

CHAPTER-IV: LAND REVENUE, STAMP DUTY AND REGISTRATION FEES

4.1 Results of audit

Test check of the records relating to assessment and collection of land revenue and stamp duty and registration fees conducted during the year revealed non-collection, non/short assessment and blocking of revenue etc., amounting to Rs. 440.08 crore in 38,974 cases, which fall under the following categories.

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
LAND REVENUE			
1.	Non-collection of premium etc. on land occupied by local bodies/private bodies etc.	201	311.10
2.	Non/short realisation of revenue on lease of Government land	1	77.75
3.	Non/short assessment of water rate	6	4.45
4.	Blockage of revenue due to non-finalisation of OLR cases	1,143	1.71
5.	Non-lease/irregular lease of <i>sairat</i> sources	220	1.01
6.	Non-realisation of revenue due to delay in finalisation of OEA (<i>Bebandobasta</i>) cases	36	0.01
7.	Miscellaneous/other irregularities	57	1.12
Total		1,664	397.15
STAMP DUTY AND REGISTRATION FEES			
1.	Blockage of revenue due to non-disposal of cases	28,567	31.73
2.	Loss of revenue due to non-consideration of highest sale value at the time of registration (undervaluation cases)	7,768	10.13
3.	Non-assessment of town planning charges	973	0.88
4.	Short realisation of duty payable under the Orissa Development Authorities Act	1	0.17
5.	Misclassification of gift deeds as release deeds	1	0.02
Total		37,310	42.93
Grand total		38,974	440.08

During the year 2007-08, the department accepted non-collection, non/short assessment of revenue and other deficiencies of Rs. 17.89 crore in 25,624 cases, which were pointed out by audit in 2007-08 and earlier years, of which, an amount of Rs. 8.69 crore has been recovered in 11,555 cases.

A few illustrative cases highlighting important audit observations involving Rs. 132.78 crore are discussed in the following paragraphs.

Land Revenue

4.2 Non-finalisation of alienation cases

According to the Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public sector undertakings, educational and charitable institutions, State and Central Government departments, etc., on payment of a premium fixed on the basis of the market value of the land plus annual ground rent at one *per cent* of the market value and cess at 50 *per cent* of the ground rent upto 1993-94 and 75 *per cent* thereafter. In case of Government land leased out to Central Government departments, premium and capitalised value of land revenue which is 25 times of the annual ground rent and cess is leviable. Besides, interest at the rate of six *per cent* upto 27 November 1992 and 12 *per cent* thereafter is realisable for the period from the date of occupation of the land till the date of payment of the dues.

Test check of the records of four *tahasil* offices between February 2007 and February 2008 revealed that in four cases occupation of Government land measuring 844.041 acres was not regularised though the occupants were in possession of the land for periods ranging between 18 months and 36 years. Due to non-finalisation of the alienation³⁶ cases, there was non-realisation of revenue of Rs. 120.67 crore towards premium, ground rent, cess, capitalised value and interest as mentioned below:

(Rupees in crore)

Sl. No.	Name of the <i>tahasil</i> Name of the occupants	Year of occupation	Area (in acre)	Revenue remained unrealised				Total
				Premium	Ground rent	Cess	Interest	
1.	<u>Pottangi</u> CCBF ³⁷ , Semiliguda	July 1972	812.920	19.33	4.83	3.62	81.84	109.62
The department did not take any action for 23 years. The occupant applied for alienation of the land in October 1995. Despite lapse of 12 years, the case has not been finalised.								
2.	<u>Cuttack</u> CDA ³⁸ , Cuttack	September 2006	7.355	7.36	0.07	Not applicable	0.44	7.87
The occupant applied for alienation of the land in February 2003. Though the possession was handed over in September 2006, the case has not been finalised.								
3.	<u>Lephripara</u> M/s. Hindustan Zinc Ltd.	1979	21.370	0.54	0.15	0.09	1.49	2.27
The occupant was in possession of the land since 1979. The department failed to take any action for about 23 years. Though the alienation case was started <i>suo motu</i> in July 2002, despite lapse of more than five years, the case has not been finalised.								

³⁶ Transfer of land.

³⁷ Central Cattle Breeding Farm.

³⁸ Cuttack Development Authority.

Sl. No.	Name of the <i>tahasil</i> Name of the occupants	Year of occupation	Area (in acre)	Revenue remained unrealised				Total
				Premium	Ground rent	Cess	Interest	
4.	Mohana GRIDCO ³⁹	1985	2.396	0.24	0.05	0.04	0.58	0.91
The land was in unauthorised occupation since 1985 and the occupant applied in February 2004 for alienation of the land in its favour. The department failed to take any action for about 19 years and despite lapse of three years from the date of application for lease the case has not been finalised.								
Total			844.041	27.47	5.10	3.75	84.35	120.67

After the cases were pointed out, the *Tahasildars*, Pottangi, Cuttack and Lephripara stated between January and February 2008 that the cases would be submitted to the higher authorities after observation of due formalities. The *Tahasildar*, Mohana stated in February 2007 that the matter would be pursued for realisation of the dues. A report on further development has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.3 Short demand of capitalised value

As per the Government of Orissa, Revenue Department letters of 22 March 1978 and 22 January 2005, Government land can be leased out to the Central Government departments on payment of premium fixed on the basis of the market value of the land plus capitalised value of land revenue which is 25 times of the annual ground rent and cess. While annual ground rent is calculated at the rate of one *per cent* of the premium, cess is calculated at the rate of 75 *per cent* of the ground rent. Besides, the occupier of the land is liable to pay interest at the rate of 12 *per cent* from 28 November 1992 for the period from the date of occupation of the land till the date of payment of the dues.

Test check of the records of eight *tahasil* offices between May and December 2007 revealed that Government land measuring 467.927 acres was alienated to three Central Government organisations. While calculating the dues payable to the Government, the *tahasildars* levied the capitalised value on the ground rent only instead of levying it on both the ground rent and cess. Thus, there was short demand of Rs. 4.47 crore including interest calculated upto March 2007 as mentioned in the following table:

³⁹ Grid Corporation of Orissa.

(Rupees in crore)

Sl. No.	Name of the <i>tahasil</i>	Name of the occupant	Year of occupation	Area (in acres)	Cess not levied	Interest payable	Total
1.	Nimapara	DRDO ⁴⁰ , Chandipur	March 2004	200.000	1.50	0.54	2.04
2.	Chatrapur	NHAI ⁴¹	Not available	25.165	0.60	-	0.60
3.	Jatni	-do-	Not available	51.576	0.46	-	0.46
4.	Dharmasala	East Coast Railways	Not handed over	59.500	0.60	-	0.60
5.	Khurda	-do-	Between July 2004 and November 2004	52.186	0.21	0.06	0.27
6.	Begunia	-do-	July 2004	35.400	0.14	0.04	0.18
7.	Pipili	-do-	March 2004	22.300	0.13	0.05	0.18
8.	Nayagarh	-do-	Not available	21.800	0.14	-	0.14
Total				467.927	3.78	0.69	4.47

After the cases were pointed out, all the *tahasildars* except *Tahasildar*, Chatrapur stated (between May and December 2007) that the demand would be raised. The *Tahasildar*, Chatrapur stated in December 2007 that action would be taken after scrutiny of the matter. Further reply has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.4 Non-levy of premium on lease of land

As per the Government of Orissa, Revenue Department letters of October 1961, May 1963 and February 1966, Government land can be leased out to public sector undertakings, local bodies, commercial organisations, etc., on payment of premium fixed on the basis of the market value plus annual ground rent at the rate of one *per cent* of premium and cess at 75 *per cent* of the ground rent. In respect of Government land alienated in favour of the Central Government departments, the latter shall pay, besides premium, capitalised value of land revenue which is 25 times of the annual ground rent and cess. Besides, interest at the rate of 12 *per cent* per annum is leviable for the period from the date of occupation of the land till the date of payment of the dues.

Test check of the records of three *tahasil* offices between June and December 2007 revealed that Government land measuring 109.386 acres was leased out to the East Coast Railways during July to November 2004. The *tahasildars* did not raise demand for the market value of the land (premium) though the capitalised value of land revenue had been demanded and realised. This resulted in non-levy of premium of Rs. 2.54 crore as mentioned in the following table. Besides, interest of Rs. 56 lakh calculated upto March 2007 is also leviable.

40 Defence Research and Development Organisation.

41 National Highway Authority of India.

(Rupees in crore)

Name of the <i>tahasil</i>	Area (in acre)	Date of possession	Premium not levied	Interest leviable	Total
Khurda	52.186	Between July 2004 and November 2004	1.10	0.33	1.43
Begunia	35.400	July 2004	0.72	0.23	0.95
Nayagarh	21.800	Not available	0.72	-	0.72
Total	109.386		2.54	0.56	3.10

After the cases were pointed out, the *tahasildars*, Khurda and Begunia stated between November and December 2007 that the demand would be raised. The *Tahasildar*, Nayagarh stated (June 2007) that the lease of Government land to the Railways should be considered on payment of capitalised value only as per direction of the Government. The contention is not tenable in view of the clarification of the Government of January 2005 which stated that payment of premium by the Central Government in any particular case can be exempted if so decided by the Government. However, in the instant case, no exemption has been granted in favour of the Railways.

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.5 Non-raising of demand of incidental charges

As per the provisions of the Orissa Government Land Settlement (OGLS) Rules, 1983, fees for incidental charges like establishment cost, contingencies, etc., in case of lease/alienation of Government land covering 500 acres and above in favour of any department of Government for commercial purpose and in favour of any company, corporation or other organisation for industrial, mining or commercial purpose shall be leviable at the rate of 10 *per cent* of the market value of the land.

Test check of the lease/alienation case records of the *Tahasildar*, Jatni in December 2007 revealed that lease of Government land measuring 500 acres was sanctioned in favour of the Orissa Industrial Infrastructure Development Corporation (IDCO) for industrial purposes. The *Tahasildar*, while raising the demand of Rs. 10 crore towards premium in May and November 2007, did not include the incidental charges. Thus, there was short demand of Rs. 1 crore.

After the case was pointed out, the *Tahasildar* stated (December 2007) that the incidental charges would be realised. A report on recovery has not been received (November 2008).

The matter was reported to the Government in March 2008; their reply has not been received (November 2008).

4.6 Non/short levy of interest

As per the Government of Orissa, Revenue Department order of February 1966 read with its letter of 7 August 1996, the occupier of Government land is liable to pay interest at the rate of six *per cent* upto 27 November 1992 and 12 *per cent* thereafter, on the amount due to the Government for the period from the date of occupation of the land till the date of payment of the said amount.

4.6.1 Test check of the records of Attabira *tahasil* in November 2007 revealed that in two cases of belated payment of dues for occupation of Government land, the *Tahasildar* did not levy interest amounting to Rs. 37.81 lakh. The details are mentioned below.

(Rupees in lakh)

Name of the lessee	Area in occupation (in acre)	Date of occupation	Dues demanded and realised	Date of payment	Interest not levied
Orissa State Warehousing Corporation	5.00	March 2002	43.50	Between March 2002 and March 2007	16.61
Regulated Market Committee, Attabira	4.50	1992-93	16.81	Between March 2002 and March 2006	21.20
Total					37.81

4.6.2 Test check of the records of Chatrapur *tahasil* in April 2007 revealed that the *Tahasildar* while raising demand in December 2006 for the arrear dues of a lessee (Indian Rare Earth Limited) for the period from 1976-77 to 2003-04 incorrectly levied interest of Rs. 5.76 lakh against Rs. 53.05 lakh leviable. This resulted in short levy of interest of Rs. 47.29 lakh.

After the case was pointed out, the Government stated in August 2008 that demand for short assessed amount on Indian Rare Earth Limited has been raised in May 2008. A report on recovery and reply in the other case has not been received (November 2008).

Stamp duty and registration fees

4.7 Short realisation of stamp duty and registration fees

As per the provision under Section 47-A of the Indian Stamp (IS) Act, 1899, the highest sale value of similar classification of land in the same village should be the sale value of the land for the purpose of registration. The highest value of three consecutive years upto the end of the month preceding the month in which the document is presented for registration should be considered for valuation.

Test check of the records in three district sub-registrar⁴² (DSR) and five sub-registrar⁴³ (SR) offices between March 2007 and February 2008 revealed that 203 documents were registered between January 2005 and November 2007 realising Rs. 25.21 lakh towards stamp duty and registration fee on the consideration set forth in those instruments without verifying the highest sale value of three consecutive years upto the end of the month preceding the month in which the documents were presented. Scrutiny revealed that the stamp duty and registration fee leviable on the basis of the highest sale value of preceding three consecutive years was Rs. 1.64 crore. This resulted in short realisation of stamp duty and registration fee of Rs. 1.39 crore.

⁴² Khurda, Koraput and Sambalpur.

⁴³ Chhendipada, Khandagiri, Koraput, Nandapur and Titlagarh.

After the cases were pointed out, the DSR, Khurda stated in February 2008 that action would be taken on due verification of records. The remaining seven registering officers stated between March 2007 and February 2008 that action would be taken to book the cases under Section 47-A of the IS Act. Further development has not been reported (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.8 Short realisation of stamp duty due to application of lower rate

According to the provisions of the Orissa Town Planning and Improvement Trust Act, 1956, additional stamp duty at the rate of two *per cent* over and above the normal stamp duty of eight *per cent* of the consideration value is chargeable in case of registration of instruments pertaining to the land situated in the areas where the above Act is applicable. The Government of Orissa through a gazette notification of 25 May 2005 enhanced the additional stamp duty from two to three *per cent* with immediate effect.

Scrutiny of the records of five DSRs⁴⁴ and 10 SRs⁴⁵ between May 2007 and March 2008 revealed that the enhanced additional stamp duty of three *per cent* was implemented from January 2007 instead of 25 May 2005 which resulted in short realisation of stamp duty amounting to Rs. 1.30 crore.

After the cases were pointed out, all the DSRs and SRs stated that the Board of Revenue circulated the gazette notification in December 2006 and on receipt the enhanced rate was implemented. The contention is not tenable as the enhanced rate was applicable from the date of notification and non-application of the revised rate resulted in loss of revenue.

The matter was brought to the notice of the Government in April 2008; their reply has not been received (November 2008).

44 Balasore, Bhadrak, Bolangir, Jajpur and Koraput.

45 Banki, Banpur, Barbil, Bargarh, Bhanjanagar, Digapahandi, Jaleswar, Nandapur, Padampur and Titlagarh.