

Chapter-V

(Other Tax Receipts)

CHAPTER-V: OTHER TAX RECEIPTS

5.1 Tax administration

(A) The levy and collection of Land Revenue is governed under the Acts and Rules¹ and administered by the Revenue and Land Reforms Department in the State. At the apex level the Principal Secretary-cum-Commissioner is the administrative head and assisted by Divisional Commissioners, Collectors, Additional Collectors, Deputy Collectors and Circle Officers in the field. The circle offices are the primary units which are responsible for levy and collection of land revenue.

(B) The assessment, levy and collection of excise revenue in the State is governed by the provisions of the Bihar Excise (BE) Act, 1915 and Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor, foreign liquor, Beer and Composite liquor Shop) Rules, 2007. It is administered by the Principal Secretary, Department of Registration, Excise and Prohibition (Excise) at the Government level and by the Commissioner of Excise (CE) at the apex level of the Department of Excise and Prohibition. The CE is also the *ex-officio* Controller of Molasses for the administration and execution of the Bihar Molasses Control Act and Rules. The CE is assisted by one Joint Commissioner of Excise (JCE), one Deputy Commissioner of Excise (DCE) and one Assistant Commissioner of Excise (ACE) at the headquarters level. Further, there is one DCE at each of the four² divisional headquarters. At the district level, the Collector of the district is in-charge of the excise administration, assisted by an ACE or by a Superintendent of Excise (SE).

For supply of all types of liquor to retailers of excise shops in the State, the Bihar State Beverage Corporation Limited (BSBCL) headed by a Managing Director was formed in October 2006, to function as an exclusive wholesale depot.

5.2 Internal Audit

The Internal Audit wing of any department is a special vehicle of the internal control mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team.

As informed by the Finance Department (August 2016), the internal audit of 12 units of the Revenue and Land Reforms Department was conducted during 2015-16 and Inspection Reports containing 73 paragraphs were issued. The

¹ The Bihar Tenancy Act, 1908; Bihar Public Land Encroachment Act, 1956; Bihar Government Estate (*Khas Mahal*) Manual, 1953.

² Bhagalpur-cum-Munger, Darbhanga-cum-Kosi-cum-Purnea, Patna-cum-Magadh and Tirhut-cum-Saran.

internal audit of the Registration, Excise and Prohibition (Excise) Department was not conducted during 2015-16.

5.3 Results of audit

There are 839 auditable units under the Revenue and Land Reforms Department and 51 auditable units under the Registration, Excise and Prohibition (Excise) Department during 2015-16, of which 108 and 39 units were planned for audit during the year 2015-16. Against this, we have conducted the audit of 91 and 37 units respectively during the course of the year. We found short realisation of revenue and other irregularities involving ₹ 361.22 crore in 840 cases which fall under the following categories as mentioned in **Table-5.1**.

Table-5.1
Results of audit

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
A: Land Revenue			
1.	Compensation amount not paid due to poor disposal of award	1	138.28
2.	Establishment charges not accounted for and either not collected/remitted or collected/remitted short	1	83.53
3.	Revenue/interest/amin fee not remitted into treasury	48	13.13
4.	Revenue on alienation/transfer of Government land not realised/remitted	1	11.68
5.	Survey not conducted and agriculture land utilised for other than agricultural purpose not converted	10	1.03
6.	Others	517	63.31
Total		578	310.96
B: State Excise			
1.	Excise shops not/delayed settled	56	10.26
2.	Licence fee not realised	34	18.32
3.	Other cases	172	21.68
Total		262	50.26
Grand total		840	361.22

The results of audit in respect of our audit findings on Land revenue and State excise revenue during 2015-16 are depicted in the following Charts:

Chart-5.1

A: Land Revenue

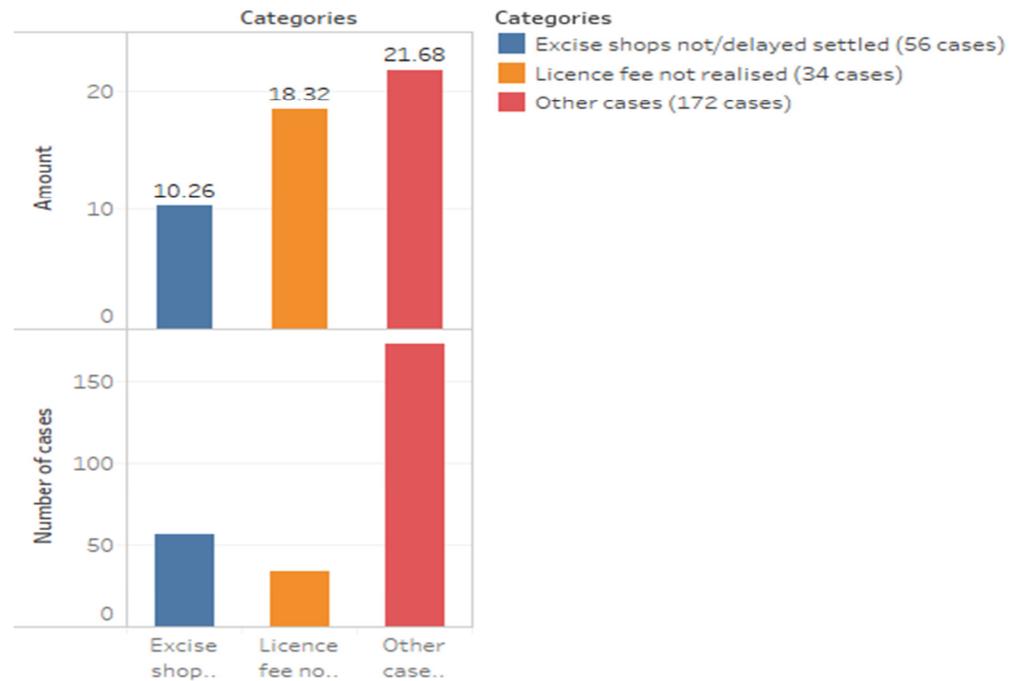
(₹ in crore)



Chart-5.2

B: State Excise

(₹ in crore)



(A) During 2015-16, the Revenue and Land Reforms Department accepted underassessment and other deficiencies *etc.* involving ₹ 60.84 crore in 10 cases, which were pointed out during the earlier years.

(B) During the period 2015-16, the Registration, Excise and Prohibition (Excise) Department accepted underassessment and other deficiencies *etc.* involving ₹ 41.24 lakh in eight cases, of which two cases involving ₹ 8.19 lakh was pointed out during 2015-16 and the rest in earlier years. Further, the Department reported recovery of ₹ 41.24 lakh in eight cases which were pointed out during the period between 2013-14 and 2015-16.

A few illustrative cases involving tax effect of ₹ 134.77 crore are mentioned in the following paragraphs.

5.4 Provisions of the Acts/Rules not complied

Our scrutiny of the records of the offices of the District Land Acquisition Officers, Additional/Deputy collectors, Land Revenue and Assistant Commissioners/Superintendent of Excise revealed that in several cases, compliance with the provisions of the Act/Rules and departmental orders were not done as mentioned in the following paragraphs. These cases are illustrative and are based on test-checks carried out by us. Omissions on the part of the departmental officers in some cases were pointed out by us previously, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system and internal audit.

A: Land Revenue

5.5 Short remittances of establishment charges

District Land Acquisition officers did not ensure realisation and remittances of the establishment charges of ₹ 111.72 crore for lands acquired on behalf of requisitioning body/departments.

Rule 139 of the Bihar Land Acquisition Manual read with Government orders issued by the Revenue and Land Reforms Department, Government of Bihar vide letter No. 15/DLA Policy 01/04-1250 Rev. dated 15.05.2006 provides that establishment charges at the prescribed rates³ is to be levied and collected from the requisitioning Body/Department on the prescribed limit of compensation for the lands acquired by the District Land Acquisition Officers (DLAOs) on behalf of that Body/Government before the commencement of acquisition proceedings.

We scrutinised (between December 2015 and January 2016) the records/files relating to land acquisition in the offices of the DLAO, Bhagalpur and Bhojpur for the period of 2010-11 to 2015-16 relating to five out of 18 projects for which lands (*Raiyati*/Government) were acquired on behalf of four requisitioning authorities⁴ and observed that on a compensation amount of ₹ 856.68 crore (worked out on the basis of approved Mauja-wise Estimates), a sum of ₹ 170.86 crore was to be levied and collected as establishment charges

³ Prior to 15 May 2006, the rate of Establishment charge was five *per cent*, 10 *per cent*, 15 *per cent* and 20 *per cent* of the compensation amount and thereafter at the rate of 20 *per cent*, 25 *per cent*, 30 *per cent* and 35 *per cent*.

⁴ Bihar State Electricity Board; National Highway Authority of India; Bihar Rajya Pul Nirman Nigam Limited and Bihar State Road Development Corporation Limited.

for the period 2010-11 to 2015-16 against which an amount of ₹ 59.14 crore only was remitted into the treasury. This resulted in short remittances of establishment charges of ₹ 111.72 crore as detailed in **Annexure-XXXIV**.

We further observed (August 2016) that total compensation amount of ₹ 955.49 crore was received between March 2011 and August 2015. As there was no separate account of establishment charges maintained in the concerned District Land Acquisition Offices, actual collection of establishment charges against each project out of the total said receipt of the compensation amount could not be ascertained.

On this being pointed out, DLAO, Bhojpur (Ara) stated (April and August 2016) that a sum of ₹ 14.49 crore was remitted into treasury relating to three projects at the instance of audit, while the DLAO, Bhagalpur stated (January and August 2016) that a separate account for expenditure of establishment charges for each project would be maintained and action would be taken for remittances of balance amount into the treasury at the earliest. He further intimated (May 2016) that an amount of ₹ 7.35 crore had since been realised and remitted into treasury in one case of Pirpainti Thermal Power Project.

The matter was reported to the Government/Department in April 2016; we are yet to receive their reply (October 2016).

5.6 Revenue on transfer of Government land not realised

A sum of ₹ 11.68 crore relating to transfer of Government land was not realised from the requisitioning authority.

Rule 171 of the Bihar Government Estates (Khas Mahal) Manual, 1953 read with instruction (March 1991) issued by the Revenue and Land Reforms Department provides that settlement of Government land with Board, Corporation, Body, Authority etc. for commercial purposes shall be done on payment of current market value of the land as *Salami* and accumulated value of annual rent at the rate of five *per cent* of *Salami* for twenty five years.

We observed (January 2016) during scrutiny of files, records and relevant document of land acquisition projects in the office of the DLAO, Bhagalpur that Revenue and Land Reforms Department accorded (October 2014) sanction for the transfer of 20.825 acres of Government land⁵ to the Bihar State Power Holding Company Ltd. on payment of *Salami* and accumulated value of rent of ₹ 11.68 crore for establishment of Pirpainti Thermal Power Project. These lands were transferred (23 November 2015) to the requisitioning authority without realising the amount even after elapse of more

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Details of Government land:

(Amount in ₹)

Mauza	Thana No./Khata No.	Area (in acre)	Amount to be realised
Harinkol	81/684	19.205	10,37,07,000
Sirmatpur	78/2649	1.620	1,31,22,000
Total		20.825	11,68,29,000

than 12 months of sanction. However, the Collector raised demand for ₹ 1.31 crore (September 2016) in one case relating to 1.62 acre land.

On this being pointed out, DLAO Bhagalpur stated (January 2016) that the action would be taken for the realisation of the amount related to the transfer of Government land at the earliest. Further reply is awaited.

The matter was reported to the Government/Department in April 2016; we are yet to receive their reply (October 2016).

5.7 Excess collection of contingency charges

Excess collection of contingency charges of ₹ 60.35 lakh in contravention of the provision of the Government resolution.

As per Government resolution issued (February 2007) under Bihar Land Acquisition Act, 1894, the requisitioning authority shall pay the contingency charges at the rate of 0.5 *per cent* on the estimated value of the land to be acquired for the project subject to maximum of ₹ 2 lakh for the purpose of rehabilitation survey, monitoring, stationary and other contingent expenses like vehicle and outsourcing of computer, computer operator, Amin, draftsman etc.

We observed between December 2015 and January 2016 from the relevant records/files and estimates of the cost of lands of four projects relating to land acquisition in the offices of DLAOs, Bhagalpur and Bhojpur that the DLAOs had collected the contingency charges of ₹ 68.35 lakh from the requisitioning authorities for acquisition of land for these projects during the period 2010-11 and 2015-16. The estimates of land of the projects were sub-divided into Mauja-wise estimate of the land and accordingly contingency charges were levied. However, these four projects attract contingency charges of ₹ 8 lakh only at the rate of ₹ 2 lakh for each project. Thus, the DLAOs had collected excess contingency charges of ₹ 60.35 lakh in violation of the provision of the Government resolution as detailed in **Annexure-XXXV**.

On this being pointed out, DLAO, Bhagalpur stated (January 2016) that after consultation with the Department proper action would be taken while DLAO Bhojpur stated (April 2016) that deduction at the rate of 0.5 *per cent* was made as per rule on the basis of village-wise revenue estimates. The reply of the DLAO Bhojpur was not in consonance with the fact that contingency charge was to be collected project-wise as per the above resolution.

The matter was reported to the Government/Department in April 2016; we are yet to receive their reply (October 2016).

5.8 Cess on the capitalised value of rent not levied

Cesses of ₹ 18.71 lakh as a percentage on the capitalised value of the annual rent for 25 years of the land under acquisition was not assessed/levied.

Sections 22 and 23 of the Bihar Land Reforms Act, 1950 read with instructions issued (June 2000) by the Revenue and Land Reforms Department provide for realisation of Education Cess, Health Cess, Agriculture development Cess and Road Cess at the rate of 50 per cent, 50 per cent, 20 per cent and 25 per cent respectively of capitalised value of annual rent of the lands for twenty five years.

We observed (between May 2014 and January 2016) in the offices of the DLAOs Bhagalpur, Bhojpur and Patna that land were acquired for 49 projects during the period 2000-01 to 2015-16. Out of this we scrutinised project estimates and other relevant documents of 16 projects (3,596.62 acres of land) and found that cesses on the capitalised value of the annual rent for 25 years of the land under acquisition was not assessed while finalising the estimates for the concerned projects. Thus, a sum of ₹ 18.71 lakh in shape of cess on the capitalised value of rent of ₹ 12.91 lakh was not levied.

On this being pointed out, DLAOs concerned stated (between July 2014 and January 2016) that the action would be taken for the realisation of cess in consultation with the Department. Further replies are awaited.

The matters were reported to the Government/Department between October 2014 and April 2016; we are yet to receive their reply (October 2016).

B: State Excise

5.9 Short realisation of licence fee of excise shops

Excise authorities cancelled 95 groups of excise shops with delay and did not cancel 33 groups of excise shops for not paying the monthly licence fee, which resulted in short realisation of Government dues amounting to ₹ 9.15 crore.

Rule 15 of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007 framed under the Bihar Excise Act, 1915 stipulates that after the acceptance of settlement through lottery by the licensing authority, one twelfth portion of the annual licence fee shall be paid by the settlee as a security money and an equal amount shall be deposited by the settlee as advance licence fee which will be adjusted in the last month of the excise year.

Further as per Rule 17 (2) of the Rules *ibid* read with clause 14(b) of condition of sale notification of excise shops, one twelfth part of annual licence fee of each shop shall be deposited by the licensees in the treasury of the district by the first day of the month, which in any event must be deposited by the 20th of the concerned month, failing which the license shall be cancelled and all deposited security money shall be forfeited.

5.9.1 Short realisation of licence fee of excise shops after cancellation of licence

We scrutinised the Settlement files, Demands, Collections and Balances Register and Security Deposit Register in 22 district excise offices⁶ and observed (between January 2015 and February 2016) that the licences of 95 groups of excise shops were cancelled during the period between August 2013 and October 2015 for not paying the monthly licence fee. Further, we observed that the licence of these excise shops were cancelled after a delay of 16 days to five months, though it was required to be cancelled after the 20th day of the same month of default. Thus, due to delay in cancellation of shops a sum of ₹ 6.95 crore remained unrealised till date of audit. No action was found on the record to have been initiated by the excise authorities for realisation of this Government due.

On this being pointed out, the Department stated (June 2016) that in cases of 16 districts⁷, the certificate cases were instituted against the defaulters, in Araria district action was taken to institute certificate case against the defaulters and in two districts (Begusarai and Nawada) action would be taken for lodging certificate case. In case of Aurangabad and Madhepura districts, the Department stated that outstanding licence fees had been adjusted with the available security deposit and for remaining outstanding licence fee, certificate case had been instituted. The reply is not in consonance with the fact that in case of default, security deposit should have been forfeited as per the provision of the Rules *ibid*.

5.9.2 Short realisation of licence fee where licence of excise shops were not cancelled

We further observed from the Settlement file and Demands, Collections and Balances Register in West Champaran (Bettiah) district excise office in August 2015 that the licensees of 33 groups of excise shops had stopped paying monthly licence fee from the period between October 2014 and January 2015. But the excise authorities did not cancel the licence of concerned excise shops even till the end of the financial year, though these shops were required to be cancelled after the 20th day of the same month of default. This resulted in short realisation of Government dues of ₹ 2.20 crore.

On this being pointed out, Superintendent of Excise (SE), West Champaran (Bettiah) stated (June 2016) that a sum of ₹ 2.45 lakh had since been recovered from licensee of one group and certificate cases have been instituted against the remaining licensees.

⁶ Araria, Aurangabad, Banka, Begusarai, Bhagalpur, Bhojpur (Ara), Buxar, Darbhanga, East Champaran (Motihari), Jehanabad, Katihar, Madhepura, Muzaffarpur, Nalanda (Biharsharif), Nawada, Purnea, Rohtas (Sasaram), Samastipur, Saran (Chapra), Supaul, Vaishali (Hajipur) and West Champaran (Bettiah).

⁷ Bhagalpur, Bhojpur (Ara), Buxar, Darbhanga, East Champaran (Motihari), Jehanabad, Katihar, Muzaffarpur, Nalanda (Biharsharif), Purnea, Rohtas (Sasaram), Samastipur, Saran, Supaul, Vaishali and West Champaran (Bettiah).

5.10 Undue favour to licensees due to irregular adjustment of security deposit

Security deposit was irregularly adjusted against outstanding monthly licence fee of excise shops.

Rule 15 of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007 framed under the Bihar Excise Act, 1915 stipulates that after the acceptance of settlement through lottery by the licensing Authority, one twelfth portion of the annual licence fee shall be paid by the settlee as a security money and an equal amount shall be deposited by the settlee as an advance licence fee which will be adjusted in the last month of the excise year.

Rule 17 (2) of the Rules *ibid* read with condition 14 of the sale notification of excise shops prescribes that the monthly instalment of licence fee shall be deposited by the licensee in the Government treasury of the district by the first day of the month, which in any event must be deposited by the 20th day of the month, failing which the licence shall be cancelled and all deposited security money shall be forfeited.

Further, Rule 21 of the Rules *ibid* provides that the security amount referred in Rule 15 of this Rules shall be refunded after the settlement period, if all the dues and claims of the State Government with regard to settled shop have already been paid by the licensees.

5.10.1 During scrutiny of settlement files and Demands, Collections and Balances Registers of the office of the Superintendent of Excise (SE), Madhepura, we observed (February 2015) that licences of six groups of excise shops were cancelled between 6 March 2014 and 31 March 2014 as they had not paid the monthly licence fee during the period between December 2013 and February 2014. We further observed that deposited security deposit was adjusted against the outstanding dues. The adjustment of security money of ₹ 20.48 lakh against outstanding dues was in contravention of the provisions of the Rules *ibid*, which stipulates forfeiture of security money in case of cancellation of excise shops. This resulted in not only irregular adjustment of security money of ₹ 20.48 lakh, but also undue favour to the licensees.

On this being pointed out, the Department stated (June 2016) that security money had been adjusted with outstanding licence fee. However the fact remains that instead of forfeiting the security money in case of default, it was irregularly adjusted with the outstanding licence fee.

5.10.2 Further, during scrutiny of settlement files and Demands, Collections and Balances Registers of the office of the Superintendent of Excise (SE), Katihar, we observed (October 2015) that the licensees of 26 groups of excise shops had not paid monthly licence fee for the period from December 2014 to February 2015, but the licensing Authority did not cancel the licences of these shops for default in payment of monthly licence fee. However, their deposited security money were adjusted from the outstanding dues in contravention to the provisions of the Rules *ibid*, which stipulates cancellation of excise shops and forfeiture of security money in case of default of payment of monthly licence fee. This resulted in not only irregular adjustment of security money of ₹ 1.22 crore, but also undue favour to the licensees.

On this being pointed out, the Department stated (June 2016) that in 17 cases outstanding licence fee of ₹ 87.51 lakh for the month of January 2015 was deposited through challan and there was no loss of revenue. However, we observed that the outstanding licence fee of February 2015 in these cases was adjusted against security money, which was irregular. The Department also accepted that outstanding licence fee was adjusted with security deposit in one case.