

## CHAPTER 3 LAND REVENUE

### 3.01 Results of audit

Test check of records of land revenue in District Land and Land Reforms Offices conducted in audit during the year 2000-2001, revealed non/short realisation of revenue amounting to Rs.146.12 crore in 53 cases, which broadly fall under the following categories:

*(Rupees in crore)*

Sl. No.	Categories	Number of cases	Amount
1.	Non-levy/non-realisation of damage fee	3	10.65
2.	Non-settlement of land	9	0.26
3.	Non-levy/non-realisation of rent, cess and surcharge	12	2.71
4.	Loss of revenue due to non-leasing of <i>sairati</i> interest	7	0.06
5.	Other cases	22	132.44
<b>Total</b>		<b>53</b>	<b>146.12</b>

During the course of the year 2000-2001, the concerned department accepted underassessments etc of Rs.145.56 crore involved in 35 cases of which 31 cases involving Rs.145.49 crore had been pointed out in audit during the year 2000-2001 and the rest in earlier years.

A few illustrative cases and a review on Recoveries under Public Demand Recovery Act, 1913 involving Rs.28.32 crore highlighting important observations are given in the following paragraphs :

### **3.02 Review on Recoveries under Public Demands Recovery Act, 1913**

The findings of a study on the recoveries under Public Demands Recovery Act, (PDR Act) 1913 and its effectiveness and deficiencies are described here.

#### **Highlights**

- ☞ *Non-issue of notices under the PDR<sup>1</sup> Act resulted in non-realisation of certificate dues amounting to Rs.1.44 crore.*  
[ Paragraph 3.02.05 ]
- ☞ *Certificate dues amounting to Rs.12.59 crore in 3941 cases remained unrealised due to improper pursuance of certificate cases.*  
[ Paragraph 3.02.06 ]
- ☞ *Information deficiencies on the part of the certificate organisation itself led to blocking of certificate dues amounting to Rs.6.69 crore.*  
[ Paragraph 3.02.07 ]

#### **3.02.01 Introductory**

Arrears of tax, interest and penalty under the State Acts and Rules are recoverable as arrears of land revenue under the PDR Act, 1913. Such dues are referred to the Collectors of the districts concerned or the officer who has been delegated such powers by the prescribed authority for initiation of certificate proceedings. The certificate proceedings are initiated by serving a demand notice on the certificate debtor after satisfaction of the certificate officer that the demand payable to the Government is due and recoverable. In the case of non-payment within the notice period, the certificate officer executes the certificates by adopting one or all of the following methods :

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<sup>1</sup> PDR : Public Demands Recovery Act, 1913

- a) issue of distress warrants,
- b) attachment and sale of the property of the certificate debtor,
- c) attachment of a decree and
- d) arresting the certificate debtor and detaining him in civil prison.

### **3.02.02 Organisational set up**

The Land and Land Reforms Department, Government of West Bengal administers the certificate organisation through the Commissioners of three divisions (viz. Burdwan, Jalpaiguri and Presidency division). In the district/subdivision level Collectors/Sub-Divisional Officers or other officers appointed by the Collector with the sanction of the Commissioner function as certificate officer under the Public Demands Recovery Act, 1913.

### **3.02.03 Scope of audit**

A review on recoveries under PDR Act was taken up in 11 districts including 6 sub-divisions covering the period from 1994-95 to 1999-2000 (and also the earlier periods wherever considered necessary) with a view to ascertaining the effectiveness of the revenue recovery procedure in the certificate organisation.

### **3.02.04 Position of pending certificate cases with collection of revenue**

Review of records of 11 district Collectors including six sub-divisional offices relating to the period from 1994-95 to 1999-2000 revealed that as on 31 March 2000 a total number of 1,60,854 cases involving an amount of Rs.332.31 crore were pending realisation as certificate dues. The details of the cases are given below:

*Audit Report (Revenue Receipts) for the year ended 31 March 2001*

(Rupees in crore)

Year	Opening balance	Receipts	Total	Disposal	Percentage of disposal/ collection
	No of cases/ Amount	No of cases/ Amount	No of cases/ Amount	No of cases/ Amount	
1994-95	132456	11011	143467	1589	1.11
	110.41	17.75	128.16	1.59	1.24
1995-96	141878	8740	150618	501	0.33
	126.57	30.22	156.79	0.91	0.58
1996-97	150117	8989	159106	836	0.53
	155.88	24.92	180.80	0.82	0.45
1997-98	158270	6156	164426	1069	0.65
	179.98	43.41	223.39	3.17	1.42
1998-99	163357	6685	170042	1863	1.10
	220.22	85.90	306.12	1.01	0.33
1999-2000	168179	3660	171839	10985	6.39
	305.11	37.50	342.61	10.30	3.01

The above position indicates that the percentage of disposal of cases varied between 0.33 and 6.39 per cent of the total pending cases. The department had not fixed any norm for disposal of certificate cases by each officer leading to huge accumulation of pending cases.

**3.02.05 Non-realisation of certificate dues due to non-issue of requisite notices**

Under the Act, the certificate officer on receipt of a requisition is required to sign a certificate in prescribed form stating that the demand is due. After doing this the certificate officer shall serve upon the certificate debtor a notice in the prescribed form alongwith a copy of the certificate.

Scrutiny of the records of 6 districts revealed that in 112 cases, certificate requisitions received from different certificate holders were not filed by the certificate officers and eventually no notice was issued to set the process of recovery into motion though a period ranging between 17 months and 152 months had elapsed since the requisitions were received. This resulted in non-realisation of certificate dues of Rs.1.44 crore as below:

(Rupees in lakh)

Sl. No.	District	No. of cases	Month of receipt (between)	Amount
1.	24-Parganas (S)	6	July 1995 and November 1999	134.18
2.	Midnapore	37	March 1999 and January 2000	3.79
3.	Burdwan	2	April 1997	2.39
4.	Hooghly	2	March 1994 and December 1997	2.19
5.	Purulia	42	July 1993 and June 1999	0.92
6.	Bankura	23	December 1987 and December 1991	0.15
<b>Total</b>		<b>112</b>		<b>143.62</b>

The district authorities while confirming the facts stated (between May 2000 and August 2000) that requisite notices would be issued.

**3.02.06 Non-realisation of certificate dues due to improper pursuance of certificate cases**

Under the Act, the certificate officer shall execute a certificate on expiry of 30 days from the date of service of notice.

Scrutiny of records of 10 districts relating to the period 1990-91 to 1999-2000 revealed that in 3941 cases certificate proceedings initiated through issue of notices between October 1978 and March 2000 were not executed thereafter. In 3867 cases no action was taken except issue of reminders. In 19 cases though the certificate courts passed orders for issue of distress warrants as a coercive measure, the same were not complied with. In 46 cases distress warrants issued were not executed by the Nazarath section though working under the same Collectorate even after expiry of period ranging between 69 months and 283 months.

Failure of the certificate organisation to pursue the certificate cases properly resulted in non-realisation of certificate dues amounting to Rs.12.59 crore.

**3.02.07 Certificate dues remaining unrealised due to lack of co-ordination**

Scrutiny of records of 6 districts revealed that in 33 cases in which certificate proceedings were held up on account of the recovery of certificate dues being stayed by the Hon'ble High Court, the certificate organisation was not aware of the latest development of court proceedings. No effort was made by the certificate officers to ascertain the latest position of these cases even after a lapse of periods ranging between 12 months and 161 months after stay order of the court. This resulted in non-realisation of Rs.6.69 crore as given below :

*(Rupees in lakh)*

Sl. No.	District	No. of cases	Amount	Month of issue of stay order / (between)
1.	24-Parganas (S)	8	300.58	December 1993 and October 1997
2.	Burdwan	12	292.08	December 1986 and November 1997
3.	Hooghly	9	59.21	June 1995
4.	Howrah	1	10.00	April 1994
5.	Bankura	2	6.43	August 1999
6.	Birbhum	1	0.59	February 1997
	<b>Total</b>	<b>33</b>	<b>668.89</b>	

The district authorities confirmed the facts (between April 2000 and September 2000).

### **3.02.08 Certificate dues pending after part realisation**

Under the Act, the certificate officer may allow recovery in instalments and fix the number and amount of instalments.

A test check of 135 cases of 10 districts revealed that after orders fixing instalments were passed, the certificate debtors after payment of a few instalments did not pay the balance dues. Test check further revealed that no action was taken by the certificate officers against the defaulting certificate debtors except issue of formal reminders and distress warrants without execution thereof. As a result only Rs.22.60 lakh (19.67 per cent) out of total dues of Rs.1.15 crore was realised between December 1983 and June 2000.

### **3.02.09 Lack of internal control**

Under Rule 79 of Schedule-II of the PDR Act, 1913, every certificate officer shall maintain a register (Register X) of certificates filed in his office with necessary particulars. For watching proper accounting and progress of recovery in each case, the certificate officer is required to reconcile the Register X maintained for the purpose with Register IX maintained by the certificate holder.

Scrutiny of the records of the certificate officers in 11 districts revealed that though such registers were opened and entries made therein, these were not periodically reconciled with Register-IX. As a result, the system of internal control was not effective enough to monitor the progress and proper accounting of pending cases.

On this being pointed out, the certificate officer stated (between April 2000 and September 2000) that Register X was opened but reconciliation was not done regularly.

The points mentioned in the foregoing paragraphs were reported to Government in March 2001, followed by reminder issued in July 2001; their reply has not been received (October 2001).

### **3.03 Non-realisation of revenue due to delay in settlement**

The West Bengal Land Management Manual, 1977, provides that if possession of non-agricultural land remains with a person without lease for more than twelve years, the occupier cannot ordinarily be evicted in view of the provisions of the Tenancy Act. Such occupier may be offered by Government long term lease on payment of annual rent and *salami*. Settlement procedure is to be completed within 5 months from the date of initiation of proposal for settlement. Further, under the West Bengal Estates Acquisition Act, 1953, as amended in 1975, if any government land is occupied and used by any individual or organisation which is not authorised by the District Collector, such unauthorised occupier shall be liable to pay damage fee for the use and occupation of such land at the rates prescribed by the Government. The damage fee is chargeable from the date of occupation till vacation of the possession/settlement for non-agricultural land at Rs.10 per acre per annum up to 29 June 1975 and at 10 per cent of the market value of the land thereafter. Further, the lease rent is to be fixed at four per cent of the market value of the land proposed for settlement and *salami* is to be charged at ten times the rent.

Scrutiny of records of the District Land and Land Reforms Officer, Tamruk revealed (March 2000) that Digha Development Authority (DDA) was in occupation of 208.90 acres of non-agricultural land since 1966-67 originally acquired for Development and Planning Department. Proposal was moved as per Land and Land Reforms Department's order issued in January 1998, to settle 208.90 acres of land on long term basis with the authority (DDA). The market value of the land was fixed (October 1999) by the Block Land and Land Reforms Officer at Rs.9.22 crore. The annual rent and *salami* calculated on the basis of the market value came to Rs.36.90 lakh and Rs.3.69 crore respectively. The land has not been settled although 3 years had lapsed leading to non-realisation of revenue amounting to Rs.36.90 lakh per annum towards rent and Rs.3.69 crore towards *salami*. Apart from an area of 0.81 acre of vested non-agricultural land falling within Municipal area had been possessed unauthorisedly by four persons since 1981. The district authority did not initiate any action to settle the land with the occupiers on realisation of appropriate revenue or to evict them. This led to non-realisation of revenue of Rs.2.83 lakh as rent and *salami* besides damage fee of Rs.4.03 lakh.

On this being pointed out (March 2000), the district authority in one case (DDA) stated (August 2001) *inter alia* that L & LR Department considered the transfer of the land for use by DDA as inter-departmental transfer and accordingly no order of any payment was made and no amount realised from the DDA. The reply is not tenable since DDA who was in occupation of the land is not a Government Department but an autonomous body and accordingly, the authority is liable to pay rent and *salami*.

In the remaining case, the district authority stated (August 2001) that although demand notice for realisation of damage fee from four persons had been issued, none of them turned up and as such, the block authority was being referred to process eviction cases against the persons. Report on further action has not been received (October 2001).



The cases were reported to Government in August 2000; followed by reminders issued up to July 2001; their reply has not been received (October 2001).

### **3.04 Non-realisation of market value and capitalised value of land transferred to the Central Government Department**

Under the provisions of the West Bengal Land Management Manual, 1977, in the case of transfer of land of the State Government to Central Government compensation would have to be paid to the State Government which would ordinarily be the market value of the land and capitalised value of the land revenue assessable thereon. The process of long term settlement of a land is to be completed within a period of five months. The capitalised value is to be determined at twenty five times the annual rent up to 2 September 1993 and at twenty times thereafter.

Scrutiny of records of the District Land and Land Reforms Officer (DLLRO), Midnapore, revealed (between March 1999 and February 2000) that land measuring 1172 acres at the north of Nayachar Island and 0.37 acre at Midnapore were transferred (between March 1990 and April 1992) to the Calcutta Port Trust, and the Income Tax Department respectively by the Land and Land Reforms Department without assessment of capitalised value, though the market value was duly assessed by the department. The realisation of both the market value and capitalised value in respect of the transferred land was not made till the date of audit. Failure on the part of the DLLRO, Midnapore to take appropriate action in time led to non-realisation of revenue of Rs.1.51 crore.

On this being pointed out (between March 1999 and February 2000), the district authority of Tamluk stated (August 2001) that a transfer proposal in favour of the Calcutta Port Trust had been sent to the Government while the district authority of Midnapore stated (August 2001) that demand was raised against the Income Tax Department. Report on further development has not been received (October 2001).

The cases were reported to Government between July 1999 and August 2000 followed by reminders issued upto July 2001; their reply has not been received (October 2001).

### **3.05 Non-realisation of cesses on lands distributed to *patta*-holders**

Under the provisions of the West Bengal Land Reforms Act, 1955 and the Rules framed thereunder, persons owning no land or having less than one acre of land are eligible to get settlement of *khas*/vested land on *raiyyati* basis. The *patta*-holders of such land are not liable to pay any land rent on the lands as these are within the exemption limit prescribed by the Act. However, such *patta*-holders are liable to pay road cess, public works cess, education cess and surcharge on rural employment cess at the rate of fiftysix paise per rupee of notional rent i.e, Rs.10 per acre per annum in respect of lands settled with them as *raiyyati* land since the date of settlement.

It was noticed (between January 1999 and March 2000) from the records of the 22 block offices under the District Land and Land Reforms Offices, Tamluk and Bankura that a total area of 177782.02 acres of vested agricultural land was settled between 1994 and 1999 with landless persons on *raiyyati* basis and *pattas* were given to them. However, no cess was realised from the owners of *raiyyati* land resulting in non realisation of revenue of Rs.30.37 lakh calculated upto March 2000.

On this being pointed out (between January 1999 and March 2000), the district authority of Tamluk stated (August 2001) that action was being taken to assess and realise cesses while the district authority of Bankura stated (August 2001) that Rs.7485.67 was realised as cess. Further report on realisation has not been received (October 2001).

The matter was reported to Government between April and June 2000 followed by reminders issued upto July 2001; their reply has not been received (October 2001).