

OVERVIEW

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This Report contains a Performance Audit on “Levy and collection of Excise Duty” and three Audits on “Sand mining and environmental consequences”, “Assessment of taxes on works contract and builders under MPVAT Act” and “Assessment and collection of Water Tax” and 22 paragraphs relating to taxes on sales, trade etc., taxes on vehicles, stamps and registration fees, mining receipts and land revenue. The total financial implication of the Report is ₹ 4,712.16 crore which constitutes 8.84 *per cent* of tax and non-tax revenue of the State during the year 2016-17. The Government/departments have accepted audit observations involving ₹ 2,506.49 crore out of which ₹ 3.74 crore was recovered. Some of the major findings are summarised below:

1 General

The total receipts of the State Government amounted to ₹ 1,23,306.79 crore for 2016-17 against ₹ 1,05,510.60 crore for 2015-16. The State’s own revenue was ₹ 53,280.16 crore (43.21 *per cent* of total receipts); the share of receipts from Government of India was ₹ 70,026.63 crore (56.79 *per cent* of total receipts). The State’s share in central taxes has increased from 32 *per cent* to 42 *per cent* following the recommendations of the 14th Finance Commission.

(Paragraph 1.2.1)

Audit observed wide variations between the budget estimates and actual receipts under various heads of accounts. The Finance Department did not provide any evidence to show that the unduly high budget estimates were prepared after due examination of the views of the concerned administrative departments or after considering the actual trend of receipts.

(Paragraph 1.2.3)

Arrears of revenue as on 31 March 2017 on taxes on sales, trade, etc., state excise, stamps and registration fees, mining receipts, and taxes and duties on electricity amounted to ₹ 5,291.62 crore of which ₹ 1,923.92 crore was outstanding for more than five years.

There was no mechanism to monitor the progress of collection of arrears or to assess reasons for accumulation of arrears. The departments do not have a database of outstanding arrears. Figures of outstanding arrears are compiled each year, at the instance of Audit, from the data furnished by field units. Outstanding arrears as on 31 March 2016 were revised by the Commercial Tax and Registration and Stamps departments, which indicates deficiencies in maintenance of records of arrears of revenue.

Audit recommends that the departments should create a database of outstanding arrears and introduce a mechanism to monitor the progress of collection of arrears. The departments may fix yearly targets for recovery of arrears of revenue for each Assessing Authority.

(Paragraph 1.3)

Analysis of inspection reports disclosed that 23,415 paragraphs involving potential revenue of as much as ₹ 21,576.37 crore relating to 5,198 IRs were outstanding at the end of June 2017.

Audit recommends that the Government should introduce a mechanism to ensure that departmental officers respond to IRs promptly, take corrective action and work closely with Audit to bring about early settlement of IRs.

(Paragraph 1.5)

Though six Departmental Audit Committee (DAC) meetings were scheduled during the year 2016-17, only five DAC meetings could be conducted as representatives of the Transport Department did not come duly prepared. Total 1,074 paragraphs of 251 IRs relating to Commercial Tax, Mineral Resources, State Excise and Land Revenue departments were discussed and 313 paragraphs of 24 IRs were settled. Reasons for non-settlement of the remaining paragraphs were non-production of relevant documents and pendency of recovery.

(Paragraph 1.5.1)

Revenue collecting departments failed to produce files/records relating to 8,042 cases to Audit during the period 2012-17, raising red flags of presumptive corruption and fraud. Audit is unable to vouchsafe the genuineness of these transactions as well.

(Paragraph 1.5.2)

Audit test-checked records of 392 units relating to Commercial tax, State excise, Taxes on vehicles, Land revenue, Stamps and Registration fees, Mining receipts and Water tax during 2016-17 and observed underassessment/short levy/loss of revenue amounting to ₹ 6,270.37 crore in 2,73,032 cases. The departments concerned accepted underassessment and other deficiencies of ₹ 3,081.23 crore involved in 14,974 cases which were pointed out in audit during 2016-17 and recovered ₹ 5.15 crore in 151 cases.

(Paragraph 1.7)

2 State Excise

Performance Audit on “**Levy and collection of Excise Duty**” revealed the following:

- The Excise Department failed to prescribe suitable, or any, norms for production of alcohol from grains by taking into consideration starch content in grains, fermentation efficiency and distillation efficiency in accordance with technology employed by distillers which deprived the Government of minimum revenue of ₹ 1,086.65 crore as excise duty.

Audit recommends that the Department may consider prescribing norms for production of alcohol from grains by taking into consideration starch content in grains and fermentation and distillation technology employed by distillers.

(Paragraph 2.5.8.1 and 2.5.8.2)

- The Department failed to revise fermentation efficiency and distillation efficiency of the new technologies employed by distillers for production of alcohol from molasses deprived the Government of minimum excise duty of ₹ 82.54 crore.

Audit recommends that the Department may revise production norms in tune with the improved technology employed by distillers for production of alcohol from molasses.

(Paragraph 2.5.8.3)

- The Department failed to prescribe norms of production of beer which deprived the State Government of minimum excise duty of ₹ 22.93 crore.

Audit recommends that the Department may consider prescribing norms for production of beer from grains by taking into consideration starch content in grains and fermentation technology employed by brewers.

(Paragraph 2.5.8.4)

- Failure to prescribe retail sale price of bhang resulted in minimum revenue loss of ₹ 1.99 crore.

Audit recommends that the Department may consider prescribing the retail sale rate of bhang to be levied on licensees who have not deposited the advance licence fee.

(Paragraph 2.5.9)

- The policy of Government to only allow distillers of the State to participate in tender process for supply of country liquor without analysing the realistic cost of production of country liquor has resulted in lesser competition, cartel formation and undue benefit of ₹ 653.08 crore to distillers.

Audit recommends that the Department should ensure that there is no cartelisation in the bidding for country liquor licences and also ensure that the State Government is not at financial disadvantage when compared to neighbouring states when levying excise duty on country liquor.

(Paragraph 2.5.10.1)

- Unwarranted change in excise policy for supply of country liquor created liability of ₹ 48.21 crore on Government in 2016-17.

(Paragraph 2.5.10.2)

- Fixation of asymmetric transport fees by Government for transportation of Extra Neutral Alcohol/ Rectified Spirit in distillery premises in comparison to outside distillery premises, resulted in undue advantage to a section of manufacturers and loss of excise duty of ₹ 100.84 crore during 2012-17.

Audit recommends that the Department may consider levying equitable transport fees from all the production units for transport of Extra neutral alcohol/ Rectified spirit.

(Paragraph 2.5.11)

- Despite Public Accounts Committee (PAC) direction (72nd Report, 2015-16), the Government failed to evolve a system to ensure monitoring of disposal of foreign liquor in cases of expiry,

non-renewal and cancellation of licence/label. Audit observed that the DEO, Dhar failed to take necessary action for disposal of Foreign Liquor involving duty of ₹ 3.03 crore in two cases of non-renewal of licence/label even after a lapse of 14 to 23 months.

Audit recommends that the Department should, in compliance of 72nd Report of Public Accounts Committee evolve system to ensure monitoring of disposal of foreign liquor in cases of expiry, non-renewal and cancellation of license/label.

(Paragraph 2.5.12)

- The Department failed to impose penalty of ₹ 462.77 crore on twelve defaulting manufacturing units who submitted excise verification certificates with delays ranging between 1 and 401 days.

Audit recommends that the Department may consider amending rules for imposition of penalty and provide for graduated and compulsory penalty.

(Paragraph 2.5.13.1)

- The officers-in-charge of seven manufacturing units allowed transport/export of Indian made foreign liquor (IMFL)/extra neutral alcohol (ENA) involving excise duty of ₹ 52.72 crore in one test-checked month against bank guarantee of ₹ 2.05 crore.

(Paragraph 2.5.14)

- The Department incurred expenditure of ₹ 2.16 crore on monitoring and consulting team for computerisation of the Department, which was more than the cost for software development of ₹ 2.05 crore. Despite this, the work is incomplete even after lapse of 10 years.

(Paragraph 2.5.15)

3 Commercial Tax

Audit on "Assessment of taxes on works contracts and builders under MPVAT Act" revealed the following:

- Assessing Authorities (AAs) failed to cross check returns of works contractors with the related records and royalty payments on the sand and *gitti* consumed by them which led to incorrect determination of volume of notified goods transferred in execution of works contract. This resulted in short levy of tax of ₹ 45.51 crore including penalty.

(Paragraph 3.6.9)

- AAs did not examine essential records like audited accounts, details of materials purchased, tax deducted at source (TDS) certificates, etc., available with the Department leading to understatement of turnover by ₹ 872.97 crore in 125 cases and resulting in short levy of tax amounting to ₹ 58.04 crore and penalty of ₹ 168.09 crore.

Audit recommends that the Department should introduce mechanisms to ensure that AAs verify at the time of assessment all records relating to the value of goods transferred in execution of works contracts.

(Paragraph 3.6.10)

- Failure of AAs of main contractors, when allowing deductions to the main contractor, to cross-verify from the AAs of the sub-contractors, whether sub-contractors had paid tax on these deductions, resulted in non-inclusion of contract receipts of ₹ 171.82 crore in the taxable turnover of the sub-contractors/ main contractors, and short levy of tax of ₹ 20.60 crore including penalty.

Audit recommends that the Department may evolve a mechanism whereby, deductions may be allowed to the main contractors only on receipt of evidence that the sub-contractors had actually remitted the tax on whose turnover the main contractors claimed the deductions.

(Paragraph 3.6.11)

- Audit analysis of records relating to all circles revealed that there was no evidence that 646 works contractors who had opted for composition facility for contract amount of ₹ 4,535.40 crore during the year 2013-14 to 2015-16, had actually paid the composition of tax amounting to ₹ 163.29 crore.

(Paragraph 3.6.14.2)

- Absence of any mechanism for cross verification of records with other departments for determining the taxable turnover of builders resulted in suppression of taxable turnover of ₹ 15.41 crore and consequent short levy of tax ₹ 3.08 crore including penalty.

Audit recommends that the Department should formalise a mechanism in VATIS whereby AAs mandatorily cross-verify details relating to their assesses with related databases and records in other Government departments and local bodies.

(Paragraph 3.6.18)

- AAs failed to treat builders as work contractors even though the builders had entered into an agreement with prospective purchasers by taking advances. This resulted in short levy of tax and penalty of ₹ 34.77 crore for the works contract.

Audit recommends that the Department may devise appropriate procedures to ensure that builders entering into composite contracts involving both works contract and transfer of immovable property are treated as works contractors for purposes of assessment of tax.

(Paragraph 3.6.19)

Audit observations of Compliance Audit

The Commercial Tax Department has failed to comply with the orders (December 2015) of the PAC to establish an Internal Audit Wing and on initiating measures to ensure non-recurrence of irregularities pointed out by Audit in earlier Reports.

(Paragraph 3.3)

The AAs under-determined the taxable turnover by ₹ 48.95 crore against the turnover recorded in the audited books of accounts, sale list and other relevant records of the dealers. As a result, tax of ₹ 9.57 crore including interest of ₹ 18.13 lakh and penalty of ₹ 5.41 crore could not be levied.

Audit recommends that the Department should incorporate necessary modules in Value Added Tax Information System (VATIS) and initiate other measures to ensure that the system of assessment is strengthened.

(Paragraph 3.7)

The AAs allowed input tax rebate (ITR) of ₹ 120.97 crore against the admissible ITR of ₹ 117.06 crore resulting in short realisation of ₹ 9.41 crore including penalty of ₹ 5.50 crore in 92 assessment cases. The Department had established ITR cell in 2013 for electronic verification of ITR but the departmental data was not taken into cognizance by the AAs for verifying ITR claims.

Audit recommends that the Department may consider strengthening of ITR verification mechanism so that purchase details are verified with audited accounts, properly authenticated/substantiated by documents and cross-verified with corresponding selling dealers.

(Paragraph 3.8)

The AAs applied incorrect rates of tax which resulted in short levy of tax amounting to ₹ 3.98 crore including penalty of ₹ 2.44 crore. The Department had not adopted Harmonised System of Nomenclature Code for correct commodity description due to which the AAs did not classify commodities correctly and applied inappropriate rates of tax.

Audit recommends that the Department should adopt the Harmonised System of Nomenclature Code expeditiously, and also implement the recommendations/ directions of the Public Accounts Committee to initiate measures that will ensure non-recurrence of such irregularities in future.

(Paragraph 3.10)

4 Mining Receipts

Audit on “Sand mining and environmental consequences” revealed the following:

- District Collectors of Balaghat and Ujjain fixed the reserve price on dead rent instead of the estimated quantity of sand in 31 sand mines resulting in short realisation of royalty of ₹ 3.37 crore.

(Paragraph 4.5.8.2)

- Failure of District Mining Officers to maintain the register of income from trade quarries resulted in short recovery of contract money of ₹ 1.38 crore, and short realisation of interest ₹ 2.35 crore from 48 contractors in nine districts.

(Paragraph 4.5.9.1)

- Madhya Pradesh State Mining Corporation Limited (MPSMCL) did not credit royalty of ₹ 136.69 crore to the Government as the lease

agreement of the MPSMCL with the GoMP did not stipulate deposit of entire amount of royalty received by MPSMCL from the contractor.

Audit recommends that the Department should revise agreements with MPSMCL so that the royalty on contracted quantity or actually consumed and dispatched quantity of sand, whichever is more, is collected from MPSMCL, so that Government may not incur loss of revenue.

(Paragraph 4.5.9.3)

- The Department could not prescribe the amount of contribution to be paid to the District Mineral Foundation (DMF) in respect of minor minerals in the State. As a result no funds were available for welfare of mining affected areas / persons.

(Paragraph 4.5.10.1)

- The Department did not prescribe mechanism to monitor compliance of conditions laid down by State Environment Impact Assessment Authority (SEIAA).

Audit recommends that the Department may evolve mechanism to monitor compliance with the conditions laid down by SEIAA for environment clearances for sand mining. For this purpose, the Department may prescribe periodic returns to closely monitor the issues related to environment clearances.

(Paragraph 4.5.10.2)

- Adequate check posts were not established to prevent illegal transportation of sand.

Audit recommends that the Department establish sufficient number of check posts in every district to prevent illegal mining and transportation.

(Paragraph 4.5.10.4)

Audit observations of Compliance Audit

In 18 District Mining Offices (DMOs), royalty of ₹ 62.50 crore was not /short realised from 58 lessees and 11 contractors. The main defaulters were the 22 lessees of major minerals who did not pay/short paid royalty of ₹ 60.50 crore and two contractors of temporary lease permits who did not deposit advance royalty of ₹ one crore.

(Paragraph 4.6)

Four hundred fifty one mining lessees had paid ₹ 7.87 crore of rural infrastructure and road development tax against the payable amount of ₹ 24.79 crore. Further, penalty was not imposed for non-payment of rural infrastructure and road development tax. As a result, tax of ₹ 16.92 crore and penalty of ₹ 50.76 crore was not recovered.

(Paragraph 4.7)

Failure of District Collectors and 11 DMOs to monitor deposit of NMET royalty resulted in short realisation of ₹ 8.11 crore from 20 licensees and nil payment of royalty of ₹ 8.12 crore from 42 licensees.

(Paragraph 4.8)

The PAC had directed (27th Report, 2014-15) the Department to fix time limit for recovery of interest on belated payments. However, the Department failed to evolve a mechanism to ensure recovery of interest on belated payments. DMOs did not recover interest of ₹ 13.91 crore on belated payments of dead rent/royalty from 153 lessees.

(Paragraphs 4.4 and 4.9)

5 Water Tax

Audit on “Assessment and collection of Water Tax” revealed the following:

- The Executive Engineer, Water Resources Department (WRD), Anuppur did not raise bills for the water tax recoverable from a company for the period October 2014 to March 2017. As a result, minimum water tax amounting to ₹ 17.13 crore was not recovered.

(Paragraph 5.2.10)

- Executive Engineer, Hiran Division, Jabalpur did not take action for imposition and recovery of penal water tax of ₹ 1.30 crore from the company which had failed to commence industrial production within the specified period of 48 months.

(Paragraph 5.2.11)

- Executive Engineers of 18 selected Divisions had failed to recover the outstanding water tax amounting to ₹ 1,489.67 crore from industries, domestic water supply entities and cultivators. The Executive Engineer Water Resources Division, Anuppur did not make concrete efforts to recover outstanding water tax of ₹ 771.06 crore even after dismissal of the petition of the company by Hon’ble Supreme Court in March 2009.

The Department may consider putting in place a dedicated recovery machinery focusing on recover of outstanding water tax. The Department may also immediately review all cases of such outstanding recoveries, and where it is of the view that any of such amounts are beyond recovery, approach the Finance Department to consider write off.

(Paragraph 5.2.12)

- Three Divisions had provided water to four local bodies without any agreement and an amount of ₹ 11.55 crore was pending for recovery from these local bodies. Further, in 18 Divisions, an amount of ₹ 107.89 crore was recoverable from the cultivators who had drawn water without any agreement.

(Paragraph 5.2.13)

6 Stamps and Registration Fees

District Registrars (DRs) failed to finalise 172 cases involving revenue amounting to ₹ 4.90 crore referred to them by 24 Sub Registrars (SRs) for determination of market value of properties, though the stipulated period of three months for disposal of referred cases had lapsed.

Audit recommends that the Department should ensure compliance of its orders to DRs to dispose, within three months, all cases referred by SRs

regarding determination of correct market value and duty leviable thereon.

(Paragraph 6.6)

The PAC had directed (72nd Report, 2015-16 on the Audit Report for the year 2006-07) the Department of Registration and Stamps to take action against the officers responsible for misclassification of instruments and application of incorrect rates of stamps duty. Despite this, the Department failed to evolve an effective mechanism to check persistence of such irregularities.

Audit noticed that the SRs did not determine correct market value of the properties or applied incorrect rates of stamp duty due to misclassification of instruments resulting in short levy of Stamp duty and Registration fees of ₹ 3.92 crore in 226 instruments.

(Paragraphs 6.7 and 6.8)

7 Land Revenue

The premium of ₹ 2.24 crore in three cases and ground rent of ₹ 2.61 crore in 108 cases was not recovered upto May 2018. Further, interest of ₹ 42.20 lakh and penalty of ₹ 26.06 lakh on unpaid ground rent was also not imposed. This resulted in short realisation of revenue of ₹ 5.53 crore.

(Paragraph 7.6)

In four cases value of *nazul* land was not assessed as per market value guidelines issued by the district Collectors which resulted in undervaluation of diversion rent and premium of ₹ 1.77 crore. Further, there was underassessment of diversion rent and premium amounting to ₹ 72.15 lakh in 86 other cases due to undervaluation of market rate of private land. This resulted in short realisation of revenue amounting to ₹ 2.49 crore to the Government.

(Paragraph 7.7)

In 311 cases relating to diversion of land situated in *gram panchayat* areas, the Collectorates and *Tahsil* offices did not levy and demand *panchayat upkar* on premium and in 42 cases *upkar* was not levied on diversion rent as well as premium thus depriving the Government of revenue amounting to ₹ 96.59 lakh. The Government accepted in 2015 and 2016 that *upkar* was to be levied in rural areas and the PAC also recommended the Government to issue orders for levy of *upkar* on premium in rural areas but no order has since been issued in this regard.

(Paragraph 7.8)

8 Taxes on Vehicles

The PAC had directed (29th Report, 2014-15) the Transport Department to recover the outstanding tax and penalty within fixed time limit and initiate action against officers who did not take time action to recover the dues. Despite this, the Department failed to evolve an effective mechanism to ensure that Vehicle Taxes are collected fully and defaulters are not allowed to escape the payment of tax and penalty.

Vehicles tax was not paid or short paid by the vehicle owners for 5,559 vehicles for the period between October 2010 and March 2016. The transport

authorities did not issue demand notices for the outstanding amount and did not take action to seize and detain motor vehicles for non-payment of tax. As a result, tax of ₹ 20.28 crore and penalty of ₹ 11.65 crore on the unpaid amount of tax was not realised.

Audit recommends that the Department may evolve a mechanism to ensure that Vehicle Taxes are collected fully and defaulters are not allowed to escape the payment of tax and penalty.

(Paragraph 8.6)

Vehicle tax was incorrectly levied on 1,532 private service vehicles at the rate applicable to Educational Institution Buses resulting in short realisation of revenue of ₹ 10.53 crore.

(Paragraph 8.7)