cess

By a resolution issued by the Government of Jharkhand in January 2011 under the provisions of the Bihar Estate (Khas Mahal) Manual, 1953 (as adopted by the Government of Jharkhand) in case of permanent transfer of Government land (*Gair Mazarua Khas/Aam* land) for commercial purposes, *salami* equal to prevailing market value of such land and capitalised value of both commercial rent and cess are realisable for transfer of such land. The capitalised value of commercial rent and cess are 25 times of commercial rent and cess respectively.

We noticed (December 2013) during scrutiny of records of permanent transfer of Government land in the three circle offices⁵ under Additional Collector Office, Giridih that 16 *Rajyadesh* out of total 29 *Rajyadesh* (ordinances) were issued between May and June 2011 for transfer of 21.845 acres of *Gair Mazarua* (GM) *Khas/Kaishre Hind* land to Ministry of Railways, Government of India (GOI) for construction of new railway track from Koderma to Giridih, without making provisions for payment of capitalised value of cess as stipulated in the resolution issued by the Government. Thus, a sum of ₹ 4.61 crore on account of capitalised value of cess remained outside the purview of the ordinances due to deviation from the provisions of the resolution.

After we pointed out the cases in December 2013, the Additional Collector, Giridih stated (December 2013) that direction would be issued to concerned circle officers for necessary steps in the interest of revenue. Further reply has not been received (November 2014).

We reported the matter to the Government (March 2014); their reply has not been received (November 2014).

Similar issue featured in Paragraph No. 5.8.1 of Audit Report (Revenue Sector) for the year ending 31 March 2013, where the Department stated (between July 2012 and April 2013) that demand would be raised. Further action taken in this regards has not been received (November 2014).

⁵ Dhanwar, Jamua and Sadar Giridih.

5.5 Non-renewal of lease

Under the provisions of Rule 9 of the Bihar Government Estates (*Khas Mahal*) Manual and the Rules framed thereunder (as adopted by the Government of Jharkhand), the State Government is to issue notices to the lessee six months prior to the expiry of the lease to apply for renewal of such lease, whereas a lessee is required to apply three months prior to expiry of his lease for renewal. Further, a lessee occupying leasehold property without payment of rent and without renewal of lease is to be treated as a trespasser and has no claim for renewal on past terms and conditions. On fresh leases for residential and commercial purposes, *salami* at the current market value of land besides annual rent at the rate of two *per cent* and five *per cent* respectively for residential and commercial purposes of such *salami* is leviable. Further, as per instructions issued in April 1999 by the Revenue and Land Reforms Department, Government of Bihar, the lessees are liable to pay arrears of double the annual rental at the rate proposed in fresh lease from the date of expiry of earlier lease as penal rent together with the interest at the rate of 10 *per cent* on the differential of proposed rent in the new deeds and rent already paid by the lessee.

We test checked (February 2014) the *Khas Mahal* register/ *Khas Mahal* lease records of Anchal Office, Golmuri cum Jugsalai and noticed that out of total 61 leases, three leases of 1.17 acres of *Khas Mahal* land had expired during 2010-11. However, neither did the lessees apply for renewal of the lease either before or after the date of expiry nor did the Department review the *Khas Mahal* register and issue notices to the lessees to apply for renewal, but the lessees continued to occupy the land and thus, were trespassers. The Department did not take action for settlement or eviction of trespassers. Thus, failure on the part of the Department to review the concerned records periodically and take action for review of expired leases resulted in non-realisation of Government revenue of ₹ 97.01 lakh for the period 2010-11 to 2012-13 in the shape of *salami*, penal rent and interest.

After we pointed out the cases in February 2014 the Anchal Adhikari stated (March 2014) that action would be taken after consulting the higher authorities. Further reply has not been received (November 2014).

We reported the matter to the Government in May 2014; their reply has not been received (November 2014).

Similar issue featured in Paragraph No. 5.9 involving ₹ 10.28 crore in 155 leases of Audit Report (Revenue Sector) for the year ending 31 March 2012, where the Department stated (March 2012) that application for fresh lease were being called for and after acceptance action would be taken to settle the fresh leases. In case of non-acceptance of application, the leases would be evicted. Further action taken in this regards has not been received (November 2014).

5.6 Settlement of *Gair Mazarua* land to private educational institution without permission of the Government

According to the provision of Bihar Estate (*Khash Mahal*) Manual, 1953 (as adopted by the Government of Jharkhand), the procedure for settlement of

Gair Mazarua land with private educational institutions is that the managing committee of the private educational institution should apply for land to the District Education Officer. The latter will inspect the site and assess the actual requirement of land for the purpose and thereafter send his proposal to the Collector of the district and also forward a copy thereof to the Education Department. The Collector, if he is satisfied about the requirement of land, may forward the proposal with or without modification to the Revenue Department through the Divisional Commissioner. The Revenue Department thereafter consults the Education Department and the Finance Department then submits necessary memorandum for settlement of land with the private educational institutional concerned to the Cabinet. In case of permanent transfer of Government land (*Gair Mazarua Khas/Aam land*) for commercial purposes, *Salami* equal to prevailing market value of such land and capitalised value of commercial rent are realisable for transfer of such land.

We noticed (between May and June 2013) during scrutiny of land settlement records in Anchal Office, Barkatha (Hazaribag) that Anchal Adhikari had recommended settlement of 4.08 acres of *Gair Mazarua* (GM) *Khas*⁶ land on payment of *salami*, and rent (*sa-sulk*). The same was settled to Sarvodaya High School, Alagdiha in January 2011 on the recommendation of Anchal Adhikari by the Sub-Divisional Officer, Barhi (Hazaribag) in contravention to the provisions of the Manual. Also, demand for ₹ 30.48 lakh (*salami* ₹ 13.55 lakh and capitalised value of commercial rent ₹ 16.93 lakh) was not raised.

After we pointed out the case in May 2013, the Anchal Adhikari, Barkatha stated that sanction order from Government would be obtained and action would be taken, while Dy. Collector Land Reform (DCLR), Barhi stated (June 2013) that direction would be given to take suitable steps in the matter. Further reply has not been received (November 2014).

The case was reported to the Government (May 2014); their reply has not been received (November 2014).

5.7 Internal audit

There is no Internal Audit Wing in the Revenue and Land Reforms Department. The internal audit is conducted by the Finance Department from time to time. Information regarding conduct of audit by the Finance Department during 2013-14 was not furnished (November 2014).

⁶ *Gair Mazarua Khas* land means land retained by ex-intermediaries and not settled with *Raiyats* which subsequently vested in the State under the Bihar Land Reforms Act, 1950.

B. STAMPS AND REGISTRATION FEES

5.8 Tax administration

The levy and collection of Stamp and Registration fees in the State of Jharkhand is governed by the Indian Stamp 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.

5.9 Results of audit

During 2013-14, we test checked the records of 15 units (having revenue collection of ₹ 184.87 crore) out of 46 units relating to Stamp duty and Registration fees. The test checked units revealed short levy of Stamp duty and Registration fees, misclassification of land etc. involving ₹ 223.11 crore in 505 cases, as detailed in **Table – 5.9**.

Table – 5.9

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1	Short levy of Stamp duty and Registration fees	76	0.35
2	Misclassification of land	1	218.62
3	Other cases	428	4.14
Total		505	223.11

During the course of the year, the Department accepted short levy of Stamp duty and Registration fees etc. amounting to ₹ 1.45 crore in 137 cases pointed out by us during 2013-14.

In this chapter we present a few illustrative cases having financial implications of ₹ 1.33 crore. These are discussed in the succeeding paragraphs.

5.10 Non-observance of provisions of Acts/Rules

The Indian Stamp Act, 1899, the Registration Act, 1908 and Bihar Registration Rules, 1937, Bihar Registration Manual, 1946 and Bihar Stamp (Prevention of under valuation of instruments) Rules, 1995 (as adopted by the Government of Jharkhand) made thereunder provide for:

- (i) *payment of Registration fees at the prescribed rate; and*
- (ii) *payment of Stamp duty by the executants at the prescribed rate.*

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

5.11 Non-levy of Stamp duty and Registration fees due to non-registration of leases

Under the provisions of Section 17(1) (d) of the Registration Act 1908, leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent is to be compulsorily registered. Stamp duty is chargeable as per article 35 of Schedule I-A of the Indian Stamp Act, 1899 depending on the periodicity of lease and Registration fee is also leviable on the value on which Stamp duty is charged.

5.11.1 We collected information from office of the Executive Engineer, Road Construction Division, Jamshedpur and cross verified with the records of District Sub Registrar, Jamshedpur which revealed that a lease agreement was executed in February 2013 for transfer of 1.0825 acres of land in favour of a private party for the period of 30 years on a lease premium of ₹ 17.47 crore and an annual rent of ₹ 4.37 lakh. The lease remained unregistered upto January 2014 due to absence of mechanism for inter-departmental exchange of information. The information regarding lease agreements executed by Road Construction Divisions were neither exchanged with the District Sub-Registrar office nor were the documents presented for registration. Thus, non-registration of lease deed resulted in non-levy of Stamp duty and Registration fee of ₹ 1.24 crore including Registration fee of ₹ 53.06 lakh.

After we pointed out the case in January 2014, the Government stated (June 2014) that the concerned deed had not been presented for registration. The Deputy Commissioners of the concerned districts have been instructed to get the lease agreements registered before settlement of lease property. Further reply has not been received (November 2014).

5.11.2 We obtained information from three offices⁷ regarding settlement of *sairat* (the right and interest in respect of revenue earning *hat, bazaar, mela*, trees, ferries etc.) and cross verified (between September 2013 and October 2013) with the records of the District Sub Registrar, Palamu and Sub Registrar, Barhi which revealed that between 2010-11 and 2012-13, out of total 37 *sairats*, 18 *sairats* were settled with different bidders for one year which should have been compulsorily registered in the concerned registry offices but these remained unregistered due to absence of mechanism for inter-departmental exchange of information. This resulted in loss of Stamp

⁷ Municipal Council, Medininagar, Dy. Commissioner (Khas Mahal Cell), Palamu and Circle Office, Barhi,

duty and Registration fees amounting to ₹ 9.22 lakh including Registration fee of ₹ 3.88 lakh.

After we pointed out the cases between September 2013 and October 2013, the Government stated (June 2014) that the concerned deed had not been presented for registration. The Deputy Commissioners of the concerned districts have been instructed to get the lease agreements registered before settlement of lease property. Further reply has not been received (November 2014).

Similar issue was pointed out in Paragraph Nos. 6.7.3.2 and 6.7.3.4 of Audit Report (Revenue Sector) for the year ended 31 March 2013: the Government accepted our observation and stated (October 2013) that all the Dy. Commissioners cum Registrars had been requested to take action and to furnish report on the action taken thereon. The Government has not intimated us action taken thereon and the issue still persists.

We recommend that the Government may consider developing a mechanism where whenever a Government agency gives immovable property on lease it should furnish details of such lease agreements to the concerned registering authorities to ensure their registration.

5.12 Internal audit

The department informed us that it has no Internal Audit Wing of its own. The internal audit was being done by the Finance Department but the position of audit conducted by the auditors of Finance Department was not furnished.

The Government may consider setting up an Internal Audit Wing of the Department so as to ensure effective implementation of the Acts/Rules for prompt and correct realisation of revenue.

C. TAXES AND DUTIES ON ELECTRICITY

5.13 Tax administration

The Commercial Taxes Department is responsible for levy and collection of Electricity Duty 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), is responsible for administration of the Act and Rules in the Department. The State is divided into five Commercial Taxes Divisions⁸ 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 Electricity Duty.

5.14 Results of audit

Our test check of records relating to Electricity Duty in 2013-14 revealed that non/short levy of duty and surcharge etc. involving ₹ 20.70 crore in seven cases as mentioned in **Table – 5.14**.

Table – 5.14

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1	Short levy of Electricity Duty	2	11.76
2	Non/short levy of surcharge	2	5.51
3	Other cases	3	3.43
Total		7	20.70

During the course of the year, the Department accepted short levy of Electricity Duty and surcharge etc. amounting to ₹ 2.00 crore in three cases pointed out in previous year.

In this part of the chapter, we present an illustrative case having financial implication of ₹ 2.00 crore, accepted by the Department. This is discussed in the succeeding paragraph.

⁸ Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Parganas (Dumka).

5.15 Non-observance of provisions of Acts/Rules

The Bihar Electricity 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 case mentioned in the succeeding paragraph.

5.16 Suppression of purchase of electrical energy

Under the provisions of Section 4(4-a) of the Bihar Electricity Duty Act, every person other than a licensee who obtains, for sale or partly for his own use and partly for sale, bulk supply of energy generated by a licensee or other person shall pay every month to the State Government at the time and in the manner prescribed, the duty and surcharge payable under Section 3 on the units of energy so obtained and sold or partly sold and partly consumed by him. Further, under the provisions of Section 5A(2) of the Act and Rules made thereunder, every assessee shall pay electricity duty and surcharge due from him within two calendar months of the month to which the duty relates. In case of failure to pay duty and/or surcharge within the due date, the prescribed authority shall impose a penalty upto five *per cent* but not less than two and half *per cent* for each of the first three months or part thereof following the due date and upto 10 *per cent* but not less than five *per cent* for each subsequent month or part thereof.

We collected the data for sale of electrical energy from Damodar Valley Corporation (DVC) to the dealers in Jharkhand and cross-verified it with the records maintained in the Commercial Taxes Circles at Jharkhand. We noticed (June 2013 and May 2014), from the assessment records and periodical returns filed by the 21 dealers registered in Bokaro and Giridih Commercial Taxes Circles that three assessee had purchased and consumed 27.88 crore units of electrical energy from DVC during the period between 2004-05 and 2010-11 but had accounted for 17.98 crore units only in their returns and paid the duty and surcharge accordingly. This resulted in suppression of purchase of 9.90 crore units of electrical energy. The ED and surcharge payable for the suppressed quantity worked out to ₹ 39.62 lakh, besides penalty of ₹ 1.61 crore was also leviable for non-payment of ED and surcharge on the due dates.

After we pointed out the cases (between June 2013 and May 2014), the DCCT, Giridih stated (July 2014) that notices for hearing had been issued, while the DCCT, Bokaro, accepted our observation and raised the demand (July 2014). However, the dealer has filed appeal in the Court of Commercial Tax Commissioner, Jharkhand, Ranchi. Further reply has not been received (November 2014).

We reported the matter to the Government in May 2014; their reply has not been received (November 2014).

5.17 Internal audit

Information regarding status of internal audit was called for (between April and July 2014) from the Department; their reply has not been received (November 2014).