

Overview

OVERVIEW

This Report includes the audit of “**Mining receipts: levy and collection of royalty, fee and rent**” and 35 paragraphs relating to Commercial taxes, land revenue, taxes on vehicles, state excise and stamps and registration fees. The total financial implication of the Report is ₹ 1,835.31 crore which constitutes 7.02 *per cent* of tax and non-tax revenue of the year 2016-17. The concerned departments accepted the audit observations of ₹ 1,244.35 crore (67.80 *per cent* of total financial implication of the audit observations) and recovered ₹ 13.78 crore. In addition, the concerned departments recovered ₹ 359.00 crore pertaining to audit findings covered in previous audit reports. Some of the major findings in this report are summarised below:

1. General

The total receipts of the Government of Bihar for the year 2016-17 were ₹ 1,05,584.98 crore, of which revenue raised by the State Government from its own sources was ₹ 26,145.37 crore (24.76 *per cent*). The share of receipts from the Government of India amounting to ₹ 79,439.61 crore (75.24 *per cent* of the total receipts) comprised of State’s share of divisible Union taxes of ₹ 58,880.59 crore (55.77 *per cent* of the total receipts) and grants-in-aid of ₹ 20,559.02 crore (19.47 *per cent* of the total receipts). Tax revenues, which showed an increasing trend till 2015-16 dropped significantly in 2016-17 due to total prohibition of liquor in Bihar from April 2016 and significant decrease in receipts under stamps and registration fees following demonetisation on 8 November 2016.

Revenue and Land Reforms Department did not consider receipts from alienation of Government land and establishment charges from acquisition of land while preparing budget estimates for the years 2015-16 and 2016-17.

The Mines and Geology Department could not achieve the budget estimates during 2013-14, 2015-16 and 2016-17 due to non-settlement of stone quarries and non-realisation of expected royalty from brick kilns and works divisions.

(Paragraph 1.2)

Revenue earning departments failed to monitor the progress of collection of arrears, since they do not have database of outstanding arrears.

Arrears of revenue as on 31 March 2017 on taxes on sales, trade etc., taxes on goods and passengers, taxes and duties on electricity, taxes on vehicles, other taxes and duties on commodities and services, land revenue, state excise and non-ferrous mining and metallurgical industries amounted to ₹ 6,327.12 crore, of which, ₹ 801.75 crore was outstanding for more than five years.

Audit recommends that the departments should create a database of outstanding arrears for periodic review and liquidation of arrears.

(Paragraph 1.3)

The Public Accounts Committee discussed 11 selected paragraphs pertaining to the Audit Reports for the years 2011-12 to 2015-16 and gave 19 recommendations on

nine paragraphs including 12 sub-paragraphs relating to Prohibition, Excise and Registration Department and Mines and Geology Department incorporated in the Report (2011-12, 2012-13, 2013-14 and 2014-15) on which no Action Taken Notes (ATNs) has been received from the departments.

(Paragraph 1.4)

Revenue earning departments have failed to address audit observations included in 2,426 Inspection Reports (IRs) involving potential revenue of as much as ₹ 17,563.67 crore. Even the first replies, required to be received from the heads of offices within four weeks of receipt of the IRs, were not received for 1,173 IRs involving potential revenues of as much as ₹ 7,197.52 crore issued from 2008-09 onwards.

(Paragraph 1.5)

The Finance (Audit) Department audited 52 units of Revenue and Land Reforms Department, six units of Registration Department and one unit of Excise Department out of total 1,186 units of all major revenue earning departments during 2012-17. The Finance (Audit) Department did not conduct audit of any other major revenue earning departments *viz.*, Commercial Taxes Department, Transport Department and Mines and Geology Department due to acute shortage of manpower in different cadres ranging between 16.33 *per cent* and 100 *per cent* as on 31 March 2018.

Audit recommends that the State Government should ensure filling up vacancies in different cadres of the Finance (Audit) Department to ensure effective internal audit.

(Paragraphs 1.6)

Audit test-checked records of 299 units relating to commercial taxes, land revenue, taxes on vehicles, state excise, stamps and registration fees and mining receipts and observed underassessment/short levy/loss of revenue amounting to ₹ 4,550.08 crore in 3,960 cases. Of these, the departments concerned accepted underassessment and other deficiencies of ₹ 1,320.17 crore involved in 557 cases and recovered ₹ 29.63 crore.

(Paragraph 1.7)

2. Commercial Taxes

Assessing Authorities (AAs) did not detect suppression of turnover of ₹ 24.31 crore in 12 cases leading to underassessment of tax worth ₹ 11.17 crore including leviable penalty and interest.

Audit recommends that the Department should ensure cross-verification of turnover details in the returns with other related records of the dealers to detect suppression of turnover by periodical revision of scrutiny parameters.

(Paragraph 2.4)

AAs failed to detect application of incorrect rates of tax on sales of various commodities in cases of 44 dealers leading to short levy of tax of ₹ 12.45 crore including interest.

Audit recommends that the Department should evolve a mechanism whereby AAs invariably scrutinise returns to detect cases of incorrect application of rate of tax.

(Paragraph 2.5)

AAs did not detect incorrect availing of Input Tax Credit (ITC) of ₹ 2.09 crore by 14 dealers due to non-scrutiny of returns and non-verification of ITC ledger on the Value Added Tax Management Information System (VATMIS) leading to underassessment of tax of ₹ 9.00 crore including leviable interest and penalty.

Audit recommends that the Department should prescribe mandatory submission of evidence in support of ITC claims and ensure that AAs invariably check their admissibility. The Department should also ensure that ITC claims are verified by the AAs through the ITC ledger of dealers on VATMIS.

(Paragraph 2.6)

Failure of AAs to detect non-calculation of reverse credit by five dealers led to excess allowance of ITC of ₹ 6.25 crore including penalty and interest.

(Paragraph 2.7)

AAs failed to detect incorrect availing of deductions by works contractors which resulted in short levy of tax of ₹ 1.69 crore.

Audit recommends that the Department may consider mandatory assessment of returns of works contractors, as presently, the BVAT Act/Rules do not require works contractors to furnish evidence to substantiate claims of deductions.

(Paragraph 2.9)

AAs failed to detect non/short/delayed payment of admitted tax leading to non/short realisation of tax and interest of ₹ 6.27 crore.

Audit recommends that the Department should evolve a mechanism to detect cases of non/short/delayed payment of admitted taxes in the VATMIS.

(Paragraph 2.11)

Failure of the AA to cross-verify details of purchase/sale resulted in non-levy of purchase tax of ₹ 70.82 crore including interest on a dealer.

Audit recommends that the Department may ensure compliance to the rules pertaining to purchase tax by dealers and detection of its non-compliance.

(Paragraph 2.12)

Failure of AAs to comply with directives of the Commissioner, Commercial Tax (CCT) on inter-state sales resulted in short levy of tax of ₹ 42.75 crore from two dealers who made irregular claims.

Audit recommends that the Department should ensure compliance of the directives issued by the CCT from time to time and take action against

officials/officers who failed to follow such directions.

(Paragraph 2.15)

Failure of AAs to detect suppression of import of scheduled goods by dealers resulted in short levy of entry tax of ₹ 6.03 crore including penalty.

Audit recommends that the Department may prescribe a mechanism for cross-verification of turnover with other related records of the dealers to detect suppression of import/purchase in self-assessment cases.

(Paragraph 2.16.1)

3. Revenue and Land Reforms

Incorrect adoption of market value of land by five District Land Acquisition Officers (DLAOs)/Collectors led to short payment of compensation of ₹ 873.46 crore to landowners.

Audit recommends that the Department should ensure payment of compensation to landowners at appropriate market value of land.

(Paragraph 3.3)

Additional compensation of ₹ 132.44 crore was not paid to 2,238 landowners whose land was acquired under emergency provisions.

Audit recommends that the Department should ensure that in cases of emergency acquisition awarded after December 2013, landowners are paid compensation as per provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(Paragraph 3.4.1)

DLAOs short calculated interest of ₹ 17.91 crore on balance compensation payable to the landowners.

Audit recommends that the Department may ensure proper estimation and payment of due interest to the landowners.

(Paragraph 3.7)

Initiation of land acquisition process without approval of the Department and subsequent delay resulted in cost escalation by ₹ 115.65 crore.

Audit recommends that the Department may ensure that the land acquisition process is initiated after approval of the estimate by the competent authority and is completed within the prescribed time to avoid cost escalation.

(Paragraph 3.8.2)

In five districts, 1,781 affected families/landowners were deprived of one-time resettlement allowance and compensation in lieu of jobs amounting to ₹ 97.97 crore.

(Paragraph 3.9.1)

Three DLAOs failed to remit establishment charge of ₹ 208.92 crore into Government Account and two DLAOs short levied establishment charge of ₹ 81.19 lakh.

Audit recommends that the Department should ensure that establishment charge is levied correctly from the requiring bodies and is deposited on time into Government account. The Department may also consider conducting an enquiry for appropriate action against the erring DLAOs.

(Paragraph 3.11)

Government land of 44 acres was transferred without realising *Salami* (market value of land) and accumulated value of rent amounting to ₹ 11.28 crore.

Audit recommends that the Department may realise cost of land before transfer/alienation of Government land.

(Paragraph 3.12)

Cost of land acquisition of ₹ 63.36 crore received from a requiring body was deposited by the DLAO Aurangabad in a private bank instead of PD account and compensation amount of ₹ three crore was withdrawn by the DLAO Gaya from PD Account for purposes not recorded in cash books and kept in bank account.

Audit recommends that the State Government may conduct an enquiry for appropriate action against the DLAO Aurangabad and DLAO Gaya for parking large amounts with commercial banks, especially private bank, in violation of orders of the Finance Department.

(Paragraph 3.14.1)

The DLAO, Buxar did not update the cash books after 31 December 2016. As a result payments of ₹ 51.76 crore and receipts of ₹ 52.17 crore made during January to March 2017 was not found recorded in cash books.

Audit recommends that the State Government may conduct an enquiry to examine whether there was any misappropriation of funds under the DLAO Buxar and also initiate appropriate action against him for not operating the Cash Book after December 2016.

(Paragraph 3.14.2)

4. Taxes on Vehicles

In 22 District Transport Offices, owners of 862 motor vehicles did not pay One-time tax (OTT) and penalty of ₹ 4.44 crore.

Audit recommends that the Department should ensure payment of OTT and penalty by vehicle owners and communicate their defaulter status to the enforcement wing for interception of defaulting vehicle plying on roads.

(Paragraph 4.3)

Absence of a mechanism for periodic review of *VAHAN* (An application developed for registration of vehicles and road tax clearance) database by the District Transport

Officers (DTOs) to detect tax defaulter vehicles resulted in non-realisation of motor vehicle taxes of ₹ 6.68 crore in 25 District Transport Offices.

Audit recommends that the Department should ensure that demand notice is issued on real-time basis to the tax defaulters as generated from the VAHAN database to ensure prompt payment of tax.

(Paragraph 4.4)

5. Other Tax Receipts

State excise

Non/delayed cancellation of 38 groups of excise shops by eight Superintendents of excise for non-payment of monthly licence fee, resulted in short realisation of ₹ 1.93 crore.

(Paragraph 5.3)

Stamps and Registration Fees

Failure of three Registering Authorities to detect undervaluation of properties in 18 cases led to short levy of stamp duty and registration fee of ₹ 63.33 lakh.

(Paragraph 5.4)

6. Mining Receipts

Audit of “Mining Receipts: levy and collection of royalty, fee and rent” revealed the following:

Limestone is the only known major mineral found in Bihar. Mining receipts are the fifth largest receipt of the State and contributed between 2.65 and 3.82 *per cent* of the total receipts during the last four years.

(Paragraph 6.2.1)

Due to shortage of manpower, the Department did not deploy any official at any of the six integrated check posts of the state situated on the interstate boundaries which were required to prevent and detect transportation of minerals excavated illegally. Further, the Department transferred (October 2016) the power of certificate officer from its own officer (Deputy Director of Mines) to the concerned district certificate officer of the General Administration Department. The Department also transferred (November 2016) the power of Mining Officer (MO) relating to verification and inspection of brick kilns and collection of royalty from owners of brick kiln to concerned circle officers of the Revenue and Land Reforms Department.

Audit recommends that the Department should take necessary steps to fill up critical posts urgently and execute its power through its own officers.

(Paragraph 6.2.10)

District Mining Officers (DMOs), Nawada and Rohtas neither stopped the illegal mining of limestone, mica and silica nor levied penalty of ₹ 18.38 crore

despite having knowledge of mining operations without approved mining plan, environmental clearance and renewal of lease.

Audit recommends that the Department should take appropriate action on erring departmental officers and criminal action against the mining operator for allowing/undertaking mining operations without approved mining plan, environmental clearance and renewal of lease.

(Paragraph 6.2.11.1 and 6.2.11.2)

Twenty four DMOs failed to ensure non-payment of the works contractors' bills submitted without form M which is an affidavit containing names and addresses of the dealers from whom the minerals were purchased and form N which contains particulars of minerals and its seller. The DMOs also failed to levy penalty of ₹ 67.39 crore on works contractors for procurement of minerals from unauthorised sources.

Audit recommends that the Department should ensure non-payment of the works contractors' bills submitted without forms M and N and levy of penalty on works contractors for procurement of minerals from unauthorised sources. The Department should also take appropriate departmental and other action against erring MOs.

(Paragraph 6.2.11.3)

District collectors did not give opportunity to the second highest bidder for operation of sand *ghats* in two districts after cancellation of earlier settlement. These sand *ghats* were not operated after resettlement as the Department did not approve the mining plan till March 2017 leading to loss of ₹ 49.09 crore to the Government in 2016.

(Paragraph 6.2.12.2)

Rule 54 of the Bihar Minor Mineral Concession (BMMC) Rules, 1972 (as amended in 2014) is contrary to the Constitution of India as it provides for direct credit of amounts collected for Mines and Mineral Development, Restoration and Rehabilitation Fund (MMDRRF) into the Public Account instead of the Consolidated Fund. Failure of the Department to establish MMDRRF and prescribe specific guidelines for utilisation of funds for restoration, reclamation and rehabilitation work in mining areas led to non-utilisation of ₹ 19.50 crore in 11 districts, which was kept in saving/current account instead of Consolidated Fund in violation of Article 266 (1) of the Constitution of India. Further, five DMOs did not realise ₹ 70.36 lakh towards the Fund from permit holders of brick/ordinary earth.

Audit recommends that the State Government should amend Rule 54 of BMMC Rules, 1972 to ensure that it does not violate Article 266 (1) of the Constitution of India. The Department should also ensure deduction of prescribed amounts from all mineral concession holders and credit these into Government Account for further transfer to the Fund.

(Paragraph 6.2.14)

The Department delegated the power of collection of royalty from brick kiln owners to the Circle Officers of the Revenue and Land Reforms Department without any such authority in BMMC Rules, 1972. Failure of the Circle Officers to inspect brick kilns, led to reduction in collection of revenue by ₹ 3.40 crore from brick kilns during 2016-17 in comparison to the previous year.

Audit recommends that the Department may ensure adequate inspection/verification of brick-kilns by the Circle Officers or re-consider its decision of transferring such revenue collection work to Circle Officers.

(Paragraph 6.2.15.3)