

PREFACE

This Report for the year ended 31 March 2009 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising taxes on sales, trade etc., state excise, taxes on vehicles, land revenue, other tax receipts, mineral concession, fees and royalties and other non-tax receipts of the State. The audits have been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2008-09 as well as those which came to notice in earlier years but could not be covered in previous Reports. Certain matters relating to the period subsequent to 2008-09 have also been included in the Report wherever considered necessary.

OVERVIEW

This Report contains 41 paragraphs including three reviews relating to non/short levy/loss of tax involving Rs. 1,171.03 crore. Some of the major findings are mentioned in the following paragraphs:

I. General

The total receipts of the Government of Jharkhand for the year 2008-09 were Rs. 13,212.84 crore against Rs. 12,026.55 crore during 2007-08. The revenue raised by the State Government amounted to Rs. 5,704.95 crore comprising tax revenue of Rs. 3,753.21 crore and non-tax revenue of Rs. 1,951.74 crore. The receipts from the Government of India were Rs. 7,507.89 crore (State's share of divisible Union taxes: Rs. 5,392.11 crore and grants-in-aid: Rs. 2,115.78 crore). Thus, the State Government could raise only 43 *per cent* of the total revenue. Taxes on sales, trade etc. (Rs. 2,996.20 crore) and non-ferrous mining and metallurgical industries (Rs.1,477.94 crore) were the major source of tax and non-tax revenue respectively during the year 2008-09.

(Paragraph 1.1)

The number of inspection reports and audit observations issued upto December 2008, but not settled by June 2009, stood at 2,803 and 14,545 respectively involving Rs. 7,705.91 crore. In respect of 580 inspection reports issued between 1984-85 and 2006-07, even the first replies had not been received though these were required to be furnished within one month of their receipt.

(Paragraph 1.8)

During the years 2003-04 to 2007-08, the department/Government accepted audit observations involving Rs. 1,129.96 crore of which only Rs. 529.58 crore had been recovered as on 31 March 2009. The recovery percentage out of the accepted amount is 46.87 per cent and the Government needs to expedite the recovery proceedings.

(Paragraph 1.11)

Test check of the records of sales tax, land revenue, state excise, taxes on vehicles, stamp duty and registration fees, electricity duty, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2008-09 indicated underassessment/short levy/loss of revenue amounting to Rs. 2493.50 crore in 33,484 cases. During the year, the concerned departments accepted underassessment and other deficiencies of Rs. 609.53 crore involved in 25,146 cases, of which 25,126 cases involving Rs. 602.73 crore were pointed out in audit during 2008-09 and the rest in earlier years.

(Paragraph 1.13)

II. Taxes on sales, trade etc.

A review on “**Transition from sales tax to VAT and application of IT system**” indicated many system deficiencies, some of which were:

- The growth rate of revenue collection during post VAT period had declined as compared to pre-VAT period.

(Paragraph 2.2.7)

- The scheme implemented for computerisation of commercial tax activities during 2004-06 failed to give desired results as it was not for VAT module. This resulted in unfruitful expenditure of Rs. 6.10 crore. Non-mapping of essential rules in the application resulted in continuation of manual operation of business processes.

(Paragraph 2.2.8.5)

- Taxpayer's Identification Number (TIN) was granted to all the 42,964 dealers registered under the repealed Act where as only 17,458 dealers applied for registration under the JVAT Act, 2005.

(Paragraph 2.2.9.2)

- Non-registration of 418 dealers with tax effect of Rs. 48.53 crore was detected by audit through cross verification of data relating to mining offices with eight commercial tax circles.

(Paragraph 2.2.9.4)

- Payment of tax made with delays ranging from 1 to 1,041 days from 2006-07 to 2008-09 in 6,039 cases could not be monitored by the department as the application did not have provision for detection of delay and calculation of interest and penalty.

(Paragraph 2.2.10.5)

- Non-provision for cross verification with records of other departments of State/Central Government resulted in suppression of taxable turnover of Rs. 43.32 crore and consequent short levy of VAT and penalty of Rs. 15.20 crore.

(Paragraph 2.2.13)

- No uploading of data was made in Tax information Exchange System (TINXSYS) despite payment of Jharkhand Government share of Rs. 32 lakh.

(Paragraph 2.2.14)

- Payment by Military Engineering Service (MES) of Rs. 64.30 crore to 64 unregistered contractors without deduction of tax on works contract resulted in non-levy of VAT amounting to Rs. 16.15 crore.

(Paragraph 2.2.15.1)

- Failure of the department to collect data/information from different departments and cross verify the transactions shown in the returns and application of incorrect rates resulted in short realisation of revenue of Rs. 70.39 crore.

(Paragraph 2.4.1)

- The irregularities in determination of sales/purchase turnover resulted in non/short levy of tax and penalty of Rs. 46.18 crore.

(Paragraph 2.5)

- Incorrect/irregular grant of exemption on intra and export sale resulted in non/short levy of tax of Rs. 22.85 crore.

(Paragraph 2.7)

III. State excise

- Non-renewal and non/delayed settlement of wholesale country spirit/spiced country spirit and retail excise shops resulted in non/short levy of licence fee of Rs. 74.80 crore.

(Paragraph 3.3.1)

- Irregular allowance of operational wastage of rectified spirit resulted in non-realisation of excise duty of Rs. 11.57 lakh.

(Paragraph 3.4)

- Non/delayed institution of certificate cases resulted in non-recovery of arrears amounting to Rs. 42.17 lakh and loss of interest of Rs. 10.38 lakh.

(Paragraph 3.5)**IV. Taxes on vehicles**

- Tax of Rs. 16.18 crore due to from 3,646 vehicle owners was neither paid nor was it demanded by the department.

(Paragraph 4.3.1)

- Non-renewal of national permits resulted in non-realisation of fee of Rs. 3.28 crore.

(Paragraph 4.4)**V. Land revenue**

- Non-renewal of 1,250 leases involving 263.60 acres of *khas mahal* land, which expired between 1968-69 and 2000-01, resulted in loss of revenue of Rs. 66.96 crore in the shape of penal rent and interest besides *salami* of Rs. 152.18 crore.

(Paragraph 5.3.1)

- In five anchal offices, non-renewal/settlement of 17.20 acres of encroached public land resulted in non-realisation of *salami* and rent of Rs. 3.67 crore.

(Paragraph 5.3.2)**VI. Other tax receipts****Electricity duty**

- In one commercial taxes circle, in two cases, levy of electricity duty at incorrect rate and suppression of purchase of electrical energy resulted in short levy of electricity duty of Rs. 3.94 crore.

(Paragraphs 6.3.1)**VII. Mineral concession, fees and royalties**

- In one district mining office, sublet of lease without consent of the State Government resulted in illegal mining and consequent non-levy of penalty of Rs. 12.61 crore.

(Paragraph 7.3.1.1)

- In six district mining offices, non-submission of affidavits in prescribed forms in support of minerals procured and consumed resulted in loss of revenue of Rs. 2.70 crore.

(Paragraph 7.3.1.2)

- In two district mining offices, downgrading of coal due to non-scrutiny/ verification of monthly returns of lessees with the annual grade notification of coal by district mining officers resulted in short levy of royalty of Rs. 2.42 crore.

(Paragraph 7.3.2.1)

- A lessee having lease of two collieries paid royalty at different rates for each colliery. This resulted in short levy of royalty of Rs. 1.89 crore.

(Paragraph 7.3.2.2)

VIII. Other non-tax receipts

Following deficiencies were noticed in the system of **levy and collection of Interest Receipts**:

- Non-adherence to the provision of the Bihar Reorganisation Act, 2000 resulted in non-realisation of interest of Rs. 97.21 lakh.

(Paragraph 8.2.7.2)

- Lack of monitoring by the Finance department led to disbursement of loans by the loan sanctioning departments without fixing the terms and conditions for its repayment. This resulted in loss of interest of Rs. 1,015.74 crore.

(Paragraph 8.2.8)

- Non-initiation of certificate proceedings resulted in a loss of Rs.12.41 lakh, non-realisation of interest of Rs. 4.37 crore and principal of Rs. 3.89 crore from 254 loanees. Further, short initiation of certificate cases resulted in non-realisation of Government dues amounting to Rs. 19.88 crore.

(Paragraphs 8.2.9.1 and 8.2.9.2)

- The loan sanctioning departments did not recover the instalments due from defaulting loanees and accrued interest. This resulted in non-recovery of interest of Rs. 577.72 crore and principal of Rs. 442.37 crore.

(Paragraph 8.2.10)

- Arithmetical mistakes in working out the amount of interest payable by 15 loanees resulted in short raising of demand of Rs. 3.24 crore.

(Paragraph 8.2.11)

- Penal interest of Rs. 38.59 crore, though leviable against 22 loanees who had defaulted in repayment of principal and interest, was not levied.

(Paragraph 8.2.12)

A review on “**Forest Receipts**” indicated the following deficiencies:

- Certificate cases for Rs. 44.85 lakh, were not instituted against defaulters. Further, non/delayed finalisation of certificate cases resulted in non-realisation of Rs. 71.93 lakh besides loss of interest of Rs. 55.23 lakh.

(Paragraph 8.3.7.1 to 8.3.7.3)

- Working plan of only 13 out of 31 territorial divisions had been prepared and approved by the Government of India. Delay in preparation/approval of working plans ranged between 2 and 14 years. Control forms prescribed for management of forests were not prepared/submitted by six divisions test checked.

(Paragraph 8.3.8)

- In five forest divisions, non-harvesting of bamboo from 78,249.64 hectares of forest area, due for exploitation during 1992-93 to 2007-08, resulted in loss of Rs. 354.15 crore.

(Paragraph 8.3.11.1)

- In Gumla Forest Division, non-exploitation of timber during 2003-08 in 380 hectares annually resulted in loss of revenue of Rs. 47.04 crore.

(Paragraph 8.3.11.4)

- In Kolhan and Porahat forest divisions, though 14,072.51 hectares of encroached forest land was evicted from encroachers but royalty of Rs. 324.69 crore for trees illicitly felled from that area was not levied/realised.

(Paragraph 8.3.12.2)

- In 16 forest divisions, non-disposal of seized minerals (extracted illegally from forest area) resulted in blockage of revenue of Rs. 1.14 crore.

(Paragraph 8.3.15)

CHAPTER I - GENERAL

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Jharkhand during 2008-09, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the period 2004-05 to 2007-08 were as indicated in the following table:

(Rupees in crore)

Sl. no.		2004-05	2005-06	2006-07	2007-08	2008-09
I.	Revenue raised by the State Government					
	• Tax revenue	2,382.79	2,758.04	3,188.50	3,473.55	3,753.21
	• Non-tax revenue	1,052.45	1,426.53 ¹	1,250.40	1,601.40	1,951.74
	Total	3,435.24	4,184.57	4,438.90	5,074.95	5,704.95
II.	Receipts from the Government of India					
	• State's share of divisible Union taxes	2,366.40	3,175.89	4,050.90	5,109.83	5,392.11
	• Grants-in-aid	858.87	1,103.42	1,520.02	1,841.77	2,115.78
	Total	3,225.27	4,279.31	5,570.92	6,951.60	7,507.89
III.	Total receipts of the State Government (I & II)²	6,660.51	8,463.88	10,009.82	12,026.55	13,212.84
IV.	Percentage of I to III	52	49	44	42	43

The above table indicates that during 2008-09, the revenue raised by the State Government was 43 *per cent* of the total revenue receipts (Rs. 13,212.84 crore) against 42 *per cent* in the preceding year. The balance 57 *per cent* of receipts during 2008-09 were from the Government of India.

¹ Adjustment entry of Rs. 1 lakh.

² For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the year 2008-09. Figures under the major heads 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0028 - Other taxes on income and expenditure, 0032 - Taxes on wealth, 0044 - Service tax, 0037 - Customs, 0038 - Union excise duties and 0045 - Other taxes and duties on commodities and services- Minor Head - 901 - Share of net proceeds assigned to State booked in the Finance Accounts under "A-Tax revenue" have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.1 The following table presents the details of the tax revenue raised during the period 2004-05 to 2008-09:

(Rupees in crore)

Sl. no.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase/decrease in 2008-09 over 2007-08
1.	Taxes on sales, trade etc.	1,881.53	2,212.03	2,556.90	2,845.88	2,996.20	(+) 5
2.	State excise	145.76	161.64	129.62	156.86	205.46	(+) 31
3.	Stamp duty and registration fees	86.59	91.93	122.02	156.26	192.16	(+) 23
4.	Taxes on vehicles	130.24	138.32	218.27	135.67	201.57	(+) 49
5.	Taxes and duties on electricity	36.14	33.87	45.14	76.47	43.47	(-) 43
6.	Taxes on goods and passengers - Tax on entry of goods into local areas	78.19	96.66	74.19	71.07	54.02	(-) 24
7.	Other taxes and duties on commodities and services	6.87	5.93	6.01	5.08	7.00	(+) 38
8.	Land revenue	17.47	17.66	36.35	26.26	53.33	(+) 103
Total		2,382.79	2,758.04	3,188.50	3,473.55	3,753.21	(+) 8

The reasons for variation in receipt for 2008-09 from those of 2007-08 in respect of principal heads of revenue were as under:

Taxes on sales, trade etc.: The increase of five *per cent* was attributed by the department to better and effective tax administration. However, the growth rate decreased from eleven *per cent* in 2007-08 to five *per cent* in 2008-09.

State excise: The increase in revenue was attributed by the department to new excise policy.

The remaining departments did not inform (January 2010) the reasons for variations in receipts from those of the previous year though requested in May 2009.

1.1.2 The following table presents the details of non-tax revenue raised during the period 2004-05 to 2008-09:

(Rupees in crore)

Sl. no.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase/decrease in 2008-09 over 2007-08
1.	Non-ferrous mining and metallurgical industries	937.41	1,013.15	1,022.12	1,177.77	1,477.94	(+) 25
2.	Forestry and wild life	4.51	40.84	3.68	4.06	7.20	(+) 77
3.	Interest receipts	18.63	71.49	38.09	87.14	109.53	(+) 26

4.	Social security and welfare	8.48	17.94	11.65	12.57	4.25	(-) 66
5.	Others	83.42	283.11	174.86	319.86	352.82	(+) 10
Total		1,052.45	1,426.53	1,250.40	1,601.40	1,951.74	(+) 22

The reasons for variations in receipts for 2008-09 from those of 2007-08 in respect of principal heads of revenue, have not been intimated (January 2010) by the departments although requested (May 2009).

1.2 Variations between budget estimates and actuals

The variations between budget estimates and actuals of revenue receipts for 2008-09 under the principal heads of tax and non-tax revenue were as per the following table:

(Rupees in crore)					
Sl. no.	Heads of revenue	Budget estimates	Actual receipts	Variations (+) increase (-) shortfall	Percentage of variation (+) increase (-) decrease
A. Tax revenue					
1.	Taxes on sales, trade etc.	3,715.00	2,996.20	(-) 718.80	(-) 19
2.	State excise	357.52	205.46	(-) 152.06	(-) 43
3.	Stamp duty and registration fees	372.61	192.16	(-) 180.45	(-) 48
4.	Taxes on vehicles	400.60	201.57	(-) 199.03	(-) 50
5.	Taxes and duties on electricity	74.00	43.47	(-) 30.53	(-) 41
6.	Land revenue	52.75	53.33	(+) 0.58	(+) 1
7.	Other taxes and duties on commodities and services	18.65	7.00	(-) 11.65	(-) 62
8.	Taxes on goods and passengers – Tax on entry of goods into local areas	93	54.02	(-) 38.98	(-) 42
B. Non-tax revenue					
1.	Non-ferrous mining and metallurgical industries	1,740.00	1,477.94	(-) 262.06	(-) 15
2.	Forestry and wild life	50.00	7.20	(-) 42.80	(-) 86
3.	Interest receipts	73.51	109.53	(+) 36.02	(+) 49
4.	Social security and welfare	21.64	4.25	(-) 17.39	(-) 80

The reasons for variation reported by the concerned departments in respect of some principal heads of revenue were as under:

Taxes on sales, trade etc.: The variation was attributed to reduction in the rate of tax on diesel/Central Sales Tax and economic recession from October 2008.

Stamp duty and registration fees: The variation was attributed to reduction in the rate of stamp duty and registration fees.

State excise: Decrease in revenue collection was attributed by the department to late approval of shops.

Forestry and wild life: The variation was attributed by the department to non-exploitation of forest produce. However, the department has not intimated the reasons for non-exploitation of forest produce.

The other departments did not inform (January 2010) the reasons for variation despite being requested to do so (May 2009).

1.3 Analysis of collection

The break-up of the total collection at pre-assessment stage and after regular assessment of taxes on sales, trade etc., taxes on entry of goods and passengers, taxes and duties on electricity and other taxes and duties on commodities and services for the period 2008-09 and figures of tax for the period 2006-07 and 2007-08 as furnished by the department was as indicated in the following table:

(Rupees in crore)						
Year	Amount collected at pre assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 2 to 6
1	2	3	4	5	6	7
2006-07 ³	2,574.69	22.95	0.87	9.55	2,682.24	95.99
2007-08 ⁴	3,336.78	54.52	1.58	4.15	3,387.14	98.51
2008-09 ⁵	3,017.13	54.74	1.49	0.46	3,071.41	98

It would be seen from above table that the percentage of collection of taxes at pre-assessment stage over net collection ranged between 96 and 99 *per cent* during 2006-07 to 2008-09.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2006-07 to 2008-09 alongwith the all India average percentage of expenditure on collection to gross collection for 2007-08 were as indicated in following table:

³ Figures furnished by the department for 2006-07 and 2007-08 differ from those previously furnished.

⁴ The figures furnished by department are different from those reflected in the Finance Account and referred to Paragraph 1.1.1.

⁵ Figures are excluding electricity duty.

(Rupees in crore)

Sl. no.	Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2007-08
1.	Taxes on sales, trade etc.	2006-07	2,556.90	14.29	0.56	0.83
		2007-08	2,845.88	16.66	0.59	
		2008-09	2,996.20	24.88	0.83	
2.	Taxes on vehicles	2006-07	218.27	2.49	1.14	2.58
		2007-08	135.67	2.90	2.14	
		2008-09	201.57	4.03	2.00	
3.	State excise	2006-07	129.62	7.38	5.69	3.27
		2007-08	156.86	7.51	4.79	
		2008-09	205.46	10.38	5.05	
4.	Stamp duty and registration fees	2006-07	122.02	9.86	8.08	2.09
		2007-08	156.26	7.81	5.00	
		2008-09	192.16	9.91	5.16	

The foregoing table indicates that percentage of expenditure on collection in respect of state excise and stamp duty and registration fee was higher than the all India average.

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue amounted to Rs. 2,069.02 crore; of which Rs. 742.12 crore were outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. no.	Heads of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than five years as on 31 March 2009	Remarks
1.	Taxes on sales, trade etc., taxes on entry of goods and passengers, taxes and duties on electricity and other taxes and duties on commodities and services	1,737.21	683.68	Out of Rs. 1,737.21 crore, demands amounting to Rs. 139.87 crore were certified for recovery as arrears of land revenue. Recovery of Rs. 1,043.68 crore was stayed by Courts. Specific action taken in respect of the remaining arrears of Rs. 553.66 crore has not been intimated (January 2010).
2.	Land revenue	2.61	Not provided	Specific action taken in respect of the arrears of Rs. 2.61 crore has not been intimated (January 2010).
3.	Stamp duty & registration fees	1.45	Not provided	Specific action taken in respect of the arrears of Rs. 1.45 crore has not been intimated (January 2010).
4.	Non-ferrous mining and metallurgical industries	298.35	58.44	Out of Rs. 298.35 crore, demands amounting to Rs. 217.88 crore were certified for recovery as arrears of land revenue. Recovery of Rs. 44.50

				crore and Rs. 5.29 crore were stayed by Courts and the Government respectively. Recovery of Rs. 0.88 crore and Rs. 1.72 crore was held up due to rectification/review and the parties becoming insolvent respectively. Amount of Rs. 0.09 crore was likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 28 crore has not been intimated (January 2010).
5.	State excise	29.39	Not provided	Out of Rs. 29.39 crore, demands for Rs. 11.54 crore were certified for recovery as arrears of land revenue. Recovery of Rs. 16.58 crore and Rs. 0.16 crore were stayed by Courts and the Government respectively. Recovery of Rs. 0.11 crore was held up due to parties becoming insolvent. Amount of Rs. 0.24 crore was likely to be written off. Specific action taken in respect of the balance arrears of Rs. 0.76 crore has not been intimated (January 2010).
Total		2,069.02	742.12	

The status of arrears of revenue pending collection at the end of 2008-09 in respect of other departments was not furnished (January 2010) despite being requested in May 2009.

1.6 Evasion of tax

The details of cases of evasion of tax detected by the Commercial Taxes department, cases finalised and the demands for additional tax raised as indicated in the following table:

(Rupees in lakh)

Sl. no.	Heads of revenue	Cases pending as on 31 March 2008	Cases detected during 2008-09	Total	Number of cases in which assessment/ investigation completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31 March 2009
					No. of cases	Amount of demand	
1.	Taxes on sales, trade etc., taxes on entry of goods and passengers, taxes and duties on electricity and other taxes and duties on commodities and services	21	55	76	Nil	Nil	76
2	State excise	1	Nil	1	Nil	Nil	1

It would be seen from the above table that no efforts were made by the Commercial Taxes and State Excise Departments during 2008-09 for settlement of pending cases. The Government may, therefore, take effective steps to dispose off the cases.

1.7 Refunds

The refund cases pending at the beginning of 2008-09, claims received during the year, refunds allowed during the year and cases pending at the close of the year as indicated in the following table:

Sl. no.	Particulars	(Rupees in crore)	
		Sales tax	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year	728	18.74
2.	Claims received during the year	215	3.32
3.	Refunds made during the year	365	0.46
4.	Balance outstanding at the end of the year	578	21.60
5.	Interest paid due to belated refunds	Nil	Nil

The pendency of refund cases under sales tax, beyond six months entails mandatory payment of interest at the rate of nine *per cent* per annum. The Government may, therefore, take effective steps to dispose the cases within six months.

1.8 Failure of senior officials to enforce accountability and protect the interest of the Government

Audit observations on financial irregularities and defects in initial records, noticed during local audit and not settled on the spot, are communicated to the heads of offices and to the higher departmental authorities through audit inspection reports for prompt action. The more important irregularities are reported to the heads of departments and to the Government for initiating immediate corrective action. Besides, half yearly reports of such observations outstanding for more than six months are forwarded to the Government to expedite their settlement.

In respect of inspection reports issued up to December 2008, 14,545 paragraphs involving money value of Rs. 7,705.91 crore relating to 2,803 inspection reports remained outstanding at the end of June 2009. Even the first replies, required to be received within one month of the receipt of the inspection reports, were not received in respect of 580 inspection reports issued between 1984-85 and 2006-07.

The position was brought to the notice of the Chief Secretary to Government in August 2009 but no reply has been received (January 2010). Unsatisfactory compliance by the departments in settlement of audit observations resulted in increasing trend of outstanding audit observations and inspection reports.

The large pendency of inspection reports due to non-receipt of replies indicates that heads of offices and heads of departments did not initiate action to rectify defects, omission and irregularities pointed out in the inspection reports. It is recommended that the Government should take suitable steps to ensure that effective procedure exists for prompt and appropriate response to the audit observations, action against officials/officers failing to send replies to inspection reports/paras as per the prescribed time schedule and action to recover loss/outstanding demands in a time bound manner.

1.9 Departmental audit committee meetings

In order to expedite the settlement of outstanding audit observations included in the inspection reports, departmental audit committees are constituted by the Government. These committees consist of representatives of the concerned administrative department and are attended, among others, by the concerned officers and officers from the office of the Principal Accountant General. To expedite clearance of outstanding observations, it is necessary that audit committees meet regularly and ensure that final action is taken in respect of all the audit observations outstanding for more than a year, leading to their settlement. During 2008-09, 15 audit committee meetings were held between April 2008 and February 2009 in which 1,460 paragraphs involving Rs. 115.12 crore were settled.

1.10 Response of the departments to draft audit paragraphs

According to the instructions issued (1966) by the Government of Bihar, replies to the draft audit paragraphs are required to be communicated to the Principal Accountant General within six weeks from the date of receipt of the same. The draft paragraphs are forwarded to the Secretaries of the departments drawing their attention to the audit findings requesting them to send their response within six weeks. The fact of non-receipt of replies from the Government is indicated at the end of each paragraph included in the Audit Report.

Thirty eight paragraphs and three reviews included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2009 (Revenue Receipts), Government of Jharkhand, were forwarded to the Secretaries to the Government of the departments concerned between April and August 2009. The reviews and draft paragraphs were discussed with the Principal Secretaries/Secretaries to the Government in September 2009. They assured that corrective/remedial measures would be taken wherever found necessary in accordance with the rules and procedures for arresting potential risk and leakage of revenue.

1.11 Compliance with the earlier audit reports

During the years 2003-04 to 2007-08, the department/Government accepted audit observations with a total revenue impact of Rs. 1,129.96 crore of which Rs. 529.58 crore had been recovered as on 31 March 2009 as mentioned in the following table:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made	
			during 2008-09 ⁶	upto 2008-09
2003-04	319.72	265.50	17.73	51.55
2004-05	508.13	417.61	38.16	157.49
2005-06	520.78	92.01	31.10	161.88
2006-07	591.10	201.08	32.40	101.39
2007-08	842.65	153.76	57.27	57.27
Total	2,782.38	1,129.96	176.66	529.58

It would be seen from the above table that 46.87 per cent of the accepted money value has been recovered by the departments during the last five years. It is recommended that the Government may issue direction to the concerned departments for prompt recovery of the money in respect of the cases already accepted by them.

1.12 Follow up on Audit Reports- summarised status

Sl. no.	Audit Report ending on	Date of presentation in legislature	No. of draft Paragraphs	No. of draft paragraphs ⁷ discussed	No. of DP where Action taken note not received
1.	31 March 2000	21.03.2002	36	20	34
2.	31 March 2001	17.12.2003	35	8	33
3.	31 March 2002	03.08.2004	27	7	27
4.	31 March 2003	24.03.2005	42	8	42
5.	31 March 2004	19.12.2005	31	4	31
6.	31 March 2005	24.08.2006	29	1	29
7.	31 March 2006	04.04.2007	27	Discussion not started	-
8.	31 March 2007	26.03.2008	36	Discussion not started	-
9.	31 March 2008	10.07.2009	42	Discussion not started	-

N.B. Audit had no information about any decision taken by the competent authority about discussion by PAC of the pending paragraphs of the Audit Reports relating to the areas/districts falling under the jurisdiction of Jharkhand, for the periods prior to the constitution of the State of Jharkhand.

⁶ Figures are based on data/information furnished by the Commercial Taxes, Mines and Geology and Transport and State Excise and Prohibition Departments.

⁷ During 2006-07, 47 paragraphs including reviews of Audit Report (Revenue Receipts) 1999-2000 to 2004-05 were discussed in the Public Accounts Committee (PAC) of Jharkhand. Action taken note on four paragraphs have been received. PAC has not taken any decision regarding settlement of other paragraphs.

1.13 Results of audit

Test check of the records of sales tax, land revenue, state excise, taxes on vehicles, stamp duty and registration fees, electricity duty, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2008-09 indicated underassessment/short levy/loss of revenue amounting to Rs. 2493.50 crore in 33,484 cases. During the year, the concerned departments accepted underassessments and other deficiencies amounting to Rs. 609.53 crore involved in 25,146 cases of which 25,126 cases amounting to Rs. 602.73 crore were pointed out in audit during 2008-09 and the rest in earlier years.

This report contains 41 paragraphs including three reviews bringing out deficiencies in different aspects of tax administration involving a revenue effect of Rs. 1,171.03 crore. Of these, while the departments/Government accepted audit observations amounting to Rs. 88.57 crore, it did not accept observations involving Rs. 40.61 lakh. Final reply has not been received in other cases. These are discussed in succeeding chapters II to VIII.

CHAPTER II - Taxes on Sales, Trade etc.

2.1 Results of audit

Test check of the records of the Commercial Taxes department during 2008-09 revealed non/short levy of tax and penalty, irregular allowance of exemption/concession/application of incorrect rate of tax etc. amounting to Rs. 298.33 crore in 228 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	Transition from sales tax to VAT and application of IT system (A review)	1	32.75
2.	Non /short levy of tax	76	48.92
3.	Irregular allowance of exemption from tax	54	59.99
4.	Non-levy of penalty	7	11.09
5.	Irregular allowance of concessional rate of tax	15	0.50
6.	Non/short levy of additional tax/ surcharge	15	0.60
7.	Short levy of tax due to incorrect determination of turnover	16	11.96
8.	Non-levy of penalty for excess collection of tax/ mistake in computation of tax	6	6.87
9.	Failure to conduct inter-departmental cross verification	1	70.39
10.	Other cases	37	55.26
Total		228	298.33

During 2008-09, the department accepted non/short levy of tax and penalty, irregular allowance of exemption/concession/application of incorrect rate of tax etc. of Rs. 131.97 crore in 67 cases of which 52 cases involving Rs. 131.51 crore were pointed out in audit during 2008-09 and rest in earlier years. A recovery of Rs. 27 lakh was made at the instance of audit.

A few illustrative audit observations involving Rs. 199.13 crore including a review on “**Transition from sales tax to VAT and application of IT system**” of Commercial Taxes Department are mentioned in the succeeding paragraphs:

2.2 Transition from Sales Tax to Value Added Tax and application of IT system

Highlights

- The growth rate of revenue collection during post VAT period had declined as compared to pre-VAT period.

(Paragraph 2.2.7)

- The scheme implemented for computerisation of commercial tax activities during 2004-06 failed to give desired results as it was not for VAT module. This resulted in unfruitful expenditure of Rs. 6.10 crore. Non-mapping of essential rules in the application resulted in continuation of manual operation of business processes.

(Paragraph 2.2.8.5)

- Taxpayer's Identification Number (TIN) was granted to all the 42,964 dealers registered under the repealed Act where as only 17,458 dealers applied for registration under the JVAT Act, 2005.

(Paragraph 2.2.9.2)

- Non-registration of 418 dealers with tax effect of Rs. 48.53 crore was detected by audit through cross verification of data relating to mining offices with eight commercial taxes circles.

(Paragraph 2.2.9.4)

- Payment of tax made with delays ranging from 1 to 1,041 days from 2006-07 to 2008-09 in 6,039 cases could not be monitored by the department as the application did not have provision for detection of delay and calculation of interest and penalty.

(Paragraph 2.2.10.5)

- Non-provision for cross verification with records of other departments of State/Central Government resulted in suppression of taxable turnover of Rs. 43.32 crore and consequent short levy of VAT and penalty of Rs. 15.20 crore.

(Paragraph 2.2.13)

- No uploading of data was made in Tax Information Exchange System (TINXSYS) despite payment of Jharkhand Government share of Rs. 32 lakh.

(Paragraph 2.2.14)

- Payment by Military Engineering Service (MES) of Rs. 64.30 crore to 64 unregistered contractors without deduction of tax on works contract resulted in non-levy of VAT amounting to Rs. 16.15 crore.

(Paragraph 2.2.15.1)

2.2.1 Introduction

The State of Jharkhand, after its creation in November 2000, implemented Jharkhand Finance (JF) Act, 2001. After the unanimous decision of the Government of India in January 2002 to implement VAT, the Government of Jharkhand repealed the JF Act and enacted the Jharkhand Value Added Tax (JVAT) Act, 2005 and JVAT Rules, 2006 from 1 April 2006.

The main objectives/aims contained in the white paper published on VAT included:

- i) it will eliminate cascading effect due to credit of tax paid on purchase for resale or for use in production;
- ii) other taxes will be abolished and overall tax burden will be rationalised;
- iii) overall tax would increase and there will be higher revenue growth; and
- iv) there would be self assessment by dealers and set off will be given for input and tax paid on previous purchases.

Differences between Sales Tax Act and JVAT Act

Some of the differences between the existing VAT Act and Sales Tax Act are as under;

- VAT is multipoint tax system while sales tax was single/double point tax system;
- VAT system relies more on the dealers to pay the tax wilfully and submit their returns and deemed self assessment; whereas supporting documents are required along with returns in the Repealed Act;
- a fixed percentage of cases is provided for detailed check in JVAT Act; while 100 *per cent* cases were to be assessed in the Repealed Act; and
- reduced controls of the executive on the dealers in VAT while many other kinds of taxes such as additional tax, turnover tax etc. were there in the repealed Act.

Salient features of JVAT Act

Different rates of tax and number of schedules in JVAT Act are as under:

Schedule I	Exempted goods
Schedule II	Part A - 1 <i>per cent</i>
	Part B - 4 <i>per cent</i>
	Part C - 4 <i>per cent</i> (industrial inputs & packing materials)
	Part D - 12.5 <i>per cent</i>
	Part E – not exceeding 50 <i>per cent</i> (special rate of tax)
Schedule III	4 <i>per cent</i> (Entry tax)

- The registered dealers under JVAT Act are granted a unique eleven digit registration number known as “Taxpayer’s Identification number” or TIN. The first two digits represent state code (state code for Jharkhand is 20)

and next two are 'check digits'. Of the rest, first two digits are circle codes (varying from 01 to 28 since there are 28 circles in Jharkhand) and last five digits are registration numbers of dealer as per JVAT Act and Central Sales Tax (CST) Act.

- The JVAT Act and notification issued thereunder provides a scheme for payment of composite tax by registered dealers who are engaged in the business of restaurant and eateries, bakeries, brick kilns, stone crushers, works contracts and sale and purchase of second hand motor vehicles with annual gross turnover not exceeding Rs. 50 lakhs. The rate of composite tax varies between half to four *per cent*.

2.2.2 Organisational Set up

The Secretary-cum-Commissioner of Commercial Taxes is responsible for overall collection of VAT in the State. The Secretary-cum-Commissioner of Commercial Taxes is assisted by Additional Commissioner and Joint Commissioners of Commercial Taxes, Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB), Vigilance and Monitoring, along with other Deputy/Assistant Commissioners of Commercial Taxes at the headquarter's level. The Deputy Commissioner of Commercial Taxes (Headquarter) is also the coordinator for the computerisation of the Commercial Taxes Department.

The State is divided into five commercial taxes divisions¹ each under the charge of a Joint Commissioner (Administration) and 28 circles², each headed by Deputy/Assistant Commissioners of Commercial Taxes, respectively. The in-charge of the circle, besides other responsibilities, is also responsible for survey through the Commercial Taxes Officers. A Joint Commissioner of Commercial Taxes (Appeal) is also posted in each division who is assisted by Deputy Commissioners of Commercial Taxes for disposal of appeal cases.

A Deputy Commissioner of Bureau of Investigation is posted in each division to assist Joint Commissioners of Commercial Taxes (Administration). A Deputy Commissioner of Commercial Taxes, Vigilance and Monitoring is posted under the direct charge of Secretary-cum-Commissioner of Commercial Taxes at head office. The in-charge of the circle as well as divisional IB is responsible for survey.

2.2.3 Audit Objectives

The review was conducted to ascertain whether the

- planning for implementation and the transition from the JF Act and Rules made thereunder to JVAT Act and Rules made thereunder was effected timely and efficiently;
- organisational structure was adequate and effective;

¹ Dhanbad, Jamshedpur, Hazaribag, Ranchi and Santhal Pargana.

² Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Tenughat, Sahebganj and Singhbhum.

- provisions of the JVAT Act and Rules made thereunder were adequate and enforced properly to safeguard the revenue of the State;
- internal control mechanism existed in the department and was adequate and effective to prevent leakage of revenue;
- checking the status of system after being in place for three years; and
- whether the application of VICTORY-VAT software met the requirement of JVAT Act with adequate security measures, IT control and data captured was sufficient, reliable, accurate and complete.

2.2.4 Scope and methodology of audit

A review on transition from sales tax to VAT was conducted for the period 2006-07 to 2008-09 in 13³ out of 28 circles, of five divisions and office of Secretary-cum-Commissioner of Commercial Taxes, during the period from June 2009 to August 2009, with special emphasis on creation of database for implementation of VAT, analysis of man power requirement, computerisation, registration, filing and scrutiny of returns, input tax credit, self assessment/assessment, working of IB and Vigilance and Monitoring wings of Commercial Taxes Department. Information collected from the Central/State Government departments and public/private undertakings were also cross verified with the sales tax/ VAT records. Computerised data for the period from April 2006 to April 2009 of four circles⁴ was also analysed using Interactive Data Extraction and Analysis (IDEA), a Computer Assisted Audit Tool (CAAT).

2.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing necessary information and records for audit. Entry conference was held in April and June 2009 with the Secretary-cum-Commissioner, Commercial Taxes Department, Jharkhand in which the scope, audit objective and methodology to be adopted during the conduct of the review was explained in detail. The draft review report was forwarded to the Government and department in August 2009. Audit findings and recommendations were discussed in the exit conference with the Principal Secretary, Finance Department on 24 September 2009. They agreed with all points raised in the review and assured to take corrective/remedial measures in respect of the deficiencies pointed out in the review.

Audit findings

System deficiencies

2.2.6 Internal audit

Internal audit is defined as the control of all controls as it is a means to ensure that the prescribed systems were functioning reasonably well. The Finance (Audit) department works as internal auditor of the Commercial Taxes

³ Adityapur, Bokaro, Chaibasa, Hazaribag, Jamshedpur, Jamshedpur Urban, Pakur, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West and Singhbhum.
⁴ Bokaro, Jamshedpur, Ranchi Special and Ranchi West.

department. By an order of May 1960, the internal audit parties are required to conduct 100 *per cent* audit of all assessments finalised, examining *inter-alia* assessment orders, issue of demand notices, amount of tax collected and verification of deposit of amount in treasury. However, it was indicated that no internal audit had been conducted in the office of the Secretary-cum-Commissioner, Commercial Taxes department and in circles for the last five years.

In the office of the Secretary-cum-Commissioner, Commercial Taxes department Jharkhand there is a 'Vigilance and Monitoring Wing'. The guidelines issued in February 1986 and March 1997 required checking of 20 assessment records every month. Selection of records was to be made on the basis of the gross turnover. Besides, the Deputy Commissioner of Commercial Taxes (Vigilance and Monitoring) was required to check inspection registers, cheque registers, returns, issue of demand notices etc. and send a report regarding registration, levy of penalty for belated payment of output tax/assessed tax and realisation of assessed tax. It was seen that, the post of Joint Commissioner of Commercial Taxes at head quarter and five out of six posts of divisional level of the Deputy Commissioner of Commercial Taxes of Vigilance and Monitoring wing have not been filled up after the implementation of VAT. Accordingly, the work assigned to vigilance officers as mentioned above were not carried out during the period under review.

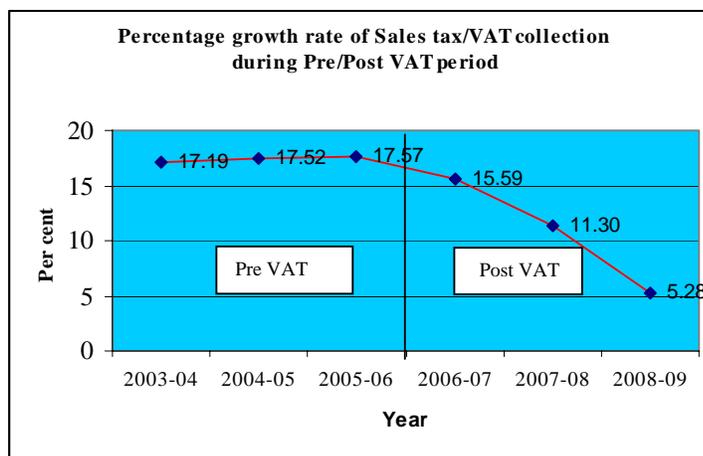
2.2.7 Pre-VAT and post-VAT tax collection

The comparative position of pre-VAT (2003-04 to 2005-06) and post-VAT (2006-07 to 2008-09) tax collection including VAT and the growth rate in each of the year is furnished in the following table:

(Rupees in crore)

Pre VAT			Post VAT		
Year	Actual Collection	Percentage of growth	Year	Actual Collection	Percentage of growth
2003-04	1,601.02	17.19	2006-07	2,556.90	15.59
2004-05	1,881.53	17.52	2007-08	2,845.88	11.30
2005-06	2,212.03	17.57	2008-09	2,996.20	5.28

The average growth rate of tax collection during 2003-04 to 2005-06 and 2006-07 to 2008-09 of pre-VAT and post-VAT respectively has been depicted in the graph below:



During the current year (2008-09), the growth rate was only 5.28 per cent. The department did not furnish any reason for decline in growth rate despite being requested (August 2009). Audit, however, noticed a number of deficiencies like non-formulation of policies for creation of additional tax base; absence of proper survey and monitoring at the apex level; absence of a system of cross verification of intra and inter-state sales and purchases made by registered dealers; non-establishment of check posts and inadequate internal control system in the department, which may be the reasons for decline in growth rate. Some of the important issues are discussed in the succeeding paragraphs:

2.2.8 Preparedness and transitional process

2.2.8.1 Planning for implementation of VAT

The Empowered Committee (EC) of the State Finance ministers decided in 2002 to implement VAT in all the states in India with effect from 1 April 2003. Accordingly, proposed JVAT Act Bill was prepared as per the model Act circulated by the EC and approved by the State Cabinet in February 2003. However, VAT could not be implemented from the target date *viz.* 1 April 2003. Following prolonged deliberation on the subject all over the country, the EC decided to implement VAT in all the states with effect from 1 April 2005. In view of the state assembly election, followed by political stalemate in forming a stable Government, VAT could not be implemented from the said date in Jharkhand. Finally, JVAT Act was approved by the State Legislature in February 2006 and the VAT was implemented from 1 April 2006.

2.2.8.2 Preparation of VAT Act/Rules, vetting of Act/Rules by the Government of India and approval of the legislature

The proposed Act Bill 2003 was sent to the Ministry of Home Affairs, Government of India for vetting in February 2003. All the modifications suggested by the Government of India were incorporated in the Jharkhand Value Added Tax Act Bill, which was enacted by the Assembly in February 2006 as Act of 2005.

2.2.8.3 Creation of awareness amongst stake holders

In course of audit scrutiny of records of Secretary-cum-Commissioner of Commercial Taxes, Jharkhand, **audit observed that no steps were taken by the Commercial Taxes Department to create awareness amongst stake holders or public in general through seminars, media (print or electronic or both) etc.** The year wise utilisation of funds received by the department for campaigning for implementation of VAT in Jharkhand was as per the following table:

(Rupees in lakh)

Period	Allotment received	Expenditure incurred	Balance surrendered
2003-04	5.01	Nil	5.01
2004-05	Nil	Nil	Nil
2005-06	20.20	4.00	16.20
2006-07	17.00	1.43	15.57
2007-08	47.00	47.00	Nil
2008-09	35.00	Nil	35.00
Total	124.21	52.43	71.78

Thus it could be seen that only 42 *per cent* of the fund received for the purpose was utilised during 2003-09 by the department. Further, expenditure during 2007-08 included Rs. 32 lakh paid to Government of India for TINXSYS (Tax Information Exchange System) and Rs. 15 lakh spent on tour of the Secretary and Additional Commissioner of Commercial Taxes Department to London and Brazil to gather information on VAT. Thus, only negligible expenditure was incurred for the purpose and rest was surrendered/utilised for other purposes.

2.2.8.4 Analysis of staff requirement and reorganisation of taxation department

For introduction of VAT system, there was a need for reorganisation of department and for analysing the staff requirement. However, **audit noticed that no steps were taken to analyse the requirement of staff and reorganisation of the department before implementation of VAT.** Requirement of officers at headquarters level, divisions and circles was assessed and identified only in May 2009 i.e. three years after the implementation of VAT though for subordinate staff it was still not done (August 2009). It was stated that the sanctioned strength was based on the requirement of each office. However, audit noticed that the man in position in seven circles⁵ and IBs under Ranchi, Jamshedpur and Dhanbad divisions were more than the sanctioned strength whereas in 16 circles⁶ it was significantly lower than the sanctioned strength. Besides, no officer was posted to the

⁵ Dhanbad Urban, Jamshedpur, Jamshedpur Urban, Ranchi East, Ranchi Special, Ranchi West and Singhum.

⁶ Chaibasa, Chirkunda, Deoghar, Dumka, Giridih, Godda, Gumla, Hazaribag, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Sahebganj and Tenughat.

Bureau of Investigation Central IB at headquarters level, Dumka and Hazaribag divisions.

2.2.8.5 Computerisation of the taxation department and the check gates and their interlinking

- **Unfruitful expenditure of Rs. 6.10 crore on computerisation**

The State Government had initially prepared budget estimate of Rs. 4.25 crore for computerisation in September 2004 which was revised to Rs. 6.54 crore in 2005-06 for hardware and networking equipments, application software, site preparation, data entry, etc. **Audit observed that the scheme implemented for computerisation of commercial tax activities during 2004-06 failed to give desired results as it was not for the VAT module. This resulted in unfruitful expenditure of Rs. 6.10 crore. Non-mapping of essential rules in the application resulted in continuation of manual operation of business processes.**

Year wise allotment and expenditure for computerisation during 2003-04 to 2008-09 was as indicated in the following table:

(Rupees in lakh)			
Period	Allotment received	Expenditure incurred	Balance surrendered
2003-04	100.00	Nil	100.00
2004-05	425.49	407.78	17.71
2005-06	150.00	108.38	41.62
2006-07	135.00	64.77	70.23
2007-08	72.00	29.36	42.64
2008-09	Nil	Nil	NIL
Total	882.49	610.29	272.20

It was noticed that the allotment of Rs. one crore made during 2003-04 was not operated at all and the entire amount was surrendered. For the period from 2004-05 to 2007-08, Rs. 7.82 crore were allocated for different purposes of computerisation. However, against this Rs. 6.10 crore were utilised and the balance of Rs. 1.72 crore was surrendered.

Test check of records indicated that the department had entered into a consultancy agreement in April 2004 with a Central Public Sector Undertaking at a fee of Rs. 77 lakh to develop an 'Application Software' with a centralised processing and database unit (web enabled) to facilitate access to both the user of the system and the dealers for on-line e-filing of returns. The Application Software comprised nine modules to be commissioned within one year. Though, decision to implement VAT was taken in 2003, i.e., much earlier to entering into agreement in April 2004, there was no mention of the fact that the software was to be developed for the purpose of VAT, which indicates defective planning. Further, though the consultant was required to develop all the modules within a period of one year, it developed only three modules till March 2006. The department had at no time reviewed the progress made in the development of the system. Instead it paid Rs. 43 lakh as fee, Rs. 55 lakh for purchase of software from a Delhi based company and Rs. 3.11 crore for purchase of hardware and networking equipments in 2004-06. In March 2006, the department became aware of the fact that the system was non VAT and

cancelled the contract. These facts indicated that the planning for implementing the VAT system was faulty.

Thus, there was a wasteful expenditure of Rs. 4.09 crore besides unfruitful expenditure of Rs. 2.01 crore on site preparation.

- **Setting up of VICTORY**

National Informatics Centre (NIC) at the request of the department in February 2006 developed a web based VAT application software namely VICTORY (VAT Information Computerisation to Optimize Revenue Yields) for the Commercial Taxes Department which was commissioned on 1 April 2006. The application software (VICTORY) comprises the following five modules:

1. Dealer information system and issuance of TIN;
2. Dealer Return processing system;
3. Payment Management system;
4. Monthly Progress Report; and
5. Form Control system.

A review of the system indicated the following deficiencies:

- The documentation of critical process of User Requirement Specification, System Requirement Survey and System Design Document was not carried out.
- The Form control system was yet to be made operational. The uses of 'Return processing system' and 'Monthly Progress Report' were limited to the entry of returns and generation of monthly progress report of collection of revenue respectively. The monthly progress report which is a part of management information system was being prepared using data entered by the circles compiled from manual records. Data entered through Registration, Payment and Return modules in database was not being utilized for generating such management information system reports.
- Areas like realisation of late fee; suspension of Registration Certificate; monitoring of submission of returns to impose penalty on delayed submission of returns, monitoring of payment of tax to impose interest and penalty on delayed payment of admitted tax; grant of instalments; self assessment, excess collection of tax; refund and provisional refund etc. were not found developed/mapped in the modules.
- Modules like Industrial Exemption System, Dealer Assessment System, and Personal Information System relating to administrative work of the department and systems for other taxes like Luxury tax, Entertainment Tax etc. were not considered for development.
- There was no documented user and password policy. It was noticed that the normal password control practices like restriction on unsuccessful login attempts, automatic lapse of password after a pre-defined period and application enforced periodical change of password were non-existent. Further, number and type of characters specified for the password were also

not defined in the application and the application accepted any single character (alphabet, special or numeric) as password. The Department in its reply stated (July 2009) that the matter has been referred to National Informatics Centre.

- There was no audit trail built in the application to capture activities of the users as log of programmes and transactions executed did not exist in the application. It was also observed that 6,550 monthly returns⁷ were entered in the database without capturing user IDs, clearly establishing the lack of even minimum audit trail in the application.
- The department did not furnish any documented plan to phase out the manual system and change over to the computerised system. The system developed is running in parallel with the manual system since its inception. Therefore the objective of discontinuance of manual registers and improving the efficiency of the working system of the department were not achieved.

- **Setting and functioning of Check Posts**

Section 72 of JVAT Act provides for establishment of check posts with a view to prevent or check avoidance or evasion of tax at such places as may be specified in a notification. An allotment of Rs. 15 crore was provided in 2001-02 for establishment of check posts which was diverted to Department of Transport, Jharkhand for establishing check posts. However, no check posts were established and no officers from the commercial taxes department were deployed for the purpose. Computerised check posts linked with the commercial taxes department headquarter is an essential tool to ensure correct assessment of tax of the dealers involved in inter-state trade. Absence of the above is also a reason of decrease in growth rate of revenue collection over the years, after the implementation of VAT in the State.

2.2.8.6 Creation of operation manual and training of staff

In the course of scrutiny of JVAT Act and Rules made thereunder, it was noticed that no provision has been kept for creation of operation manual for officers and other sub-ordinate staff working in the department. **No operation manual has been prepared by the commercial taxes department for effective implementation of VAT.**

Information collected from the Secretary-cum-Commissioner, Commercial Taxes Department, Jharkhand, indicated that originally 249 officers and 358 staff were earmarked for training in the 2003-04. However, 65 officers and 83 staff of the department are yet to be trained till the date of audit even three years after implementation of VAT.

2.2.8.7 Completion of Sales Tax/Central Sales Tax assessments under the repealed Act

The position of assessment finalised under the repealed Act during 2006-07 to 2008-09 was as under:

⁷ Form JVAT 213

Year	Assessment under repealed Act	Assessment under CST Act	Assessment under Entry tax	Total assessment finalised	Total assessment due to be finalised
2006-07	24,104	17,701	766	42,571	NA ⁸
2007-08	19,195	12,949	680	32,824	6,256
2008-09	16,732	10,895	1,344	28,971	2,484
Total	60,031	41,545	2,790	1,04,366	8,740

It would be seen from above that there is still a large number of cases pending for assessment under the repealed Act. The pendency is likely to affect adversely the finalising of cases under JVAT Act. These also affected the smooth transition from JF Act to JVAT Act.

To overcome the deficiencies mentioned in the foregoing paragraphs, the Government may consider:

- **reorganisation of the department based on proper manpower planning and adequate training;**
- **strengthening the functions of IB and Vigilance and Monitoring wing for regular survey, collection of data/information regarding purchase/sale and creation of database from departments of State/Central Government/PSUs etc. for cross verification of the transactions; and**
- **full utilisation of computer application software already installed and widening its scope from time to time, as per requirement.**

2.2.9 Registration and database of dealers

2.2.9.1 Creation of database

The application software VICTORY developed for the commercial taxes department created a database of dealers which included TIN, date of returns furnished by them and tax paid by them. **Audit observed that no periodic analysis of the database was done by the commercial taxes department.** Some of the related discrepancies noticed in audit are mentioned in the following paragraphs:

2.2.9.2 Registration of dealers

As per the JVAT Act and Rules made thereunder, every dealer who held a valid certificate of registration under the repealed Act, shall apply for registration in Form JVAT 100 and shall also submit information in the prescribed format regarding details of business along with two copies of recent passport size photograph, to the Registering Authority, within two month of coming into force of these rules. No fee shall be charged if application is made within the prescribed time period of thirty days. In case of late submission of application up to thirty days late fine of Rs. 100 was chargeable. Further, in case of non

⁸ Information not furnished by the department.

submission of application beyond thirty days the dealer would cease to be a registered dealer under the Act from the next day. The Act further stipulates that the Joint Commissioner of Commercial Taxes (Administration), may condone further delay of 180 days with late fee of Rs. 200. New dealers seeking registration are to apply in form JVAT 101. The Registering Authority if satisfied, shall issue to the dealer a Registration Certificate (RC) under the Act in Form JVAT 106 within fifteen days and grant him a Taxpayer's Identification Number (TIN) which shall be valid from the appointed day, i.e., 1 April 2006. Audit scrutiny of VICTORY indicated the following:

- TIN was granted in advance to all the 42,964 dealers registered under the Repealed Act before the appointed day though subsequently only 17,458 dealers applied in Form JVAT 100 for registration. Thus, allotment of TIN to 25,506 dealers without obtaining the requisite information/documents was against the provisions of the Act. This also deprived the Government of the fee/fine required to be deposited for late submission of the application.

After this was pointed out, the department stated (July 2009) that in the pre-VAT period it was decided to grant TIN to all registered dealers and that in Jharkhand Value Added Tax Act and related Rules, the provision of deemed registration was provided. It was also stated that the existing dealers can apply in form "JVAT100" and their registration number/TIN can be regularised in the VAT period. The reply is, however, not in consonance with Rule 3(ii) of JVAT Rules which provides that dealers who had not applied in the prescribed form within the period specified in Rule 3(i), were deemed to have failed to apply for registration under JVAT Act.

- Test check of data relating to two circles⁹ indicated that 77 dealers had applied for registration after more than two to three months. Also the dealers did not submit the information in the prescribed format. The dealers were liable to pay fine at the prescribed rate. This was not done, instead the dealers were registered and RC was issued in violation of the Act. Registration of dealers without obtaining the information in the prescribed forms and documents which is fraught with the risk of evasion of VAT.
- Under Jharkhand Value Added Tax Act and Rules made thereunder any dealer, whose gross turnover of sales during a financial year exceeds Rs 25,000, may apply in the prescribed manner to the prescribed authority for voluntary registration under this Act.

Analysis of database of test checked circles indicated that the field relating to gross turnover was found zero in respect of 235 dealers who had applied for voluntary registration. TINs were, however allotted to these dealers in violation of the provisions of the Act.

After this was pointed out, the department stated (June -July 2009) that gross turnover was mentioned in the application for registration, but due to clerical mistake the same was not entered in the database. The reply is not correct as test check of records maintained manually of 40 such dealers indicated that 13

⁹ Ranchi South and Ranchi East

dealers had not furnished gross turnover and two dealers had furnished gross turnover below the threshold limit¹⁰ in the prescribed column of the application form. Also, the application should have been designed with validation checks for allotment of TIN/issue of registration certificates to ineligible dealers.

- Under Jharkhand Value Added Tax Act and Rules made thereunder, a dealer who is liable to pay tax should furnish security for the proper payment of tax payable by him, by furnishing to the Registering Authority a guarantee from a Nationalised bank approved in this behalf by the said authority, agreeing to pay the State Government, on demand, the amount of security fixed by the said authority. Analysis of the database of test checked circles indicated that bank guarantees amounting to Rs. 1.80 crore had expired on April 2009. Further, test check of records maintained manually of 20 such bank guarantees indicated that six bank guarantees amounting to Rs. 16.50 lakh had expired between May 2007 and May 2009. There was no provision in the application to monitor the expiry of bank guarantees.

After this was pointed out, the department stated (July 2009) that the related provision to monitor the expiry of bank guarantees and generation of report of Bank Guarantees will be provided in the application.

- Under Jharkhand Value Added Taxes Act and Rules made thereunder the dealer shall furnish particulars of the business in the application form¹¹ including information as contained in annexure enclosed therewith. Analysis of database of test checked circles indicated following incomplete capturing of data:
 - Nature of Business in respect of 6,223 dealers was found unchecked against the specified types. Test check of records maintained manually of 40 such dealers indicated that 24 dealers had furnished nature of business, the same was, however, not captured in the database.
 - Principal Commodity was found blank in respect of 8,294 dealers. Test check of records maintained manually of 40 such dealers indicated that 39 dealers had furnished name of principal commodity, the same was, however, not captured in the database.
 - Details of Annexure–I in respect of 6,202 dealers were not found. Test check of records maintained manually of 40 such dealers indicated that 21 dealers had furnished details in Annexure–I, the same was, however, not captured in the database.
 - Details of Annexure–III in respect of 7,272 dealers were not found. Test check of records maintained manually of 40 such dealers indicated that 34 dealers had furnished details in Annexure–III, the same was, however, not captured in the database.

¹⁰ It is the limit of gross turnover of a dealer in a year beyond which he is eligible for registration under JVAT Act. This is Rs. 25,000 for works contractors', Rs. 2 lakh for restaurants and Rs. 5 lakh for other dealers.

¹¹ Form JVAT 100/JVAT 101.

After this was pointed out, the department stated (between June and July 2009) that most of the registered dealers under repealed Act had not filed the prescribed form “JVAT100”, but TINs were allotted to them and that in case of dealers, who had submitted the form “JVAT100”, necessary corrections would be made after verification.

- Analysis of the database of test checked circles indicated that in 2,740 cases, the entries made in the field relating to the date of verification of application for registration were prior to the entries of date of acknowledgement of application and in 14 cases the entries made in the field relating to the date of acknowledgement of application for registration were prior to the implementation date of Jharkhand Value Added Tax Act. Due to inadequate validation check on the date fields, the application accepted any past or future date, however irrelevant, as is evident from the following table¹² based on the database.

Field Name	Purpose of the field	Range of dates entered	
App_verify_dt	Stores the date of verification of application for registration.	16/12/2000	11/11/2026
Ack_dt	Stores the date of acknowledgement of application for registration.	06/12/1974	05/08/5006
liability_dt	Stores the date on which liability for payment of tax arises.	07/12/0200	14/01/9996
Rc_issue_dt	Stores the date on which the registration certificate has been generated.	01/04/2006	22/06/2206

After this was pointed out, the department stated (July 2009) that the matter has been referred to the National Informatics Centre for rectification.

- Under the provision of Jharkhand Value Added Tax Act and Rules made thereunder, the dealer was to mention the PAN in the application for registration under the Act. By a notification issued by the Government of India in December 2001, possessing of PAN under the Income Tax Act, 1961 by the registered dealers under the General Sales Tax Law of the appropriate states was made mandatory.

Analysis of database of test checked circles indicated that the field relating to PAN of the dealers was found incomplete/irregular against the prescribed format in case of 202 dealers. Further, test check of records maintained manually of 40 such dealers indicated that four dealers had not furnished PAN, nine dealers had applied for allotment of PAN during May and November 2006 but the same was not furnished (July 2009) while one dealer had furnished incorrect PAN at the time of registration.

¹² T_Dealer_Main.

After this was pointed out, the department stated (between June and July 2009) that necessary corrections would be made after verification, and notices will be issued to the dealers who had not submitted the PAN.

2.2.9.3 Periodic analysis of dealers below threshold limit

In the course of scrutiny of JVAT Act and Rules made thereunder, it was noticed that no provision existed for periodic analysis of dealers below threshold limit to prevent the unregistered dealers avoiding registration. No instruction was issued by the department in this regard. Absence of a mechanism for periodical review of dealers below threshold limit keeps the option open for the unregistered dealers to evade payment of tax even after crossing the threshold limit.

2.2.9.4 Detection of unregistered dealers

As per the provisions of the JVAT Act and Rules made thereunder, the circle in-charge and IB shall, with a view to identify dealers who are liable to pay tax under the Act, but have remained unregistered, cause survey of unregistered dealers from time to time, to widen the tax base.

In course of audit, it was noticed that IB remained non-functional during the period of review. However, 2,693 surveys were conducted by 27 circles incharge¹³ of all the five divisions as detailed in the following table:

Year	No. of surveys conducted during the year	No. of dealers found due for registration	No. of dealers recommended for registration	No. of dealers actually got registered	Percentage of column 5 to 2
1	2	3	4	5	6
2006-07	400	332	278	221	55
2007-08	841	599	567	406	48
2008-09	1,452	976	580	479	33
Total	2,693	1,907	1,425	1,106	41

It was observed that 1,106 dealers were registered out of 1,425 dealers recommended for registration in the 2,693 surveys conducted during the last three years. Reasons for non-registration of the remaining 319 dealers recommended for registration, on the basis of survey, were not furnished by the department. The percentage of dealers registered against the market survey varied between 33 and 55 *per cent* with an average of 41 *per cent*.

No surveys were conducted during 2006-07, 2007-08 and 2008-09 in nine¹⁴, three¹⁵ and one¹⁶ circles respectively. Besides, no return was prescribed by the Secretary-cum-Commissioner, Commercial Taxes Department to monitor the progress of registration of dealers through surveys.

¹³ Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahebganj, Singhbhum, Lohardaga and Tenughat.

¹⁴ Adityapur, Deoghar, Dumka, Godda, Jamshedpur, Jamshedpur Urban, Palamu, Sahebganj and Singhbhum.

¹⁵ Dumka, Godda and Jamshedpur.

¹⁶ Godda.

It was further noticed that no surveys were conducted by verification of documents in Government, Public Utilities¹⁷ and Financial Institutions including banking companies to prevent evasion of tax by unregistered dealers.

Cross verification of data collected by audit through five district mining offices¹⁸ with records of eight commercial taxes circles¹⁹ revealed that 418 lessees of mining department dispatched/sold stone ballast valued at Rs.194.12 crore during 2006-08, though they were not registered with the Commercial Taxes Department. Thus, non-conducting of survey resulted in non-registration and non-levy of tax amounting to Rs. 48.53 crore including penalty of Rs. 24.26 crore.

After the cases were pointed out, the department raised demand of Rs. 1.36 crore in September 2009 against 54 cases.

2.2.9.5 Database of dubious/risky dealers

It was noticed that a data base of dubious/risky dealers was not prepared by the department and made online in application software VICTORY for information of all concerned officials to check cases of fraud, concealment and usage of fake forms.

2.2.9.6 Periodic analysis of registration certificate to detect dormant registration

Neither was periodical analysis of registration certificate to detect dormant registration and TIN conducted by the circles for taking cancellation nor had the Secretary-cum-Commissioner, Commercial Taxes Department office issued any executive instruction/guidance for detection of dealers with dormant registration so far (August 2009). TIN remaining dormant for a considerable time are prone to evasion of tax.

The Government may consider conducting periodical analysis of the data to ensure prompt registration of dealers, detection of dubious/risky and dormant dealers.

2.2.10 Returns

2.2.10.1 Deficiencies in forms for submitting returns

The deficiencies noticed in forms prescribed for monthly, quarterly and annual returns required to be submitted by dealers to the assessing authority are as follows:

Monthly/quarterly and annual returns in the Form JVAT 200 and JVAT 204 respectively are required to be submitted by the dealers under Rule 14 of the JVAT Rules. **Audit noticed that the forms do not provide any column indicating description and quantity of goods sold/purchased.** As a result, application of correct rates of tax and value is not verifiable.

¹⁷ Municipal Body, Gram Panchayat, District Board, Electricity Board, State Transport Corporation etc.

¹⁸ Chaibasa, Hazaribag, Jamshedpur, Pakur, and Saraikella Kharsawan.

¹⁹ Adityapur, Chaibasa, Hazaribag, Jamshedpur, Jamshedpur Urban, Pakur, Ramgarh and Singhbhum.

2.2.10.2 Monitoring of filing of returns

A registered dealer under the Act is required to file a true and complete return in Form JVAT 200 with the concerned circle within 25 days after the end of the tax period. Monthly/Quarterly and Annual return in Form JVAT 200 and 204 respectively are also to be filed by the registered dealer within 25 days and by 31 July after the end of the tax period respectively. A penalty not exceeding rupees twenty for every day of default or maximum of rupees five thousand in a year is leviable under the Act. Audit noticed that there was no system to monitor submission of returns. The module 'Return processing system' in the application software 'VICTORY' did not contain any monitoring system to watch timely submission of returns by the dealers. Though a provision for levy of penalty of late submission of return has been prescribed in the Act, due to the absence of provision in the system, levy of penalty could not be ascertained in audit.

- Section 35 (6) of JVAT Act, 2005 provides that if a dealer(s) fails to furnish returns within the prescribed date, the assessing authorities shall proceed to assesses the dealers on the basis of the information available in the returns. No assessment in respect of these cases shall be made after the expiry of two years from the end of tax period.

It was observed that 25,586 TIN dealers had not filed returns during 2006-07 to 2008-09 till the date of audit as shown in the following table:

Divisions	No. of TIN dealers not filing returns		
	2006-07	2007-08	2008-09
Dhanbad	289	253	210
Hazaribag	2,641	3,107	3,336
Santhal Pargana	352	331	277
Jamshedpur	3,972	4,353	4,691
Ranchi	522	658	594
Total	7,776	8,702	9,108

The assessment of 7,776 dealers who did not file returns during 2006-07 has become time barred under the provisions of the Act. The department did not take timely action to complete assessments to safeguard the Government revenue.

- It was also noticed that the application had provision to generate list of dealers who had not submitted returns. Analysis of database of test checked circles indicated that entries relating to submission of returns were absent in respect of 6,025 out of 15,375 dealers for the period from 2006-07 and 2008-09. Further, 4,494 out of 14,051 dealers had not submitted Annual Return²⁰, although they were submitting either Monthly Return²¹ or Quarterly Return²² or both during 2007-08. Test check of records maintained manually of 40 such dealers indicated

²⁰ Form JVAT 204.

²¹ Form JVAT 213.

²² Form JVAT 200.

that 16 dealers had not submitted Annual Return for the year 2007-08. Thus, monitoring of non-submission of returns by the dealers by the department was weak.

The department stated (July 2009) that only 40 *per cent* of total returns/payment received in the circles was entered into return/payment modules and that when data entry is completed, management information system will be generated through the system.

2.2.10.3 Scrutiny of returns (Form 200) filed by the VAT dealers

Under Jharkhand Value Added Tax Act and Rules made thereunder, the Prescribed Authority of the record, shall, within 15 days of the returns being placed on the record of the dealer, scrutinize them in accordance with the provisions of the Act. If any mistake is detected as a result of scrutiny, the assessing authority shall serve a notice on the dealer to make payment of extra amount of tax, along with interest.

Further, provisions for submission of relevant documents along with self assessment in JVAT 124 by 31st December following the end of the tax period render the scrutiny impractical.

Audit scrutiny indicated that though the provision for scrutiny of the returns was available in the application, neither the details of scrutiny of returns nor provision for issue of notices was found in the application.

After this was pointed out the department stated (July 2009) that the software related to scrutiny of returns was being developed.

2.2.10.4 Erroneous calculation of tax

Audit scrutiny indicated that the application had provision to calculate the value of the fields of Total Amount of Input Tax, Total Amount of Output Tax and Balance Payable in the form for Quarterly Return based on values entered in different fields. The facility of editing the calculated fields was also provided in the application which resulted in a mismatch between the calculated values and values entered in these fields. The value of the field of the balance payable in the form of Quarterly Return was entered in database as 6,56,56,526.08 in place of 32,51,22,135.65 which would be arrived on normal calculation. Similarly, the value of field of Total Tax in the form of Monthly Return as entered in database was 74,38,65,566.57 and the value as derived from normal calculation would be 1,93,19,50,973.23.

After this was pointed out, the department stated (July 2009) that the erroneous calculation of tax as shown in database was due to data entry as per details furnished by the dealers and that the actual calculations derived can be seen by the concerned authorities and notices can be issued to the dealers accordingly. It was also stated that in due course when the data entry of return becomes stable the facility of issue of notices would be provided in the application.

The above indicates that the application has not been designed with checks to detect an incorrect return and for issue of notices.

2.2.10.5 Delay in payment of tax by the registered VAT dealers

Under Jharkhand Value Added Tax Act, if a dealer fails to make payment of the tax due by the due date, the dealer shall be liable to pay interest at the rate of one *per cent* per month from the due date of payment of tax to the date of its payment or to the date of order of assessment, whichever is earlier. Further, penalty is also leviable.

Analysis of database of test checked circles indicated that in 6,039 cases, payment of tax was made with delays ranging from 1 to 1,041 days during the period from 2006-07 to 2008-09. In the application, however, **there was no provision for detection of delay and calculation of applicable interest and penalty.**

After this lacunae was pointed out, the department stated (July 2009) that only 40 *per cent* of the payments were being entered in the application, as computerisation was not complete and that when 100 *per cent* of payment details were captured, the generation of defaulters list would serve the purpose of monitoring.

2.2.10.6 Non-Monitoring of clearance of cheques

The application captures the details of cheques received from the dealers as payment of tax viz. cheque number, name of bank, cheque amount & cheque date and also the details regarding clearance of cheque i.e. date of clearance of cheque, challan number etc. After entering the date of clearance of cheque, the payment appears in Payment Report (Register VIII).

Analysis of database of test checked circles indicated that the field relating to date of clearance of cheques for the tax paid by the dealers through 5,200 cheques of different bank branches was found blank and the cheques appeared to be time barred, from the date of cheque (up to December 2008). **The application had no provision to monitor the time barred/bounced cheques.** This resulted in a discrepancy between the Payment Report (Register VIII) and manual Register VIII maintained in the circles clearly showing that the computerisation in the department had failed to replace manual maintenance of records and had instead resulted in duplicity of efforts.

After this was pointed out, the department stated (July 2009) that the matter has been referred to National Informatics Centre for rectification.

The Government may consider designing the application with the checks/controls to detect incorrect returns, delays in payment of tax, interest payable and for monitoring the time barred/bounced cheques.

2.2.10.7 Provision for compliance with audit observations

In course of scrutiny of JVAT Act and Rules made thereunder, it was noticed that **no provision has been kept for production of records requisitioned and compliance of audit observations by the Accountant General conforming to the requirements of audit in terms of the Duties, Power and Condition of Services of Comptroller and Auditor General of India Act, 1971. Provision for the same is prominent in similar Acts of other States (e.g. Bihar).**

2.2.11 Tax audit

According to section 34 of JVAT Act, the circle in-charge shall undertake tax audit of the records; stock in trade and the related documents of the dealer, who are selected by the Commissioner in the manner as may be notified for the purpose. The tax audit shall be generally taken up in the office, business premises or warehouses of the dealer. During tax audit, the circle in-charge shall examine the correctness of return or returns filed and admissibility of various claims including ITC. In the course of audit, it was seen that no such notification was issued by the Secretary-cum-Commissioner, Commercial Taxes Department since implementation of JVAT Act till date.

2.2.12 Absence of necessary details in declaration forms

According to JVAT Act and Rules made thereunder, ITC claims are allowed on submission of declaration in Form JVAT 404 by the selling dealer alongwith certificate of deposit of tax into the treasury. **Audit observed that Form JVAT 404 did not contain information regarding challan number, date and name of treasury essential for further cross verification of tax deposit.**

2.2.13 Provisions for cross verification

The Act does not provide for cross verification of declaration in form JVAT 404 furnished by the selling dealers to prevent evasion of tax by the dealer/works contractor. However, Section 37(6) of the Act provides that if the prescribed authority has reason to believe that the dealer in order to evade or avoid payment of tax, has failed to furnish return in respect of any period or has furnished incomplete and incorrect returns for any period, the said authority shall assess or reassess the amount of tax due from him in respect of such turnover and shall direct the dealer to pay besides the tax assessed on escaped turnover, by way of penalty, a sum equal to twice the amount of additional tax assessed on account of said reasons.

Instances of loss of revenue due to the absence of provision for cross-verification are discussed below:

- Cross verification of data collected from five district mining offices²³ with six commercial taxes circles²⁴ indicated that 45 registered dealers have dispatched stone valued at Rs. 44.40 crore during 2006-08. Out of these, 11 lessees had indicated the amount as nil and remaining lessees reflected the amount of dispatch as Rs. 10.72 crore only in their return. This resulted in suppression of taxable turnover of Rs. 33.68 crore and consequent short levy of tax of Rs. 12.63 crore including penalty of Rs. 8.42 crore.

After the cases were pointed out, the department raised demand of Rs.11.26 lakh in September 2009 against six cases.

²³ Chaibasa, Hazaribag, Jamshedpur, Pakur and Saraikela Kharsawan.

²⁴ Adityapur, Chaibasa, Hazaribag, Jamshedpur, Pakur and Singhbhum.

- Cross verification of the data collected from Military Engineering Services (MES)²⁵ department, five²⁶ working divisions with the records of Ramgarh and Ranchi South commercial taxes circles indicated that four works contractors had received payment of Rs. 9.68 crore on account of works executed during 2006-08. Of these, three contractors had indicated the amount of payment received as 'nil' in their returns while remaining contractor indicated Rs. 3.89 lakh only in his return. This resulted in suppression of taxable turnover of Rs. 9.64 crore and consequent short levy of tax of Rs. 2.57 crore including penalty of Rs. 1.72 crore.

The Government may consider incorporating necessary details in form JVAT 404 and make a provision in the Act for cross verification of the transaction.

2.2.14 Deficiencies in uploading data in TINXSYS

Tax Information Exchange System (TINXSYS) is a centralized exchange of all inter-state dealers spread across the various States and Union territories of India. TINXSYS will help the Commercial Tax Departments of various States and Union Territories to effectively monitor the interstate trade and for verification of statutory forms issued under CST Act by other State Commercial Tax Departments and submitted to them by the dealers in support of claim for concessions under the CST Act.

During the course of audit, it was noticed that no utilisation of 'forms' was uploaded till date of audit and hence the shared facility could not be utilised so far (August 2009). Scrutiny of the records in the office of the Secretary-cum-Commissioner, Commercial Taxes Department, Jharkhand further indicated that Rs. 32 lakh was paid to the Government of India for TINXSYS as share of Jharkhand Government for uploading CST declaration forms.

2.2.15 Tax deduction at source

2.2.15.1 Bar on purchase/engagement from/with unregistered dealers by the works/buying Departments

In course of scrutiny of the JVAT Act and Rules made thereunder, it was noticed that no provision exists to bar purchase/engagement from/with unregistered dealers by the works/buying departments. Absence of such provision may lead to evasion of tax by unregistered works contractors.

The JVAT Act provides that if the prescribed authority is satisfied that any dealer liable to pay tax under this Act has failed to get itself registered, he may after giving the dealer a reasonable opportunity of being heard, assess the amount of tax due from the dealer in respect of a particular period. The prescribed authority shall direct the dealer to pay in addition to the tax assessed, penalty equivalent to the amount of tax or Rs. 10,000 whichever is greater.

²⁵ Garrison engineer Dipatoli, Ramgarh and Ranchi.

²⁶ Drinking Water & Sanitation Division Ranchi west, Hatia, Dhanbad No.1, Chas and Rural Engineering Organisation(REO) Works Division Simdega.

Cross verification of data collected by audit from MES with the list of TIN dealers in the application software VICTORY of the commercial taxes department indicated that 64 unregistered contractors received Rs. 64.30 crore on account of works executed by them during 2006-08 on which VAT was not paid. This resulted in non-levy of VAT amounting to Rs. 16.15 crore, including penalty of Rs. 8.08 crore.

2.2.15.2 Absence of system of sending the details of works contract purchases by the works/buying departments to the taxation department

JVAT Act provided that, every person required to deduct tax in advance shall furnish such returns at such intervals by such dates in such manner to such authority as may be prescribed and shall pay the tax deducted according to such returns. However, scrutiny indicated that no such returns have been prescribed in JVAT Rules or in any other notification issued by the Commercial Taxes Department till the date of audit. Due to absence of the return in the Rules etc. the department is unable to gather important information from an important source, necessary for levy of tax.

2.2.16 Acceptance and disposal of appeal cases

The number of total cases pending at the appellate courts, tribunal and high courts though called for was not provided to audit. However, scrutiny of information received from four divisions²⁷ indicated that 448 cases were pending at the appellate courts, tribunal and high courts involving recovery of Rs. 1,389.76 crore.

Divisions	Appellate court		Tribunal		High court	
	No. of cases	Amount involved	No. of cases	Amount involved	No. of cases	Amount involved
(Rupees in crore)						
Jamshedpur	201	1,329.73	-	-	-	-
Santhal Paragana	27	.89	-	-	-	-
Hazaribag	88	15.62	-	-	-	-
Ranchi	80	21.92	49	19.21	03	2.39
Total	396	1,368.16	49	19.21	03	2.39

2.2.17 Deficiencies in deterrent measures

Though penal measures have been provided in JVAT Act and Rules made thereunder for offences like delayed payment of admitted tax, non payment of tax on excess turnover in revised returns, excess collection of tax, non submission of audited accounts in case of dealers with gross turnover of Rs. 40 lakh and above and turnover escaping assessment etc., but no provisions for levy of additional penalties have been provided for subsequent/willful default after the first offence to mitigate the risk of the dealers repeating these offences.

²⁷ Hazaribag, Jamshedpur, Ranchi and Santhal Pargana.

Review of JVAT Act and rules made thereunder indicated that neither does any provision exist for creation of VAT fraud task force nor have the IB, Vigilance and Monitoring Wing been designated to act as intelligence-cum-investigation unit to detect and deal with fraud cases, analyse anti-fraud policies and offer views and suggestions for improving compliance.

The Government may consider framing provisions for levying penalty for the first offence and additional penalties for subsequent offence and willful default after the first offence and putting in place a mechanism for settlement of appeal and disputed cases in a time bound manner.

2.2.18 Provisions for compilation of report/returns received from unit offices and submission to the Commissioner for monitoring

Under the provision of JVAT Rules, the Commissioner is authorised to prescribe registers, returns/records to be used by the unit offices and submit to the headquarter for matters connected with the administration of the Act and Rules. However, apart from calling for occasional reports/returns from the unit offices, no specific register or regular report/return has been prescribed for the purpose of effective administration of VAT.

Compliance deficiencies

2.2.19 Determination of opening stock under the VAT Act

According to the provision of JVAT Act and Rules made thereunder, every dealer holding stock of any goods as on the commencement of the Act shall furnish the details of such stock in form JVAT 114. Thereafter, the dealer shall make an inventory of such goods and claim Input Tax Credit (ITC) in Form JVAT 401 along with the evidences within thirty days from the commencement of the Act. The claim will be verified and allowed in Form JVAT 402 within thirty days from receipt of claim.

Audit observed that 17,458 dealers had applied for registration under the Act in form JVAT 100. Out of these, 957 dealers with their opening stock of Rs. 438.04 crore claimed ITC of Rs. 27.53 crore, of these, the details of ITC credit of Rs.4.74 crore relating to 475 dealers, was entered in the VICTORY. However, date of application in JVAT 401 and date on which ITC claim was allowed in JVAT 402, were not entered in the system. Analysis of the data further indicated that:

- Out of 548 dealers registered under the repealed Act in Ranchi South circle, 545 dealers applied for registration after lapse of thirty days which implies that ITC claims in JVAT 401 were made after that. Out of these 34 dealers claimed and were allowed ITC of Rs. 1.73 crore. Further, it was noticed that in Ranchi West circle, ITC claim of Rs. four lakh of seven dealers were allowed with delays ranging between 150 and 240 days. Thus, allowance of ITC on opening stock in the above cases was in contravention of the provisions of JVAT Act.
- The check field relating to details of Purchase invoices/Form IX-C/Form IX was found unchecked in the case of 85 dealers in Ranchi

Special and Ranchi West circles. The dealers were, however, authorised to claim ITC amounting to Rs. 62.37 lakh. Further, test check of records maintained manually of 10 such dealers indicated that eight dealers had submitted the details of purchases along with form “JVAT 401”, the same was, however, not captured in the database.

- The check field relating to details of seller’s name and registration number under repealed Act was found unchecked in the case of 143 dealers in Ranchi Special and Ranchi West circles. The dealers were, however, authorised to claim ITC amounting to Rs 1.33 crore. Further, test check of records maintained manually of 10 such dealers indicated that in six cases dealers had furnished seller’s name and registration number along with form “JVAT 401”, the same was, however, not captured in the database.

After this was pointed out, the department stated (between June and July 2009) that the details were available in records maintained manually but these had not been entered in the database.

2.2.20 Non-generation of registration certificates

Audit noticed that 34,529 applicants dealers applied for registration under VAT Act against which 26,512 RCs were only generated which included 16,011 dealers that had applied in Form JVAT 100. The reason for non-generation of 8,017 RCs was not ascertained by the department.

After this was pointed out, the department stated (July 2009) that the related issue will be taken up with the concerned circles and that the registration certificates would be issued as soon as possible.

According to Rule 42(2) of JVAT Rule, a VAT dealer, who transports any consignment by using authenticated form “JVAT 504” series shall be in possession of a valid registration certificate. Analysis of VICTORY database of test checked circles indicated that Forms 504 series were authenticated by the prescribed authority to 110 dealers, who were not in possession of a valid registration certificate.

Test check of records maintained manually of 17 such dealers indicated that registration certificates were not issued to 13 dealers and registration certificates were issued to four dealers subsequent to the date on which database was made available to audit.

After this was pointed out, the department stated that Form 504 was issued to the dealers having valid TIN to facilitate the movement of goods and that the registration certificates would be issued after verification of the documents of such dealers. However, issue of form JVAT 504 to dealers not registered under the Act, is not in consonance with the rule 42(2) of JVAT Rules.

2.2.21 Delayed submission of returns by the dealers

Under the Jharkhand Value Added Tax Act and Rules made thereunder a registered VAT dealer shall file quarterly/monthly returns within 25 days after

the end of the tax period and Annual return by 31 July of the following year. Further, penalty is also leviable.

Analysis of database of test checked circles indicated that 10,873 quarterly returns were filed by the dealers with delays ranging from 1 to 976 days. Test check of records maintained manually of 20 such returns indicated that returns were filed by the dealers after the stipulated period. It was noticed that in only one case penalty was levied at the time of assessment.

After this was pointed out, the department stated (July 2009) that only 40 *per cent* of returns were being entered in the application as computerisation was not complete and that when 100 *per cent* of returns had captured, the generation of defaulters list would serve the purpose of monitoring.

2.2.22 Delay in entering of returns (Form 200) filed by the registered VAT dealers

Under Jharkhand Value Added Tax Act and Rules made thereunder, the prescribed authority of the record, within five days of receiving of the returns or statements, shall ensure that the full information as contained in them is entered in the computer/register.

Analysis of database of test checked circles indicated that 10,955 Quarterly Returns were entered in the application with delays ranging from 1 to 599 days. Further, 1,570 Quarterly Returns for the period 2006-07 and 2008-09 filed by the dealers were not entered (April 2009).

After this was pointed out, the department stated (between June and August 2009) that delayed entry of returns into the computer was due to shortage of trained manpower.

2.2.23 Non filing of stipulated documents with the returns

Rule 31 of JVAT Rules required, all supporting documents to be furnished alongwith self assessment in Form- JVAT 124 by 31 December following the end of the tax period.

A test check of records of three²⁸ commercial taxes circles indicated that during 2006-07 four dealers had claimed deduction of Rs. 5.93 crore in shape of sales tax, income tax, royalty, amount transferred to sub contractors, tax deducted at source, job work, sales return and materials consumed etc. without furnishing supporting documents and JVAT 124. As a result the correctness of the exemption from tax of Rs. 82 lakh could not be ascertained in audit. Of these four dealers, two dealers of Ranchi South and Special commercial taxes circles having tax effect of Rs. 45 lakh filed their sales tax returns for the period 2006-07 for Rs. 3.19 crore. These were required to be finalised by 31 March 2009. These cases have now become time barred. Lack of timely action resulted in a loss of revenue of Rs. 45 lakh to the Government.

2.2.24 Non-imposition of penalty on non-deduction of tax at source

According to section 44(6) of JVAT Act and notification issued thereunder, every person responsible for making any payment in respect of transfer of

²⁸ Adityapur, Ranchi South and Ranchi Special.

property in goods, involved in execution of works contract shall deduct an amount at the rate of 2 *per cent* from every bill or invoice raised by the works contractors, failing which the concerned circle in charge may direct him to pay by way of penalty a sum equal to the amount of tax which he failed to deduct.

Cross verification of information collected from MES²⁹ indicated that 69 contractors received Rs. 69.90 crore on account of works executed by them towards contracts between 2006-07 and 2007-08 and no deduction at source of Rs. 1.40 crore was made by the paying authority. However, audit noticed that penalty of Rs. 1.40 crore was not imposed by the concerned circle in-charge.

2.2.25 Conclusion

The transition from the JF Act 2001 to JVAT Act, 2005 had several deficiencies *viz.* slow process of reorganisation of administration, shortage/uneven distribution of manpower, slow process of computerisation and training to the officers and staff, engagement of existing manpower for the finalisation of cases under the repealed Act. VICTORY – VAT Application Software” became operational in the state since implementation of Jharkhand Value Added Tax Act (1 April 2006) with the target date of completion being 31 March 2009. However, the application was developed with system/design deficiencies. There was also lack of proper planning in registration/cancellation of dealers, survey for widening tax base, establishment of check posts, mobile checking of premises of dealers and strengthening of Vigilance and Monitoring wing. Tax audit, a vital part of the tax administration was totally ignored though prescribed in the Act. Several deficiencies in the Act and Rules, Forms and absence of executive instructions for strengthening the provisions of Act and Rules were also noticed. In view of the above the growth rate of revenue collection substantially declined from around 17 *per cent* per annum during pre-VAT period to only 5.28 *per cent* during 2008-09.

2.2.26 Summary of recommendations

Government may consider:

- reorganisation of department based on proper manpower planning and adequate training;
- strengthening functions of IB and Vigilance and Monitoring wing for regular survey, collection of data/information regarding purchase/ sale and creation of database from departments of State/Central Government/PSUs etc for cross verification of the transactions;
- full utilisation of computer application software already installed and widening its scope from time to time, as per requirement;
- to conduct a periodical analysis of the data to ensure prompt registration of dealers, detection of dubious/risky and dormant dealers;

²⁹ Garrison Engineers Dipatoli, Ramgarh and Ranchi.

- to design the application with the checks/controls to detect incorrect returns, delays in payment of tax, interest payable and for monitoring the time barred/bounced cheques;
- to consider incorporating necessary details in form JVAT 404 and make a provision in the Act for cross verification of the transaction; and
- to consider framing provisions for levying additional penalties for first/subsequent offence and wilful default and putting in place a mechanism for settlement of appeal and disputed cases in a time bound manner.

2.3 Other Audit observations

Scrutiny of assessment records of sales tax and Central sales tax indicated several cases of non-observance of provisions of Acts/Rules and notifications issued therein, suppression of sales/purchase turnover, non/short levy of tax/penalty/surcharge, irregular concession/exemption, incorrect application of rate of tax, misuse of declaration forms etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of assessing authorities are pointed out in audit each year, 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 including strengthening of internal audit.

2.4 Non-observance of provisions of Acts/Rules and non-followup of Government instructions/notifications

The Jharkhand Finance Act, 2001, Central Sales Tax Act, 1956 and instructions/notifications issued thereunder provide for:

- Cross verification of data/information to be obtained from Central and State Government offices/undertaking regarding sales/purchase made by the dealers with the sales tax returns/records available in the sales tax department to check evasion of tax;*
- payment of penalty at the prescribed rate, in addition to tax, in case of failure to apply for registration;*
- payment of penalty, at the prescribed rate, in case of concealed turnover detected before and after finalisation of assessment; and*
- the rate of sales or purchase tax leviable on all transactions of taxable sales or purchases.*

The Commercial Taxes Department did not observe some of the above provisions in cases mentioned in the succeeding paragraphs.

2.4.1 Failure to conduct inter-departmental cross verification

The Commissioner of Commercial Taxes issued instructions in May 1990 to the circle offices to collect data/information regarding sales/purchase made by dealers from the Income Tax Department and other Central/State Government departments for cross verification with their sales tax returns/records to check

evasion of tax. The Investigation Bureau of the department was asked in June 1991 to cross verify the data/records of the department with those of the Income Tax Department and various departments of the Central/State Government/Public Sector Undertakings. By a notification issued in November 1998, the assessing authorities were directed to review the returns and initiate proceedings within three days against the defaulting dealers for delay in submission of returns, belated payment of admitted tax and turnover escaping assessment.

Audit scrutiny, however, indicated that neither was the data/information collected from different departments, nor was any cross verification of transactions shown in the returns conducted either by the circle officers or by the Investigation Bureau. Failure of the department to do so resulted in short realisation of revenue of Rs. 70.39 crore as mentioned in the following paragraphs:

2.4.1.1 Non-registration of contractors

Under the JF Act, every dealer, who is a contractor and whose gross turnover exceeds Rs. 25,000 in a year, is liable to pay tax. Further, no such dealer shall sell or purchase goods, unless he has been granted and is in possession of a valid registration certificate. Failure to apply for registration may render him liable to pay a penalty, in addition to levy of tax, at the rate of Rs. 50 for each day of default or an amount equivalent to the amount of tax assessed, whichever is less.

Further, under the said Act and notification issued thereunder, every person responsible for making any payment of sale price on account of valuable consideration payable in respect of transfer of property in goods, involved in execution of works contract shall deduct an amount at the rate of two *per cent* from every bill or invoice raised by the works contractors.

Cross verification of data of payment received by the contractors collected from Military Engineering Service³⁰, Income Tax Department and Building Construction Division and data of dispatch of stone ballast by lessees collected from five district mining offices³¹, with the records of 13 commercial taxes circles³² indicated that 63 contractors and 437 lessees were liable to pay tax including additional tax and surcharge of Rs. 37.08 crore on receipts of Rs. 60.36 crore and Rs. 303.20 crore respectively towards value of works executed and dispatch/sale of stone ballast during 2001-02 to 2005-06. None of these contractors/lessees were, however, registered with the Commercial Taxes Department and hence these could not be assessed resulting in non-realisation of revenue of Rs. 40.27 crore including penalty of Rs. 3.19 crore.

After this was pointed out, the department stated (October 2009) that demand had been raised for Rs. 1.37 crore against 51 cases in September 2009.

³⁰ Garrison Engineer, Dipatoli, Ramgarh and Ranchi.

³¹ Chaibasa, Hazaribag, Jamshedpur, Pakur and Saraikela Kharsawan.

³² Adityapur, Bokaro, Chaibasa, Hazaribag, Jamshedpur, Jamshedpur Urban, Pakur Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West and Singhbhum.

Further, cross verification of data collected from the Military Engineering Service³³ department indicated that 67 contractors received a sum of Rs. 58.88 crore on account of works executed by them between 2001-02 and 2005-06. Tax of Rs. 1.18 crore, though deductible at source, was not deducted by the office of the concerned garrison engineers.

After this was pointed out, the assessing authority stated (October 2009) that demand had been raised for Rs 66.28 lakh in September 2009.

2.4.1.2 Non-levy of penalty before assessment

The JF Act read with the CST Act, provides that if the assessing authorities have reason to believe that a dealer has wilfully concealed any amount of turnover to deprive the Government of the due tax, the dealer shall be liable to pay penalty not exceeding three times but not less than the amount of tax leviable or assessed on the escaped turnover. The departmental instruction of November 1998, provided initiation of penalty proceedings on the concealed turnover before assessment within three days from the date of receipt of the returns.

Cross verification of dispatch of stone ballast by the lessees collected from three district mining offices³⁴, with the records of five commercial taxes circles³⁵ indicated that eight lessees had declared dispatch of stone ballast as 'nil' and two lessees reflected the amount as Rs. 1.30 crore in their returns during 2004-05 and 2005-06. The actual amount of dispatch of stone ballast worked out to Rs. 4.28 crore as per the data collected from the department. However, penalty of Rs. 80.59 lakh, leviable for such concealed sale of Rs. 2.98 crore in the returns, was not levied.

2.4.1.3 Suppression of sales detected through cross verification

Under the JF Act, if the assessing authority has reason to believe that a dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars of such turnover, the said authority shall assess or reassess the amount of tax due in respect of such turnover and shall direct the dealer to pay, beside the tax assessed, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

- Cross verification of the data collected from Military Engineering Service³⁶ and Rural Special Division, Jamshedpur and Dumka, with the assessment records of two dealers of Ramgarh and Ranchi South commercial taxes circles, indicated that the contractors had shown the amount of payment received on account of works executed as 'nil' in their sales tax returns between 2003-04 and 2005-06 assessed between December 2006 and April 2007. The actual payment received by these contractors worked out to Rs. 8.51 crore as per data collected. This resulted in suppression of taxable turnover and consequently short levy of tax of Rs. 2.87 crore including penalty of Rs. 2.10 crore.

³³ Garrison Engineers, Dipatoli, Ramgarh and Ranchi.

³⁴ Chaibasa, Hazaribag and Saraikela Kharsawan.

³⁵ Adityapur, Chaibasa, Hazaribag, Jamshedpur and Ramgarh.

³⁶ Garrison Engineers Dipatoli, Ramgarh and Ranchi.

After this was pointed out, the assessing authority stated (October 2009) that demand had been raised for Rs. 50.99 lakh against one case in September 2009.

Through further cross verification of the data collected from M/s Reliance Industries with the assessment records of a works contractor of Ranchi South commercial taxes circle, it was noticed that the contractor had received payment of Rs. 12.49 lakh on account of works executed by him during 2005-06, which was not shown in the turnover by the contractor. This resulted in under assessment of tax of Rs. 4.10 lakh including penalty of Rs. three lakh.

- Cross verification of the data collected from five district mining offices³⁷ with the records of 64 lessees of six commercial taxes circles³⁸, assessed between July 2003 and November 2008, indicated that these lessees/suppliers had disclosed the despatch of stone ballast valuing Rs. 27.50 crore between 2002-03 and 2005-06 in the sales tax returns. The actual value of despatch worked out to Rs. 85.97 crore, as per data collected. This resulted in suppression of turnover of Rs. 58.47 crore and under assessment of tax of Rs. 23.05 crore including penalty of Rs.16.88 crore.
- Cross verification of the data collected from Income Tax Department with the sales tax returns of 11 contractors/dealers of Bokaro and Ramgarh commercial taxes circles, assessed between March 2005 and November 2008 indicated that four contractors had declared sales turnover as 'nil' during 2000-01 to 2005-06 and remaining contractors had reflected sales turnover as Rs. 3.38 crore only in their sales tax returns. But sales turnover of these dealers/contractors as per data collected from income tax department were Rs. 8.57 crore. The assessing authorities made no effort to verify the correctness of the returns by obtaining information from the Income Tax Department. Thus, concealed sales turnover of Rs. 5.19 crore resulted in non-levy of tax of Rs. 1.57 crore including penalty of Rs. 1.15 crore.
- Cross verification of data collected from Sales Tax Department of West Bengal with the sales tax records of Bokaro commercial taxes circle indicated that two dealers had purchased lubricant and furnace oil of Rs. 4.82 crore against issue of declaration form 'C' during 2002-03 and 2004-05 but actually accounted for purchase turnover of Rs. 4.58 crore only. Thus, concealed purchase turnover of Rs. 24.33 lakh resulted in non-levy of tax of Rs. 12.04 lakh including penalty of Rs. 9.03 lakh.
- Cross verification of the data collected from Birsa Agricultural University, Kanke, Ranchi with the assessment records of three dealers of Ranchi Special commercial taxes circles, indicated that a contractor had shown the amount of works executed as 'nil' in his sales tax returns between 2004-05 and 2005-06 assessed between April and September 2008 instead of actual payment of Rs. 23.97 lakh as per data collected. The remaining contractors had shown the amount of payment as Rs. 8.47 lakh in their sales tax returns between 2002-03 and 2005-06 assessed

³⁷ Chaibasa, Hazaribag, Jamshedpur, Pakur and Saraikela Kharsawan.

³⁸ Adityapur, Chaibasa, Hazaribag, Pakur, Ramgarh and Singhbhum.

between July 2006 and December 2006 instead of actual payment of Rs. 1.25 crore as per data collected. This resulted in suppression of taxable turnover of Rs. 1.40 crore and consequently short levy of tax of Rs. 48.09 lakh including penalty of Rs. 35.19 lakh.

The matter was reported to the department in May 2009 and the Government in June 2009; their replies have not been received (January 2010).

2.5 Irregularities in determination of turnover

Turnover means aggregate of sales prices received or receivable and purchase prices paid or payable during any given period. Correct determination of turnover is essential for a proper assessment and levy of taxes due. The gross turnover of a dealer is taken into account for the purpose of determining its liability for tax, surcharge and additional tax but for the purposes of actual levy of taxes, certain deductions are allowed to arrive at the taxable turnover.

Audit noticed that the assessing authorities while finalising the assessment had not assessed the taxable turnover of dealers correctly as per the provisions of the Act. This resulted in non/short levy of tax & penalty of Rs. 46.18 crore as mentioned in the following paragraphs:

2.5.1 Suppression of sales/purchase turnover

Under the JF Act read with the Central Sales Tax Act, if the dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars of such turnover, the competent authority shall assess or reassess the amount of tax due from the dealer and shall direct the dealers to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

Test check of the relevant records³⁹ indicated that 36 dealers in 14 commercial taxes circles⁴⁰ filed their returns for a taxable turnover of Rs. 1,902.07 crore during 2001-02 to 2005-06. The assessments were finalised on the basis of returns filed by them between February 2003 and March 2008. However, as per the information available in the assessment records of the same or of different circles, the dealers had actually sold and purchased goods worth Rs. 2,139.45 crore. Thus, the dealers concealed taxable turnover of Rs. 237.38 crore. Though the relevant information was available in the assessment records of the concerned dealers, the assessing authorities did not cross verify the information with these records. This resulted in non/short levy of tax of Rs. 38.82 crore, including penalty. A few specific cases are mentioned in the following paragraphs:

³⁹ Utilisation certificate of declaration forms, audited annual accounts, trading and manufacturing accounts.

⁴⁰ Bokaro, Chaibasa, Chirkunda, Dhanbad, Dhanbad Urban, Giridih, Hazaribag, Jharia, Jamshedpur, Jamshedpur Urban, Lohardaga, Palamu, Ramgarh and Ranchi Special.

(Rupees in crore)

Name of the circle Registration number of the dealer	Period Date of assessment	Nature of observations	Suppressed turnover	Short levy of tax, surcharge, additional tax and minimum penalty
Chaibasa CB-19 (R)	2002-03 and <u>2003-04</u> November 2006 and August 2007	Cross verification of sales turnover with the records of the purchasing dealer indicated that the dealer had sold iron ore valued at Rs. 234.26 crore but had filed returns for only Rs. 170.83 crore and was assessed accordingly.	63.43	14.78
Jamshedpur JR- 2385 (R)	<u>2003-04</u> March 2008	Cross verification of sales turnover with the records of the purchasing dealer indicated that the dealer had sold diesel engine valued at Rs. 1,176.40 crore but had filed returns for only Rs. 1,134.92 crore and was assessed accordingly.	41.48	4.85
Jamshedpur JR- 6 (R)	<u>2002-03 and</u> <u>2003-04</u> March 2007 and March 2008	As per audited annual accounts, the dealer had sold 49,987 MT of cold rolled products valued at Rs. 81.15 crore but had accounted for only Rs. 27.62 crore in the returns.	53.53	4.28
Dhanbad DH-1680 (R)	<u>2004-05</u> December 2007	As per utilisation statement of Form 'C', the dealer had consumed HSD/ Bitumin/ Cement valued at Rs. 33.13 crore out of total purchase but reflected consumption of goods valued at only Rs. 11.57 crore in the return	21.56	3.71
Jamshedpur JR-2005 (R)	2002-03 and <u>2003-04</u> March 2007 and March 2008	As per audited annual account, the sales turnover of the dealer was Rs. 463 crore including labour and freight charges but accounted for only Rs. 447.53 crore in the return.	15.47	2.95

After the cases were pointed out between June 2008 and February 2009, the assessing authorities of eight commercial taxes circles⁴¹ stated (between September and October 2009) that additional demand of Rs. 28.13 crore in case of 16 dealers had been raised between June and October 2009. The remaining assessing authorities stated that the cases would be reviewed. Further replies have not been received (January 2010).

2.5.2 Incorrect determination of gross turnover

Under the JF Act, gross turnover is the aggregate of all amounts received or receivable as consideration for the sales or in the cases where purchase tax is leviable, the amounts paid or payable for the purchases made by the dealer.

Test check of records of seven commercial taxes circles⁴² indicated that in case of 10 dealers, the gross turnover for 2001-06 was incorrectly determined by the assessing authorities as Rs. 611.48 crore. The gross turnover of the dealers worked out to Rs. 642.10 crore as per the returns/records furnished by the dealers. But the assessing authorities while finalising the assessment between

⁴¹ Bokaro, Chaibasa, Chirkunda, Dhanbad, Jamshedpur, Jamshedpur Urban, Lohardaga and Ranchi Special.

⁴² Dhanbad Urban, Giridih, Hazaribag, Jamshedpur, Jharia, Palamu and Ranchi Special.

August 2004 and March 2008 did not scrutinise the records submitted by the dealers alongwith the returns. This resulted in short determination of the taxable turnover by Rs. 30.62 crore and consequential short levy of tax amounting to Rs. 3.40 crore.

After the cases were pointed out between January 2008 and January 2009, the assessing authority of Hazaribag commercial taxes circle stated (September 2009) that an additional demand of Rs. 6.75 lakh in one case had been raised in September 2009. The remaining assessing authorities stated that the matter would be reviewed. Further replies have not been received (January 2010).

2.5.3 Turnover escaping assessment

Under the provision of JF Act, tax is payable on transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract.

Test check of records of an assessee engaged in manufacturing and selling of cement and execution of works contract in Ranchi Special Commercial Taxes Circle indicated that the assessee had supplied cement, bricks, stone, steel etc. valued at Rs. 1.92 crore during 2003-04 and 2004-05 in course of execution of works contract. However, the assessing authority, while finalising assessment in November 2007 did not levy tax on the goods supplied in course of execution of works contract. This resulted in turnover of Rs. 1.92 crore escaping assessment and consequently in short levy of tax of Rs. 20.06 lakh.

2.5.4 Under-assessment due to incorrect deduction

Under provisions of the JF Act, certain deductions are allowed from gross turnover to works/supplies contractors for computing their taxable turnover. It has been judicially held⁴³ that the taxable turnover will be determined after deducting cost of establishment of the contractor to the extent it is relatable to supply of labour and services.

Test check of records of Dhanbad commercial taxes circle indicated that the assessing authority while assessing a contractor in December 2007, incorrectly allowed a deduction of Rs. 2.46 crore from gross turnover on account of financial and administrative overhead, not related to labour component during 2004-05. The exclusion of expenses on financial and administrative overhead from the taxable turnover resulted in short levy of tax of Rs. 21.65 lakh.

After the case was pointed out in January 2009, the assessing authority stated (October 2009) that an additional demand had been raised for the entire objected amount in October 2009.

2.5.5 Short/non-levy of surcharge

Under the Central Sales Tax Act, on inter-state sale of goods (other than declared goods) which are not supported by prescribed declaration forms, tax is leviable at the rate of 10 *per cent* or at the rate applicable in the State, which ever is higher. In case of sale of declared goods not supported by declarations in prescribed form, tax is leviable at twice the rate applicable on sale or

⁴³ Larsen & Toubro Ltd. Vrs State of Bihar and others 134 STC 354.

purchase of such goods in the concerned State. It has been judicially held⁴⁴ that surcharge is leviable on inter-state sales under the Central Sales Tax Act.

Test check of records of four commercial taxes circles⁴⁵ indicated that in cases of six dealers the assessing authorities, while finalising the assessments between January 2003 and March 2008 for 2001-02 and 2005-06, levied tax including additional tax of Rs. 4.90 crore on sale of motor vehicles, cement, *kendu* leaves and India made foreign liquor valued at Rs. 39.53 crore but surcharge was either not levied or was levied short. This resulted in non/short levy of surcharge of Rs. 48.77 lakh.

After the cases were pointed out in December 2008 and February 2009, the assessing authority of Chirkunda commercial taxes circle stated (September 2009) that an additional demand of Rs. 10.04 lakh had been raised in one case in September 2009. The remaining assessing authorities stated that the matter would be reviewed. Further replies have not been received (January 2010).

2.5.6 Short levy of tax due to incorrect deduction

Under the JF Act, certain deductions from gross turnover are allowed to works/supplies contractors to compute their taxable turnover. Exemption is not admissible on tax deducted at source, royalty, income tax, and the value of works executed by the petty contractors, not supported by names and registration numbers.

Test check of sales tax records of seven contractors of four commercial taxes circles⁴⁶, assessed between May 2003 and June 2008 indicated that the contractors had claimed deduction of Rs. 32.51 crore from gross turnover on account of tax deducted at source, depreciation charges, income tax, security deposit, time extension and gross profits etc. during 2001-02 to 2005-06. The assessing authorities allowed these non-permissible deductions resulting in short determination of taxable turnover of Rs. 32.51 crore and short levy of tax of Rs. 3.06 crore, including additional tax and surcharge.

The matter was reported to the department and the Government in June 2009; their replies have not been received (January 2010).

2.6 Incorrect levy/computation of tax

Audit scrutiny of assessment records of seven commercial taxes circles indicated that the assessing authorities had not levied/computed tax correctly resulting in short realisation of Rs. 10.56 crore as mentioned in the succeeding paragraphs:

2.6.1 Test check of records of six commercial taxes circles⁴⁷ indicated that in case of 10 dealers, the assessing authorities while finalising the assessment for 1999-2000 to 2005-06 between March 2004 and November 2007 levied tax at incorrect rate on sale of goods valued at Rs. 95.76 crore. This resulted in short levy of tax of Rs. 3.54 crore, including additional tax and surcharge.

⁴⁴ DCCT Vrs Ayasha Hosiery (1992) 85 STC 196 SC.

⁴⁵ Chirkunda, Hazaribag, Palamu and Ranchi Special.

⁴⁶ Adityapur, Bokaro, Ranchi South and Ranchi Special.

⁴⁷ Bokaro, Dhanbad Urban, Jamshedpur, Ramgarh, Ranchi West and Ranchi Special.

After the cases were pointed out (between March 2008 and January 2009), the assessing authorities of three commercial taxes circles⁴⁸ raised additional demand of Rs. 97.80 lakh in case of three dealers between August and October 2009. The assessing authority of Ranchi West Circle stated (May 2008) that the dealer had sold goods that were taxable at the rate of 10 *per cent*. The reply is not tenable as the dealer had sold tinned food articles attracting tax at the rate of 12 *per cent* levied through a notification issued in July 2000. The remaining assessing authorities stated that the matter would be reviewed. Further replies have not been received (January 2010).

2.6.2 Test check of records of Hazaribag and Jamshedpur commercial taxes circles indicated that in case of three dealers, assessed between February 2005 and March 2008 for 2000-01 and 2003-04, the tax erroneously levied was Rs. 60.05 crore, instead of correct amount of Rs. 66.81 crore due to arithmetical mistake, in computation. This resulted in short levy of tax of Rs. 6.76 crore, including additional tax and surcharge.

After the cases were pointed out in May and August 2008, the assessing authorities stated (between September and October 2009) that additional demand had been raised for the entire objected amount in September 2009.

2.6.3 Under provisions of the JF Act, registered dealers are allowed to purchase goods required by them directly for use in manufacture or processing or for use in mining at concessional rate of tax on furnishing of prescribed declaration forms. It has been judicially held⁴⁹ that goods which are not directly consumed/used in the process of manufacture of other goods cannot be treated as raw materials. Diesel engine and its spares are not used directly for mining purposes.

Test check of records of Hazaribag and Ranchi West commercial taxes circles indicated that two dealers sold diesel engine and its spares valued at Rs. 4.63 crore during 2004-05 and tax was levied at concessional rate on the ground that the goods were directly used for mining purposes. This resulted in short levy of tax of Rs. 25.49 lakh, including surcharge.

The matter was reported to the department and the Government in June 2009; their replies have not been received (January 2010).

2.7 Irregularities in grant of exemptions

Exemptions from levy of sales tax have been allowed under different provisions of the Acts and notifications issued therein with specific objectives, terms and conditions. It is essential that the assessing authority should ensure, that the exemptions are granted in accordance with the provisions of the Act and notifications and subject to fulfilment of specified terms and conditions. Audit scrutiny however, indicated a number of discrepancies in the assessment finalised by the assessing authorities through which incorrect exemptions were granted. A few instances involving non/short levy of tax of Rs. 22.85 crore are mentioned in the following paragraphs:

⁴⁸ Bokaro, Ramgarh and Ranchi West.

⁴⁹ Rewa Coal Fields Vrs CCT Madhya Pradesh SC 1999.

2.7.1 Incorrect grant of exemption under Jharkhand Sales Tax

Under the provisions of JF Act and Rules made thereunder, a dealer is not liable to pay tax in respect of goods transferred to any other dealer/agent/principal within the State provided he furnishes, before the prescribed authority, a declaration in form 'IXD' issued by the transferee.

Test check of records of Bokaro and Ramgarh commercial taxes circles relating to 2002-05 indicated that the assessing authorities while finalising assessments of five dealers allowed exemption from levy of tax on intra-state sales/transfer of iron and steel, industrial gas and coal valued at Rs. 426.60 crore. It was, however, noticed that these sales were not supported by the prescribed declarations in form 'IXD'. Thus, the exemption allowed was not valid, resulting in short levy of tax of Rs. 17.11 crore.

After the cases were pointed out between November 2008 and January 2009, the assessing authorities stated (between September and October 2009) that additional demand of Rs. 12.07 crore in case of four dealers had been raised between September and October 2009 and stated that the matter would be reviewed in the remaining cases. Further reply has not been received (January 2010).

2.7.2 Incorrect allowance of exemption

Under provisions of the JF Act read with the Central Sales Tax Act and notifications issued thereunder in December 1995, the Government exempted the manufacturing units from levy of sales tax on sale of finished goods within the State and in the course of inter-state trade or commerce for a specific period and prescribed terms and conditions. Exemption on stock transfer of finished products is not admissible.

Test check of records of Giridih and Jamshedpur commercial taxes circles in September and November 2008 indicated that two assessees, assessed between January 2005 and August 2008, were granted exemption from levy of tax on stock transfer of Mild Steel, Ingot, angle, sheet, plate etc. valued at Rs. 65.36 crore made during 2000-06, although exemption was allowable only on sales by such assessees and not on transfer of stock. This was in contravention of the provisions of the Act and resulted in non-levy of tax of Rs. 2.72 crore.

2.7.3 Short levy of tax due to irregular exemption

Under provisions of JF Act and notification issued thereunder in December 1995, in case of expansion/diversification/modernisation of industrial units by a dealer, exemption from levy of sales tax is granted on the sale of incremental production⁵⁰ of goods, provided his basic production continues alongwith the incremental production.

Test check of records of Ranchi Special commercial taxes circle indicated that a manufacturer/seller was allowed exemption from levy of sales tax on sale of incremental production of 52,051.85 metric tonne valued at Rs. 16.60 crore out of total production of 64,000 metric tonne 'Supec' brand cement produced

⁵⁰ Incremental production means increase in production of finished goods due to expansion/diversification/modernisation of an industrial unit.

during September 2004, though his basic production was 'nil'. The incorrect allowance of exemption resulted in short levy of tax of Rs. 2.01 crore.

After the case was pointed out in February 2009, the assessing authority stated (October 2009) that an additional demand had been raised for the entire objected amount in October 2009.

2.7.4 Irregular grant of exemption on export sale

Under provisions of the Central Sales Tax Act and Rules framed thereunder, payment of sales tax is exempt on sale or purchase of goods having taken place in course of export out of the territory of India, provided the sale is substantiated by a certificate of export in form 'H' issued by the exporter in favour of the seller, registered under Central Sales Tax Act in the State, alongwith other documentary evidences of export of such goods.

2.7.4.1 Test check of records of Chaibasa commercial taxes circle indicated that a dealer made export sale of iron ore valued as Rs. 7.51 crore during 2004-05 through export agencies and claimed exemption on the basis of declaration in form 'H' issued in the name of the assessee registered in Orissa. As the assessee named in form 'H' was registered in Orissa, the dealer should not have been exempted in the State. However, the assessing authority while finalising the assessment incorrectly allowed the exemption. This resulted in allowance of irregular exemption and consequent non-levy of tax of Rs. 82.66 lakh.

After the case was pointed out in June 2008, the assessing authority stated (October 2009) that additional demand had been raised for the entire objected amount in August 2009.

2.7.4.2 According to orders issued by the Government of Bihar in March 1986 and August 1991, exemption from levy of tax on sales taking place in course of export to Nepal is allowed provided the transactions are supported by a bill of export issued by the customs officials of the Government of India.

Test check of records of Ranchi Special commercial taxes circle indicated that the assessing authority, while assessing in November 2007, allowed exemption from levy of tax on export sale of cement valued at Rs. 3.11 crore to Nepal during 2004-05. But the assessee had submitted bills of export and cost of packing material for only Rs. 2.08 crore in support of export sale. The assessing authority did not cross check the return with the records available with him resulting in excess exemption on export to Nepal of Rs. 1.03 crore and consequently under-assessment of tax of Rs. 12.52 lakh, including surcharge.

After the case was pointed out in February 2009, the assessing authority stated (October 2009) that an additional demand of Rs. 6.38 lakh had been raised in October 2009.

2.7.5 Excess exemption of sales tax

Under the JF Act read with the Central Sales Tax Act and notifications issued thereunder, the Government exempted the manufacturing units registered as small scale units from levy of sales tax on sale of finished goods within the state and in the course of inter-state trade or commerce for a specified period

or prescribed monetary limit, whichever is earlier. Assessments of exempted units are to be completed notionally at the prescribed rate of the goods to watch the prescribed monetary limit of exemption.

Test check of records of an assessee in Hazaribag commercial taxes circle indicated that the assessing authority while finalising the assessments for the period 1998-99 to 2005-06 between September 2001 and August 2007 allowed exemption of sales tax of Rs. 52.32 lakh on the sale of finished goods beyond the prescribed monetary limit of Rs. 46.58 lakh fixed by the department in August 1999. This resulted in excess exemption of sales tax of Rs. 5.74 lakh.

After the case was pointed out in January 2009, the assessing authority raised an additional demand of Rs. 5.58 lakh in August 2009.

The matter was reported to the Government in June 2009; their replies have not been received (January 2010).

2.8 Grant of incorrect exemption/concession under Central Sales Tax Act

Under the provisions of the Central Sales Tax Act, rules/ notifications issued thereunder, different declaration forms are prescribed for claiming exemptions/concessions from levy of tax. The Act further provides for imposition of penalty for misuse of declaration forms.

Audit noticed that the assessing authorities did not comply with the provisions of the Act and notifications issued thereunder resulting in short levy of tax and penalty of Rs. 16.32 crore. These cases are described in the succeeding paragraphs:

2.8.1 Under assessment of Central Sales Tax

Under the provisions of Central Sales Tax Act, submission of forms 'F' and 'C' is mandatory for availing exemption/concessional rate of tax. In case of inter-state sale of declared goods not supported by the prescribed declaration forms, tax is leviable at twice the rate applicable on sale of such goods in the concerned State. In case of goods other than the declared goods, tax is leviable at the rate of ten *per cent* or at the rate applicable in the State, whichever is higher.

Test check of records of four commercial taxes circles⁵¹ indicated that the assessing authorities finalised the assessment of four assesseees (March 2007 and June 2008) for the period from 2002-03 to 2004-05 and did not levy tax on sale of iron and steel, coal, rope wire and sheet, plate etc. valued at Rs. 188.84 crore not supported by declaration in Form 'C' and 'F'. This resulted in under-assessment of tax amounting to Rs. 15.16 crore.

After the cases were pointed out between May 2008 and February 2009, the assessing authority of Bokaro commercial taxes circle stated (September 2009) that an additional demand of Rs. 13.62 crore had been raised in September 2009 against one case. The remaining assessing authorities stated that the matter would be reviewed. Further replies have not been received (January 2010).

⁵¹ Bokaro, Jamshedpur, Jharia and Ranchi South.

2.8.2 Misuse of declaration forms

Under the Central Sales Tax Act, a registered dealer can purchase goods from outside the State at concessional rate of tax by using prescribed declaration, goods intended for resale by him or for use by him in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power or in telecommunications network. A contractor can also avail the facility in the capacity of a dealer.

Test check of records of Dhanbad commercial taxes circle indicated that a contractor purchased high speed diesel valued at Rs. 2.98 crore at concessional rate of tax by using form 'C' from outside the State during 2004-05 and consumed the same in course of execution of works contract which was not admissible. However, the assessing authority did not verify the registration certificate before issuing the declaration forms. This resulted in unauthorised use of form 'C' declaration and consequential loss of tax amounting to Rs. 1.16 crore including penalty.

After the case was pointed out in December 2008, the assessing authority stated (October 2009) that an additional demand had been raised for the entire objected amount in October 2009.

The matter was reported to the Government in June 2009; their replies have not been received (January 2010).

2.9 Short raising of demand

Under provisions of the JF Act, if the prescribed authority is satisfied that the returns furnished by the dealers in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such return and tax assessed shall be paid by the dealer as may be prescribed in a notice issued for this purpose including therein details of payment already made.

Test check of records in Ranchi special commercial taxes circle indicated that a dealer had deposited a tax of Rs. 8.38 lakh on account of goods utilised by him in a works contract valued at Rs. 1.12 crore during 2003-04. However, the assessing authority while finalising the assessment in November 2007 excluded the taxable turnover involved in the works contract from the assessment of the dealer. This resulted in short levy/raising of demand of Rs. 8.38 lakh.

After the case was pointed out in March 2009, the assessing authority stated (October 2009) that an additional demand of Rs. 8.32 lakh had been raised in October 2009.

The matter was reported to the Government in June 2009; their replies have not been received (January 2010).

CHAPTER III - STATE EXCISE

3.1 Results of audit

Test check of the records of the State Excise department during 2008-09 revealed cases of non/short realisation of licence fee, duty, loss of revenue etc. amounting to Rs. 92.93 crore in 87 cases, which fall under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	Non/delayed settlement of excise shops	12	69.39
2.	Non-renewal/re-settlement of exclusive privilege for whole sale supply of country spirit/spiced country spirit	5	0.54
3.	Undue financial benefits due to unauthorised concession	4	0.37
4.	Non/short lifting of liquor	3	0.25
5.	Other cases	63	22.38
Total		87	92.93

The department accepted non/short realisation of licence fee, duty, loss of revenue etc. of Rs. 38.32 crore in 63 cases pointed out in audit during 2008-09.

A few illustrative audit observations involving Rs. 75.56 crore are mentioned in the succeeding paragraphs:

3.2 Audit observations

Scrutiny of records in the offices of Excise and Prohibition Department relating to revenue received indicated several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of license fee and fees as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, 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 so that occurrence of such cases can be avoided.

3.3 Non-observance of provisions of Act/Rules

The Bihar Excise Act, 1915 (adopted by the Government of Jharkhand) and Rules made thereunder provide for:

- i) manufacture of potable liquor and supply it to wholesale/retail vendors in prescribed time schedule.*
- ii) renewal of licences for vendors/contractors; and*
- iii) payment of annual licence fee for wholesale supply of country spirit, spiced country spirit, retail excise shops, sale of IMFL in hotels, bars, restaurants, clubs etc.;*

The State Excise and Prohibition Department did not observe some of the above provisions which resulted in non/short levy of license fee of Rs.75.44 crore as mentioned in the succeeding paragraphs.

3.3.1 Non-renewal and non/delayed settlement of wholesale country spirit/spiced country spirit and retail excise shops

Under section 22-D and 30 of Jharkhand Excise Act, Government may grant to any person/persons on such conditions and for such terms and conditions and for such period as it may think fit, the exclusive/special privilege for supplying country liquor/spiced country liquor, on wholesale basis, after sacheting/ bottling it. The departmental instructions further provide that before the expiry of the period for which licence for retail sale of spirit was issued, the Collector shall prepare a list, showing the licences proposed to be granted for retail sale of spirit for the next period of settlement.

3.3.1.1 Non-renewal of exclusive privilege for wholesale supply of country spirit

The Government of Jharkhand, Excise and Prohibition Department issued tender notification in February 2005 for wholesale supply of country spirit to retail vendors for the period from 1 April 2005 to 31 March 2008 on annual renewal basis. Non-renewal of licence by the grantee provides for cancellation of licence, forfeiture of security money and resettlement of grant with other bidders.

Test check of records of five¹ excise districts between August 2008 and February 2009 indicated that five grantees were granted exclusive privilege for wholesale supply of country spirit in these districts for the period from 1 June 2005 to 31 March 2008, on annual renewal basis. The licensees did not get their licences renewed for the year 2007-08. No action was taken by the department against the defaulter grantees. This resulted in loss of licence fee amounting to Rs. 85.10 lakh.

3.3.1.2 Non-finalisation of tender/non-renewal of licence for wholesale supply of spiced country spirit

Under the provisions of Jharkhand Excise Act and Rules made thereunder, sanction of exclusive privilege may be granted to any person for manufacture and wholesale supply of spiced country spirit from approved warehouses within specified area. Under the above provisions, the Commissioner of Excise, Jharkhand, Ranchi issued a tender notification in February 2005. In accordance with terms and conditions of tender notification, if any loss is caused to the Government by the tenderer, his security money would be forfeited and loss may be recovered from him under Public Demands Recovery Act.

Test check of the records of four excise zones² between May 2008 and February 2009 indicated that tender for wholesale supply of spiced country spirit was not finalised for the period from 2006-07 to 2007-08 in Dumka excise zone with any bidder. In Dhanbad excise zone, the department did not float/call for tender for 2007-08 and in two excise zones, the licensees did not get their licences renewed for 2007-08. Non-finalisation of tender/issue and non-renewal of licence for manufacturing and wholesale supply of spiced country spirit by the department resulted in loss of licence fee amounting to Rs. 38.75 lakh for the years 2006-07 and 2007-08.

3.3.1.3 Non-renewal and non/delayed settlement of excise shops

By a notification issued in February 2004, under the provisions of Jharkhand Excise Act, the Government adopted a new excise policy, effective from 2004-05. Under the new policy, retail shops are required to be settled in two groups, one for country spirit/spiced country spirit and other for India made foreign liquor/beer for a block of three years, i.e., from July 2004 to March 2007. The Excise Commissioner issued instructions from time to time to the Deputy Commissioners to extend/renew licence period of retail licensees after March 2007, for the year 2007-08. The instruction stipulated that in case of non-extension of retail shops to the licencees, those should be operated departmentally, to check the loss of revenue.

Test check of records of Jamshedpur and Ranchi excise districts between June 2008 and February 2009 indicated that licences of Group I expired on 31 March 2007. The shops were neither resettled for operation nor were run departmentally during 2007-08 and excise shops remained closed. This

¹ Bokaro, Dhanbad, Gumla-cum-Simdega, Hazaribag-cum-Koderma-cum-Chatra and Ranchi.

² Dhanbad, Dumka-cum-Jamtara, Jamshedpur and Ranchi.

resulted in loss of revenue of Rs. 22.68 crore as mentioned in the following table:

(Rupees in crore)

<u>Excise district Group</u>	<u>Period</u>	<u>Annual licence fee Excise duty</u>	<u>Loss of revenue in shape of licence fee & duty</u>
<u>Jamshedpur</u> Group I	2007-08	<u>11.13</u> 0.96	12.09
<u>Ranchi</u> Group I	2007-08	<u>9.72</u> 0.87	10.59
Total			22.68

3.3.1.4 Loss of revenue due to partial operation of excise shops

Under the provisions of Jharkhand Excise Act and Rules made thereunder, the Commissioner of Excise, Department of Excise and Prohibition, Government of Jharkhand issued instructions in March 2007 to operate all excise shops departmentally in the absence of bidders.

Test check of records of seven excise districts between June 2008 and January 2009 indicated that retail excise shops of Group I & II in these districts were operated partially by district excise authority. Whereas, as per the Government instructions, all unsettled excise shops were to be operated departmentally till settlement of the shops with other bidders. This resulted in loss of Government revenue of Rs. 50.54 crore as mentioned in the following table:

(Rupees in crore)

<u>Excise district Group</u>	<u>Period</u>	<u>Annual licence fee Excise duty</u>	<u>Total</u>	<u>Revenue earned by partial operation of the excise shops</u>	<u>Loss of revenue</u>
<u>Bokaro</u> Group-I and II	2007-08	<u>17.18</u> 1.82	19.00	4.51	14.49
<u>Dhanbad</u> Group-I	2007-08	<u>19.19</u> 1.35	20.54	0.80	19.74
<u>Dumka-cum-Jamtara</u> Group-I and II	2006-07	<u>0.73</u> 0.07	0.80	0.01	0.79
	2007-08	<u>3.71</u> 0.44	4.15	1.14	3.01
<u>Giridih</u> Group-I and II	2007-08	<u>1.75</u> 0.10	1.85	0.65	1.20
<u>Hazaribag-cum-Koderma-cum-Chatra</u> Group I	2007-08	<u>6.85</u> 0.58	7.43	0.18	7.25
<u>Palamu-cum-Garhwa-cum-Latehar</u> Group I	2007-08	<u>1.19</u> 0.10	1.29	0.25	1.04
<u>Sahibganj-cum-Pakur</u> Group-I and II	2005-06	<u>0.35</u> 0.04	0.39	0.00	0.39
	2006-07	<u>1.16</u> 0.10	1.26	0.01	1.25
	2007-08	<u>1.28</u> 0.10	1.38	0.00	1.38
Total			58.09	7.55	50.54

3.3.1.5 Acceptance of invalid bank guarantee

Under the provisions of Jharkhand Excise Act and Rules made/notifications issued thereunder, the licensees of Group-I and II excise shops are required to furnish bank guarantee equivalent to an amount of two months' reserve fee. By a circular in June 2004 Government amended the conditions of sale notification. The circular provides that the bank guarantee is to be pledged in favour of concerned Deputy Commissioner valid upto May 2007. In case of violation of the terms and conditions of licence, bank guarantee is to be invoked and the amount remitted to the Government account.

Test check of records of Sahebganj-cum-Pakur excise district in June 2008 indicated that retail excise shops of both Groups (I & II) were settled with a licensee for the period from 20.08.2004 to 31.03.2007 on furnishing a bank guarantee of Rs. 34 lakh pledged in favour of Deputy Commissioner, Sahebganj. Further, the licensee did not deposit advance monthly licence fee. Subsequently, the licence was cancelled by the Deputy Commissioner in April 2005 and request for invoking the bank guarantee and crediting the amount into Government account was made with the concerned bank. The request was turned down by bank authorities on the ground that the time barred bank guarantee was not in the name of the licensee. As the bank guarantee was not in the name of the licensee, the settlement of retail excise shops of both groups was irregular. This act of the departmental authorities in granting licence with invalid bank guarantee resulted in non-realisation of licence fee of Rs. 34 lakh.

The matter was reported to the department and to the Government in April 2009; their replies have not been received (January 2010).

3.3.2 Short realisation of licence fee from retailers

Under section 38 of Jharkhand Excise Act and rules made thereunder, licences of excise retail shops and bar and restaurant are granted on payment of licence fee at the prevailing rate as prescribed by the Commissioner of Excise. The Government, by issue of a notification in July 2004, revised the annual licence fees for the sale of India made foreign liquor in a hotel, bar, restaurant, club etc. with effect from 31 July 2004.

Test check of records of office of Dhanbad excise district in December 2008 indicated that the licence fee of eight bars and restaurants was realised at pre-revised rate during 2007-08. The licensees were liable to pay a licence fee of Rs. 40 lakh against which licence fee of Rs. 16 lakh was recovered. The department did not realise the licence fee at correct rate which resulted in short realisation of revenue of Rs. 24 lakh.

After the case was pointed out in December 2008, the department stated that the matter would be examined and action would be taken.

3.3.3 Short levy due to incorrect fixation of reserve price

Government of Jharkhand adopted a new excise policy, effective from 2004-05. Under the new policy, retail shops are required to be settled in two groups; one for all the country spirit/spiced country spirit and other for India made foreign liquor/beer for a block of three years, i.e., from July 2004 to March 2007 and extended up to March 2008. The reserve fee was required to

be fixed after adding the amount of duty on the annual minimum guaranteed quota of excise shops with that of the auction money (reserve fee in case of unsettled shops). Further, it also provides that the licence fee for next financial year is to be fixed by increasing 10 *per cent* of the licence fee of preceding year. The licensee is required to deposit two months' advance licence fee, at the time of award of licence.

Test check of records of Palamu-cum-Garhwa-cum-Latehar excise district in July 2008 indicated that at the time of renewal of licences of Group I and II excise shops during 2005-06 to 2007-08, the department had incorrectly fixed the reserve/licence fee at Rs. 40.32 lakh, Rs. 44.36 lakh and Rs. 48.79 lakh instead of correct licence fee of Rs. 40.85 lakh, Rs. 44.93 lakh and Rs. 49.43 lakh per month respectively. The reserve fee fixed by the department was the same as licence fee. Though, incorrect fixation of reserve fee for 2004-05 was pointed out in January 2006, no action was taken by the department to rectify the error and realise the licence fee correctly for subsequent years. This resulted in non-levy of differential licence fee amounting to Rs. 18.78 lakh.

After the case was pointed out in July 2008, the department stated that licence fee was realised at the rate fixed earlier. The reply is not in accordance with the provisions of the excise policy. Further response has not been received (January 2010).

The matter was reported to the Government in April 2009; their replies have not been received (January 2010).

3.3.4 Non-realisation due to short supply of country liquor to retailers

Under the provisions of Jharkhand Excise Act and Rules made/notifications issued thereunder, grantee of exclusive privilege for wholesale supply of country spirit is required to manufacture liquor and supply it to retail vendors within two months from the date of issue of letter of grant by Excise Commissioner. In case of failure to supply country spirit in bottles, grant of tender may be cancelled, security money forfeited and loss of Government revenue was to be recovered from the grantee under Public Demands Recovery Act.

Test check of records of Sahebganj-cum-Pakur excise districts in June 2008 indicated that two licensees of retail shops of Group-I (country spirit) were allowed remission of licence fee of Rs. 21.83 lakh from 1 October to 8 December 2005 by the Member, Board of Revenue, Jharkhand, due to non-supply of liquor by the wholesale supplier and non-fixation of wholesale price of country spirit. The licence fee though, recoverable from the wholesale supplier, was not recovered resulting in loss of revenue of Rs. 21.83 lakh.

The matter was reported to the Government in April 2009; their replies have not been received (January 2010).

3.4 Irregular allowance of operational wastage of rectified spirit

Under the provisions of Jharkhand Excise Act and Rules made thereunder, allowance of wastage on account of deficiencies found in production, racking,

blending and storage is not admissible in the case of a manufacturer of India made foreign liquor, who has his own distillery.

Test check of records of Ranchi excise district in February 2009 indicated that a manufacturer of India made foreign liquor, holding a licence for his own distillery, had claimed and was allowed wastage on account of deficiencies found in production, racking, blending and storage of 1,15,677 London proof litre of rectified spirit during 2007-08, in violation of rules. This resulted in non-realisation of excise duty amounting to Rs. 11.57 lakh leviable on the total quantity of wastage allowed.

The matter was reported to the department and to the Government in April 2009; their replies have not been received (January 2010).

3.5 Non/delayed institution of certificate cases

Under the provisions of Jharkhand Excise Act, read with Bihar and Orissa Public Demands Recovery Act, arrears of excise revenue can be recovered as arrears of land revenue. The Jharkhand Excise Act does not provide for levy of interest for late payment of dues. As per the Public Demands Recovery Act, interest on public demand to which certificate relates shall be charged at the rate of 12 *per cent* per annum from the date of signing of the certificate upto the date of realisation. Any delay in institution of certificate proceedings would result in loss of revenue, in the form of interest.

Test check of records of Sahebganj-cum-Pakur excise districts in June 2008 indicated that arrears amounting to Rs. 42.17 lakh, pertaining to the period from 2003-04 to 2004-05 were outstanding as on 31 March 2008. Certificate cases for recovery of the arrears of Rs. 42.17 lakh were not instituted or delayed by two to three years. Non/delayed institution of certificate cases against the defaulters resulted in loss of revenue of Rs. 10.38 lakh in form of interest, calculated for the period from 2004-05 to 2007-08, besides non-recovery of arrears amounting to Rs. 42.17 lakh

The matter was reported to the department and to the Government in April 2009; their replies have not been received (January 2010).

3.6 Absence of provision for levy of import fee

Under the provisions of the Jharkhand Excise Act and Rules made/notification issued thereunder, import of rectified spirit shall be made on pre-payment of duty in the districts of import, by a person holding a licence for medical or surgical purpose, manufacture of perfumes and toilet preparations, medicines and chemicals, compounding and blending of foreign liquor, hospital and dispensaries and for defence services requirements. Besides, in absolutely necessary cases other than those mentioned above, passes for import of rectified spirit shall be issued under the specific order of the Excise Commissioner. The Excise Commissioner is empowered to permit import of country spirit/extra neutral alcohol from distilleries. No import fee is leviable on rectified spirit but this fee is leviable on import of spirit/extra neutral alcohol.

Test check of records of eight excise districts³ between May 2008 and February 2009 indicated that import passes were issued by the Excise Commissioner for import of rectified spirit to grantees of exclusive privileges and to a distillery for import of 49,73,600 London proof litre during 2005-06 to 2007-08. Though the power granted under the Act/rules was to be applied only in specified exceptional cases, it was applied in all the cases. Importantly, the entire quantity of the rectified spirit imported by the grantees of exclusive privilege and the distillery was utilised for wholesale supply of country spirit, India made foreign liquor and extra neutral alcohol. In the absence of a provision for levy of import fee, the same could not be levied resulting in foregoing of revenue amounting to Rs. 1.99⁴ crore.

The matter was reported to the department and to the Government in April 2009; their replies have not been received (January 2010).

Keeping in view, the quantity of the rectified spirit imported, the Government may consider formulating a provision in the Excise Act for levy and collection of import fee on import of rectified spirit.

³ Chaibasa, Dhanbad, Dumka-cum-Jamtara, Giridih, Hazaribag-cum-Koderma-Chatra, Palamu-cum-Garhwa-cum-Latehar, Ranchi and Sahebganj-cum-Pakur.

⁴ Based on fee leviable on import of IMFL @ Rs. 4 per LPL
49,73,600 X 4= 1.99 crore.

CHAPTER IV - TAXES ON VEHICLES

4.1 Results of audit

Test check of the records of the Transport Department during 2008-09 revealed non/short levy of motor vehicles tax, fees, penalties, fines etc. amounting to Rs. 77.79 crore in 26,574 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1	Non-pursuance of certificate cases	5,199	49.46
2	Lack of control over collection of taxes	1,926	12.69
3	Non/ short levy of taxes	1,299	1.58
4	Inflated demand against vehicles issued no objection certificates	267	1.46
5	Other cases	17,883	12.60
Total		26,574	77.79

The department accepted non/short levy of motor vehicles tax, fees, penalties, fines etc. of Rs. 26.81 crore in 21,385 cases pointed out in audit during the 2008-09.

A few illustrative audit observations involving Rs. 22.79 crore are mentioned in the succeeding paragraphs:

4.2 Audit observations

Scrutiny of records in the offices of Transport department relating to revenue received from taxes on vehicles indicated several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to consider directing the department to improve the internal control system including strengthening internal audit so that such omission can be avoided, detected and corrected.

4.3 Non-observance of provisions of Acts/Rules

The Bihar Motor Vehicles Taxation Act (BMVT), 1994 (adopted by the Government of Jharkhand), Motor Vehicles Act, 1988, Central Motor Vehicles Rules, 1989 and Rules made thereunder provide for:

- (i) payment of motor vehicles tax by the owner of vehicles at the prescribed rate;*
- (ii) timely deposit of collected revenue into the Government account;*
- (iii) payment of registration fee at prescribed rate; and*
- (iv) payment of authorization fee and composite fee for vehicles covered under national permit.*

The Transport Department did not observe some of the provisions of the Act/Rules in cases as mentioned in the succeeding paragraphs:

4.3.1 Non-realisation of taxes

The Bihar Motor Vehicles Taxation Act and Rules, 1994, provide for the maintenance of a taxation register for each district transport office. The register contains all details relating to demand, collection and balance of tax. Besides, any exemption of tax granted to a vehicle is recorded in it. The Rule further provides that tax is to be paid by the owner of a vehicle, within 15 days of commencement of the quarter, to the tax official in whose jurisdiction the place of registration falls. In case of non-payment of tax within the stipulated period, the tax authority may impose penalty at the prescribed rates.

It was noticed in audit that 3,646 vehicle owners had not paid any tax but the departmental officers had not made any effort to raise the demand and recover the amount. This resulted in non-realisation of tax of Rs. 16.18 crore, as mentioned in the following paragraphs:

4.3.1.1 Non-realisation of tax from transport vehicles

According to the instructions issued by the State Transport Commissioner, Bihar, in November 1990, the tax officials are required to raise demand notices against the owners of the vehicles, who default in payment of tax.

Test check of the taxation registers of 12 district transport offices¹ between May 2008 and March 2009 indicated that the owners of 2,226 transport vehicles did not pay the tax and additional tax during 2007-08. Although no reasons were found recorded for non-payment of tax, the department did not raise demand for tax and penalty against the defaulting vehicle owners. This resulted in non-realisation of tax of Rs. 14.44 crore, including penalty of Rs. 9.62 crore.

4.3.1.2 Non-realisation of tax from trailers

The BMVT Act further provides that trailer is a transport vehicle and shall not be eligible for any exemption from payment of tax, irrespective of nature of its use.

Test check of the taxation registers of 12 district transport offices² between May 2008 and March 2009 indicated that the owners of 1,404 trailers were liable to pay road tax and additional motor vehicle tax of Rs. 1.66 crore for the period between February 2004 and March 2008. However, neither did the owners pay tax nor did the department raise demands against the defaulting trailer owners. Thus non-enforcement of the provisions of the Act/Rules resulted in non-realisation of tax of Rs. 1.66 crore, including penalty of Rs. 1.11 crore.

4.3.1.3 Non-realisation of tax on surrendered vehicles

The Act provides that if owner of a motor vehicle does not intend to use his vehicle due to disability of motor vehicle caused by mechanical breakdown or other causes for any period more than a month and not exceeding six months at a time, he can be exempted from payment of tax by the competent authority provided his claim for exemption is supported by required documents. In the absence of any extension, the vehicle would be deemed to have been used and the vehicle owner will be liable to pay tax.

Test check of records of three district transport offices³ between July 2008 and March 2009 indicated that 16 vehicles were surrendered between July 2005 and January 2008, but after the expiry of surrendered period, the vehicle owners did not apply for extension. Accordingly, these vehicles were liable to pay tax but neither was it paid by the vehicle owners nor was it demanded by the concerned officers. This resulted in non-realisation of tax amounting to Rs. 7.99 lakh including penalty for the period between October 2005 and April 2009.

After the cases were pointed out between May 2008 and March 2009, the district transport officers stated that demand notice would be issued. Further reply has not been received (January 2010).

The matter was reported to the department and Government in April 2009; their replies have not been received (January 2010).

¹ Bokaro, East Singhbhum (Jamshedpur), Dhanbad, Dumka, Garhwa, Giridih, Gumla, Hazaribag, Lohardaga, Palamu, Ranchi and West Singhbhum (Chaibasa).

² East Singhbhum (Jamshedpur), Bokaro, Dhanbad, Dumka, Garhwa, Giridih, Gumla, Hazaribag, Lohardaga, Palamu, Ranchi and West Singhbhum (Chaibasa).

³ Garhwa, Giridih and Ranchi.

4.4 Non-realisation of fee in respect of national permits

Motor Vehicles Act and Central Motor Vehicles Rules, stipulate that national permit may be granted to goods carriages to operate throughout the territory of India or in such contiguous States, not being less than four in number, including the State in which the permit is issued. The permits are granted subject to fulfilment of certain conditions and payment of fee.

It was noticed in audit that 1,216 permit holders had not paid the prescribed fee. However, these escaped notice of the concerned regional transport authorities and state transport authority which resulted in non-levy of fee of Rs. 3.28 crore as mentioned in the following paragraphs:

4.4.1 Non-renewal of authorisation of national permit

A national permit shall be issued for a period of five years. The owner of a vehicle is required to obtain authorisation on payment of authorisation fee of Rs. 500 per annum alongwith composite fee in the shape of bank drafts for transmission to states where the vehicle is to be plied. This authorisation is a continuous process unless the permit expires or is surrendered by the permit holder.

Test check of records of offices of the Transport Commissioner, Jharkhand, Regional Transport Authorities, Hazaribag and Ranchi in February and March 2009 indicated that in 733 cases subsequent authorisation for plying goods vehicles under national permits was neither renewed for the period falling between April 2005 and March 2008 during the periodicity of permits nor were the national permits surrendered. This resulted in non-realisation of authorisation fee of Rs. 9.68 lakh and composite fee of Rs. 3.03 crore.

4.4.2 Non-realisation of fee for variation in national permit

The Act provides that a permit holder may apply to the transport authority for any variations in conditions of the national permit, alongwith prescribed fee of Rs. 2,000 per variation and the Transport Authority may in its discretion, vary such conditions of the permit.

Test check of records of three offices⁴ between January and February 2009 indicated that in 483 cases applied for variations in conditions of national permits issued to them between 2004-05 and 2007-08, the concerned authorities allowed the variation in national permits though the prescribed fee was not paid by the vehicle owners. This resulted in non-realisation of Rs. 15.18 lakh.

After the cases were pointed out, the Regional Transport Authority, Hazaribag stated in February 2009 that the prescribed fee was being realised from November 2008 on the instructions of Transport Commissioner dated October 2008. The reply was, however, silent about realisation of fees for the period 2004-05 and 2007-08. No reply has been received (January 2010) from the other two offices.

The matter was reported to the department and Government in April 2009; their replies have not been received (January 2010).

⁴ Regional Transport Authorities, Hazaribag, Ranchi and Transport Commissioner, Ranchi.

4.5 Delay in deposit of revenue collected by banks

Under the provisions of the Bihar Financial Rules (adopted by the Government of Jharkhand), all transactions must be brought to account without delay and money received should be forthwith credited to the Government account. Instructions (March 1996) of State Transport Commissioner, Bihar and Transport Commissioner, Jharkhand (January 2001), stipulates that the amount collected by the banks during April to February should be transferred to the State Bank of India, Doranda branch, Ranchi in such a manner that all the receipts during a particular month are transferred latest by the first week of the following month. The amount deposited in the month of March is to be transferred by 31 March positively so that all amount deposited during a financial year are transferred to the Government account in the same financial year. Further, as per instructions issued by the Reserve Bank of India in April 2006 interest at the rate of eight *per cent* per annum, on an average quarterly balance exceeding Rs. 1 crore, is payable by the banks on delayed remittances to the Government account.

Test check of records of Transport Commissioner, Jharkhand and four district transport offices⁵ between August 2008 and March 2009 indicated that the collecting bank, i.e., four branches of Punjab National Bank at Bokaro, Dhanbad, Jamshedpur and Ranchi and one branch of Bank of India at Ranchi delayed the transfer of collected revenue of district transport offices and office of the Transport Commissioner into the Government account through State Bank of India, Doranda branch by one to 11 months and retained Rs. 70.49 crore at the end of March 2008. The collecting banks did not credit the leviable interest of Rs. 3.12 crore during 2007-08 for delayed transfer of the Government revenue into State Bank of India, Doranda, Ranchi. The department also did not pursue the matter of non-payment of interest by the banks.

After the cases were pointed out between August 2008 and March 2009, the district transport officers stated that correspondence would be made with the bank authorities for realisation of interest while Transport Commissioner did not furnish any reply. Further reply has not been received (January 2010).

The matter was reported to the department and the Government in April 2009; their replies have not been received (January 2010).

4.6 Short levy of additional fee on smart card

Under the provisions of the Central Motor Vehicle Rules, the registering authority shall issue a certificate of registration to the owner of the motor vehicle in form '23' or '23A'. In September 2004, the Government of Jharkhand entered into an agreement with a contractor for issue of registration certificates and driving licences in the form of computerised smart cards. Further, by a notification issued in May 2005, for every smart card, an additional fee of Rs. 200 is leviable under the rules.

Test check of records of District Transport Office, Dhanbad in August 2008 indicated that 21,001 certificates of registration in the form of smart cards

⁵ Bokaro, Dhanbad, Jamshedpur and Ranchi.

were issued levying additional fee of Rs. 101 instead of Rs. 200 between September 2007 and August 2008. This resulted in non-levy of additional fee amounting to Rs. 20.79 lakh.

After the cases were pointed out in August 2008, the District Transport Officer, Dhanbad stated (August 2008) that matter would be referred to the Transport Commissioner.

The matter was reported to the department and Government in April 2009; their replies have not been received (January 2010).

CHAPTER V - LAND REVENUE

5.1 Results of audit

Test check of the records of the Revenue and Land Reforms Department during 2008-09 revealed non-settlement of vested public land, non-renewal of lease of *khas mahal* etc. amounting to Rs. 1,151.31 crore in 2,395 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	Non-renewal of lease of <i>Khas Mahal</i> Land	2,340	813.27
2.	Non-eviction of/settlement of encroached public land	9	18.98
3.	Non-settlement of vested land	9	1.14
4.	Non-settlement of <i>Sairats</i>	2	0.03
5.	Other cases	35	317.89
Total		2,395	1,151.31

The department accepted observations relating to non-settlement of vested public land, non-renewal of lease of *khas mahal* etc. of Rs. 338.04 crore in 55 cases pointed out in audit during 2008-09.

A few illustrative audit observations involving Rs. 222.81 crore are mentioned in the succeeding paragraphs:

5.2 Audit observations

Scrutiny of records in the offices of Revenue and Land Reforms department relating to revenue received indicated several cases of non-observance of the provisions of the Acts/Rules resulting in non levy of rent/penal rent and salami as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, 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 so that recurrence of such lapses in future can be avoided.

5.3 Non-observance of provisions of Acts/Rules

The Bihar Government Estates (Khas Mahal) Manual, 1953 and Bihar Public Land Encroachment Act, 1956 (adopted by the Government of Jharkhand) provide for:

- (i) payment of rent on lease hold property; and*
- (ii) payment of rent and damages for encroached public land..*

The Revenue and Land Reforms department did not observe some of the provisions of the Act/Rules in cases as mentioned in the paragraph 5.3.1 to 5.3.2 for levy and collection of rent and damages which resulted in non-realisation of rent of Rs. 222.81 crore.

5.3.1 Non-renewal of leases

Under the provisions of the Bihar Government Estates (Khas Mahal) Manual and Rules framed thereunder for grant of lease, the State Government is to issue notices to the lessees six months prior to the expiry of the lease to apply for renewal of such lease. Further, the lessee is required to apply for renewal of his lease three months prior to its expiry. A lessee continuing to occupy leasehold property without payment of rent and without renewal of lease is to be treated as a trespasser and has no claim for renewal on past terms and conditions. On fresh leases for residential/commercial purposes, *salami*¹ at the current market value of land besides annual rental at the rate of two *per cent* and five *per cent* respectively of such *salami* is leviable. Further, as per instructions issued in April 1999 by the Revenue and Land Reforms department, Government of Bihar, the lessees are liable to pay arrears of double the annual rental at the rate proposed in fresh leases from the date of expiry of earlier lease as penal rent² together with interest at the rate of 10 *per cent* on the differential of proposed rent in the new deeds and rent already paid by the lessees. The Government issued instructions in July 2004 to all Deputy Commissioners to take action for renewal of pending cases within three months.

¹ Salami is market value of the land. It is a share in the increase of value anticipated during the period of lease.

² Penal rent is twice the rate of residential rate.

Test check of records of three Anchal offices³ under Land Reforms Deputy Collector-cum-*Khas Mahal* offices, Ranchi and Jamshedpur (between June and November 2008) indicated that leases of 1,250 lessees holding 263.60 acres of *khas mahal* land had expired between 1968-69 and 2000-01. Neither had the lessees applied for fresh lease nor did the department issue notices to the lessees to notify their intention for executing the same. The department did not initiate action for renewal of the expired leases which resulted in loss of revenue of Rs. 66.96 crore in shape of penal rent and interest besides *salami* of Rs. 152.18 crore calculated for 2003-04 to 2007-08.

After the cases were pointed out between July and December 2008, the Land Reforms Deputy Collector, Ranchi stated that instructions would be issued to all Anchal Adhikaries and related officers, while the Land Reforms Deputy Collector, Jamshedpur stated that action would be taken for renewal of *Khas mahal* land. Thus, it would be seen that no action for the renewal of expired leases was taken by the Department even after the Government's order of July 2004 for renewal of lease within three months.

5.3.2 Non-removal/settlement of encroached public land

Under the Bihar Public Land Encroachment Act, if a person has encroached upon any public land, he may be evicted or the land may be settled with such person, on payment of rent and damages for use of such land as per the rules laid down in the Bihar Government Estate (*Khas Mahal*) Manual. Further, in the case of settlement of public land for residential/commercial purpose, *salami* at the prevailing market value of such land, together with the annual residential/commercial rent at the rate of two/five *per cent* of *salami*, are payable.

Test check of records of five Anchal Offices⁴ of East Singhbhum district in August and September 2008 indicated that 17.20 acres of public land was encroached for residential/commercial purposes between 2001-02 and 2007-08. The department did not take any action for eviction or settlement of this land. This resulted in non-realisation of *salami* and rent of Rs. 3.67 crore.

After the cases were pointed out between September and December 2008, the Sub Divisional Officer, Ghatshila stated that direction was being issued to evacuate encroachment while the Land Reforms Deputy Collector, Dhalbhum stated that direction would be issued to concerned circles for settlement/evacuation of encroached land. Further reply has not been received (January 2010).

The matter was reported to the department and Government in March 2009; their replies have not been received (January 2010).

³ Jugsalai-cum-Golmuri, Namkum and Ranchi Sadar.

⁴ Chakulia, Ghatshila, Patmda, Potka and Sadar (Jamshedpur).

CHAPTER VI - OTHER TAX RECEIPTS

6.1 Results of audit

Test check of the records of the Registration and Commercial Taxes department during 2008-09 indicated non/short levy of fee, duty and loss of revenue etc. amounting to Rs. 18.47 crore in 931 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
STAMPS AND REGISTRATION FEES			
1.	Blocking of Government revenue due to non-disposal of impound/referred cases	744	1.35
2.	Non-levy of duty on power of attorney	103	1.32
3.	Other cases	73	0.06
Total		920	2.73
COMMERCIAL TAXES			
GOODS AND PASSENGER TAX/ENTRY TAX			
1.	Non-levy of penalty	2	9.41
Total		2	9.41
ELECTRICITY DUTY			
1.	Non / short levy of surcharge	7	3.19
2.	Short levy of electricity duty	1	3.04
Total		8	6.23
ENTERTAINMENT TAX			
1.	Short levy of entertainment tax	1	0.10
Total		1	0.10
Grand Total		931	18.47

During 2008-09, the concerned departments accepted non/short levy of fee, duty and loss of revenue etc. of Rs. 9.06 crore in 924 cases of which 920 cases involving Rs. 2.73 crore were pointed out in audit during 2008-09 and rest in earlier years.

A few illustrative audit observations involving Rs. 6.30 crore are mentioned in the succeeding paragraphs:

6.2 Audit observations

Scrutiny of records in the offices of Commercial Taxes departments revealed cases of non-recovery, short recovery and non-deposit of tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, 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 so that recurrence of such lapses in future can be avoided.

6.3 Non-observance of the provisions of Acts/Rules

The Bihar Electricity Duty Act, 1948 and Bihar Entertainment Tax Act, 1948 (adopted by the Government of Jharkhand) provide for:

- (i) payment of electricity duty on mining purposes in all premises where total load exceeds 100 BHP;*
- (ii) payment of penalty for belated payment of surcharge; and*
- (iii) payment of a consolidated amount of tax, for every show, at the prescribed rate of gross collection capacity of the cinema.*

The Commercial Taxes department did not observe some of the provisions of the Act/Rules in cases as mentioned in the paragraph 6.3.1 to 6.3.3 for levy and collection of electricity duty, surcharge, entertainment tax etc. which resulted in non/short realisation of duty, surcharge and tax of Rs. 6.30 crore.

ELECTRICITY DUTY

6.3.1 Short levy of electricity duty

Under the provisions of Bihar Electricity Duty Act, electricity duty is leviable on the units of electrical energy consumed or sold, excluding losses of electrical energy in transmission and transformation, at the rate or rates specified in the schedule. Further, the State Government notified (August 1993) the rate of electricity duty for mining purposes in all premises where the total load exceeded 100 British horse power, to be 15 paise per unit of energy sold or consumed. The duty on sale of electrical energy for industrial purposes is leviable at the rate of two paise per unit. It has been judicially held¹ that the process of mining comes to an end only when the ore extracted from the mines is washed, screened, dressed and then stacked at the mining site.

6.3.1.1 Test check of records of Ramgarh Commercial Taxes Circle in January 2009 indicated that an assessee, engaged in mining activity, consumed 23.38 crore units of electrical energy in washing of coal between 2001-02 and 2004-05. The assessing authority while finalising the assessments between October 2006 and February 2007 incorrectly levied electricity duty at the rate of two paise per unit treating it as industrial consumption instead of 15 paise per unit prescribed for mining purposes. This resulted in short levy of duty of Rs. 3.04 crore.

¹ Chowgule & Co. Vrs Union of India (1981) 47 STC-124 SC.

6.3.1.2 In Ramgarh Commercial Taxes Circle, cross verification of purchase of electrical energy in case of a dealer company assessed in December 2006 with the assessment records of selling dealer of the same circle revealed that during 2003-04 to 2005-06 the dealer company had shown purchase of 4.64 crore units against actual purchase of 9.93 crore units of electrical energy. This resulted in suppression of purchase of electrical energy of 5.29 crore units and consequent short levy of electricity duty of Rs. 89.90 lakh including surcharge of Rs. 10.58 lakh.

6.3.2 Non-levy of penalty for belated payment of surcharge

Under the provisions of the Bihar Electricity Duty Act and Rules made thereunder, every assessee shall pay electricity duty due from him within two calendar months of the month to which the duty relates. In case of failure to pay duty and/ or surcharge within the due date, the prescribed authority shall impose a penalty upto five *per cent* but not less than two and half *per cent* for each of the first three months or part thereof following the due date and upto 10 *per cent* but not less than five *per cent* for each subsequent month or part thereof.

Test check of records of Ramgarh Commercial taxes circle in January 2009 indicated that six licensees² consumed 51.45 crore units of electrical energy between 1996-97 and 2005-06. The licensees did not pay surcharge of Rs. 1.03 crore leviable till the date of assessment. The assessing authority while finalising the assessment between December 2006 and January 2007 levied surcharge but did not impose penalty for the period of default. This resulted in non-levy of penalty of Rs. 2.26 crore calculated at the minimum rate.

The matter was reported to the department and Government in May 2009; their replies have not been received (January 2010).

ENTERTAINMENT TAX

6.3.3 Short levy of entertainment tax

Under the provisions of Bihar Entertainments Tax Act and Rules framed thereunder, a proprietor of an entertainment house, is liable to pay a consolidated amount of tax, for every show, at the prescribed rate of gross collection capacity of the cinema house, as fixed by the Government. The Act also empowers the State Government to grant permission to an owner of a cinema house to pay a fixed weekly compounded tax in lieu of the consolidated amount of tax deposited by the proprietor in advance for every week before the week begins and default in any payment shall invalidate the permission and in such case it shall be deemed that no permission has been granted and the proprietor is liable to pay tax, for every show at the prescribed rate (16 *per cent*) of gross collection capacity of the concerned cinema house.

Test check of records of Commercial Taxes Circle, Ramgarh in February 2009 indicated that the proprietor of a cinema house had opted and was allowed to

² M/s CCL, Saunda Colliery, Central Saunda Colliery, Sayal D Colliery, Rajrappa washery, Rajrappa Project and Bhurkunda Colliery

pay tax at the compound rate. However, he had not deposited weekly compounded tax in advance during 2005-06. As the assessee defaulted in payment of tax at compounded rate, the permission granted was required to be treated as cancelled and the proprietor was liable to pay tax, for every show at the prescribed rate (16 *per cent*) of gross collection capacity of the concerned cinema hall, which was neither levied by the assessing authority nor was it paid by the assessee. This resulted in short levy of tax of Rs. 9.94 lakh³.

The matter was reported to the department and Government in May 2009; their replies have not been received (January 2010).

³ Rs. 5,431.70 x 28 (shows per week) x 52 (weeks per year) x 16 *per cent*
= Rs. 12,65,368.00. Less tax already levied: Rs. 2,70,925.00.
Tax leviable = Rs. 9,94,443.00.

CHAPTER VII - MINERAL CONCESSION, FEES AND ROYALTIES

7.1 Results of audit

Test check of the records of Mining Department during 2008-09 indicated loss of rent, royalty, fee etc. amounting to Rs. 210.51 crore in 3,043 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	Non-initiation of certificate proceedings	1,879	70.80
2.	Non levy of penalty/fees	486	8.55
3.	Non/short levy of dead rent/ surface rent	26	3.72
4.	Short levy of royalty due to downgrading of coal	3	3.51
5.	Non/short levy of royalties	42	2.32
6.	Non levy of interest	18	0.51
7.	Other cases	589	121.10
Total		3,043	210.51

The department accepted loss of rent, royalty, fee etc. of Rs. 51.29 crore in 2,507 cases pointed out in audit, during the year 2008-09.

A few illustrative audit observations involving Rs. 22.75 crore are mentioned in the succeeding paragraphs:

7.2 Audit observations

Scrutiny of records in the offices of the Mines and Geology department relating to revenue received from royalty indicated several cases of non-observation of the provisions of the Acts/Rules resulting in non/short levy of royalty/penalty and other cases as mentioned in the succeeding paragraphs in the chapter. These cases are illustrative and are based on the test check carried out in audit. Such omissions are pointed out in audit in each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to consider directing the department to improve the internal control system indicating strengthening internal audit so that such omission can be avoided, detected and corrected.

7.3 Non-observance of provisions of Acts/Rules

The Mines and Mineral (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004 provide for:

- (i) payment of royalty on the minerals removed and consumed from the lease area at the rates prescribed,*
- (ii) submission of monthly returns pertaining to production and despatch of minerals within the period specified; and*
- (iii) payment of price of minerals in addition to royalty for the minerals extracted without valid lease/permit treating the mineral as illegal.*

The Mines and Geology department did not observe some of the provisions of the Acts/Rules in cases as mentioned in the paragraphs 7.3.1 to 7.4 for levy and collection of royalty.

7.3.1 Illegal extraction

The Mineral Concession Rules and Jharkhand Minor Mineral Concession Rules, provide that no person shall undertake any mining operation in any area unless he possesses a valid mining lease or permit. In case of illegal mining, the miner is liable to pay price of the mineral as penalty.

Audit noticed that in 215 cases of illegal mining, the district mining officers had not taken appropriate action on illegal miners. This resulted in non/short levy of penalty of Rs. 17.13 crore as mentioned below:

7.3.1.1 Non-levy of penalty

Under the provisions of Mineral Concession Rules, the lessee shall not, without the previous consent in writing of the State Government, enter into or make any arrangement, contract or understanding under which the lessee's operations or undertaking will be substantially controlled by any person or body of persons other than the lessee. Further, under the provisions of the Mines and Minerals (Development and Regulation) Act, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where

such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period of occupation of land.

Test check of records of District Mining Office, Jamshedpur in March 2009 indicated that M/s Hindustan Copper Ltd. holding 388.68 hectare mining lease had entered into a contract for extraction of copper ore with M/s Monarch Gold Mining Company Limited, Australia in March 2007 on the basis of global tender without the consent of State Government. The same was later found to have been sublet to M/s India Resources Limited which started production from November 2007. In absence of any consent from the state Government all the production/despatch of copper mineral weighing 402.151 metric tonne made during 2007-08 was illegal and price of the mineral amounting to Rs. 12.61 crore was not levied.

After the case was pointed out in March 2009, the department stated that a demand of Rs. 12.61 crore was raised in April 2009 at the instance of audit. The matter has been referred to the Government for taking legal action against the defaulter and to recover the cost of mineral illegally extracted. Further reply has not been received (January 2010).

7.3.1.2 Non-levy of penalty on illegal mining

As per the provisions of Jharkhand Minor Mineral Concession Rules, civil works contractors are required to purchase minor minerals only from the lessees/permit holders and authorised dealers. It further provides for submission of affidavits in form 'O' and particulars in form 'P' by the works contractors to the Works department indicating therein details of sources of purchase of minerals, price paid and quantity procured along with the bills. The Works department, in turn, is required to forward the photocopies of form 'O' and 'P' to the Mining department for verification of the details of minerals procured and consumed. In case of non-compliance, the District Collector may impose penalty equivalent to the amount of royalty.

Test check of records of six district mining offices¹ indicated that the Works departments had submitted bank drafts/cheques for Rs. 2.70 crore as amount of royalty realised from the contractors in 156 cases for the minerals used by them during 2005-06 to 2007-08. But the Works department did not submit affidavits in form 'O' and particulars in form 'P' to the Mines and Geology department for verification of minerals. Non-submission of form 'O' and 'P' attracted penalty on the works department equivalent to amount of royalty/price of minerals. This resulted in loss of revenue of Rs. 2.70 crore.

After the cases were pointed out between June 2008 and March 2009, the District Mining Officers, Giridih and Latehar have raised the demand at instance of audit to concerned department between February and June 2009. Further reply has not been received (January 2010).

7.3.1.3 Non/short levy of penalty on illegal mining

Under the provisions of Jharkhand Minor Mineral Concession Rules, the price of the mineral, is to be recovered in case of illegal mining. The determination

¹ Deoghar, Dhanbad, Giridih, Godda, Latehar and Ranchi.

of price of the mineral may be fixed by the collector of the district in accordance with Jharkhand Minor Mineral Concession Rules.

Test check of illegal mining register as well as inspection reports of mining inspectors of eight district mining offices² between May 2008 and March 2009 indicated that the department had detected illegal mining of 92,391.90 cum of stone and 12,000 MT of fireclay in 58 cases. Out of these, in four cases of illegal mining of stone and in one case of fireclay, demand notices for recovery of royalty and price of minerals amounting to Rs. 44.04 lakh was not issued, while in the remaining 53 cases of illegal mining of stone the demand notices were issued at lesser rates than the rates prescribed by Public Works department. In these cases, the demand notices for Rs. 40.88 lakh was issued instead of Rs. 1.79 crore. This resulted in non/short levy of royalty amounting to Rs. 1.82 crore.

After the matter was reported between May 2008 and March 2009, the district mining officers stated that the matter would be examined and action would be taken accordingly. Further reply has not been received. (January 2010).

The matter was reported to the department and Government May 2009; their replies have not been received (January 2010).

7.3.2 Non-scrutiny of monthly returns

Under the provisions of Mineral Concession Rules and Jharkhand Minor Mineral Concession Rules, the lessee is required to submit monthly returns to the State Government within a specified period.

Audit noticed that district mining officers had not scrutinised the returns furnished by the lessees. This resulted in loss of royalty of Rs. 4.92 crore in 91 cases as mentioned in the succeeding paragraphs:

7.3.2.1 Short levy of royalty due to downgrading of coal

The Mines and Mineral (Development and Regulation) Act, provides for payment of royalty by lessee on the quantity of mineral removed and consumed from leased area at the rate prescribed according to grade of coal. In accordance with sub clause 2 of clause 4 of Colliery Control Order, 2004, the owner of a colliery shall declare its grade and it shall pay royalty at the rate specified. The district mining officers are required to scrutinise the returns furnished by the lessees to ensure correct payment of royalty.

Test check of returns submitted by the lessee in District Mining Office, Dhanbad in December 2008 indicated that 4.30 lakh metric tonne coal was removed and despatched by a colliery during 2007-08 (upto December 2007). Though the Coal was notified as of grade 'WII' but it was wrongly graded as 'C' and 'D' categories in the return submitted to the district mining office and royalty of Rs. 4.93 crore was paid instead of Rs. 7.10 crore. The monthly returns of lessee was required to be scrutinised and verified by the Mining Officer with annual grade notification of coal approved by the Coal Controller but the same was not done. This resulted in short levy of royalty of Rs. 2.17 crore.

² Chaibasa, Deoghar, Dhanbad, Godda, Hazaribag, Koderma, Ranchi and Sahebganj.

In another case of District Mining Office, Hazaribag, a lessee despatched 53,175 metric tonne of grade 'B' coal during 2006-08. But paid royalty of Rs. 72.05 lakh was paid at lower rate treating the despatched coal as 'C' grade instead of Rs. 96.99 lakh. Mistake escaped the notice of the district mining officer resulting in short levy of Rs. 24.94 lakh.

After the cases were pointed out between August and December 2008, the district mining officers stated that matter would be examined and necessary action would be taken. Further reply has not been received (January 2010).

7.3.2.2 Application of incorrect rate

Test check of returns submitted by the lessee in District Mining Office, Dhanbad in December 2008 indicated that in a case of a lessee holding a lease of two collieries, royalty was paid at the rate of Rs. 115 per MT for 1.71 lakh MT in one colliery while in other the royalty was paid at the rate of Rs. 165 per MT for 0.32 lakh MT. Whereas royalty was leviable at the rate of Rs. 216 per MT of coal as per price notification issued in December 2007. Mistake escaped the notice of the district mining officer resulting in short levy of Rs. 1.89 crore.

After the cases were pointed out in December 2008, the district mining officers stated that the matter would be examined and action would be taken. Further reply has not been received (January 2010).

7.3.2.3 Short levy of royalty due to suppression of stock

Under the provisions of Mines and Minerals (Development and Regulation) Act, every owner/lessee/manager of a mine shall submit monthly and annual returns to the department in respect of minerals raised and despatched. Lessees are also required to submit such annual returns to the Indian Bureau of Mines. The rule further provides that holder of a mining lease shall pay royalty in respect of the minerals removed or consumed from the leased area at the prescribed rates.

- Test check of records of District Mining Office, Dhanbad in December 2008 indicated that opening balance of December 2007 of coal was shown as 6,868.17 metric tonne against the closing balance of November 2007 of 13,366.31 metric tonne in the monthly returns filed by the lessee. Thus, the lessee suppressed 6,498.14 metric tonne of coal. This resulted in loss of royalty of Rs. 13.52 lakh at the rate of Rs. 208 per MT graded as W-II.
- Cross verification of the details of raising and despatch of iron ore submitted to Indian Bureau of Mines, Nagpur with the monthly returns submitted to the District Mining Office, Chaibasa indicated that for May 2007 a lessee had shown production of 94,643.66 MT in his monthly return but the same was shown as 1,56,130.78 MT in the return submitted to Indian Bureau of Mines. Thus, production of 61,487.12 MT of iron ore was suppressed resulting in evasion of royalty of Rs. 9.84 lakh. The department did not cross verify the return filed by the lessee with those submitted to the Indian Bureau of Mines.

After the cases were pointed out between February and March 2009, the District Mining Officer, Dhanbad stated that the matter would be examined

and action would be taken, while District Mining Officer, Chaibasa stated that show cause notice would be issued to the lessee and necessary action would be taken, accordingly. Further reply has not been received (January 2010).

7.3.2.4 Non-levy of penalty for non-submission of monthly returns

Under the provisions of Jharkhand Minor Mineral Concession Rules, every lessee/permit holder is required to submit a return in the prescribed form for extraction and removal of minor minerals, by fifteenth day of the following month to which it relates. In case a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay as penalty a sum of Rs. 20 for every day after the expiry of the prescribed date subject to a maximum of Rs. 2,500.

Test check of records of six district mining offices³ between May 2008 and February 2009 indicated that 81 lessees in 1,277 cases did not submit monthly returns for various months between April 2006 and March 2008. However, no penalty was imposed by the department in any of the cases even after lapse of two to 36 months. This resulted in non-levy of penalty of Rs. 31.93 lakh.

After the cases were pointed out between May 2008 and February 2009, the district mining officers stated that matter would be examined and necessary action would be taken. Further reply has not been received (January 2010).

The matter was reported to the department and Government in May 2009; their replies have not been received (January 2010).

7.3.2.5 Short levy of royalty

The provisions of the Mineral Concession Rules and guidelines laid down therein, provide for computation of royalty on minerals on ad-valorem basis by adding 20 *per cent* to the benchmark value⁴. It further stipulated that the value shall be reckoned to be the sale price for the purpose of computation of royalty of the mineral dispatched.

Test check of records of District Mining Office, Jamshedpur in March 2009 indicated that four lessess were required to pay the royalty after adding 20 *per cent* to the benchmark value. However, one of the four lessees had worked out the benchmark value but paid royalty on the sale value declared by themselves which was less than the value to be determined on the benchmark value. Royalty amounting to Rs. 13.81 lakh was levied instead of Rs. 19.52 lakh. This resulted in short levy of royalty of Rs. 5.71 lakh.

After the case was pointed out in March 2009, the district mining officers stated that the demand had been raised in April 2009 at the instance of audit. Further reply has not been received (January 2010).

The matter was reported to the department and Government in May 2009; their replies have not been received (January 2010).

³ Chaibasa, Giridih, Godda, Koderma, Pakur and Sahebganj.

⁴ Benchmark value is the average of the mineral determined by the Indian Bureau of Mines and published in the 'Monthly Statistics of Mineral Production'. This is required to be fixed in respect of the amount where royalty is to be payable on ad valorem basis.

7.4 Non-settlement due to non/delayed publication of gazette notification

The Mineral Concession Rules stipulates that available area for grant of mining lease should be notified in the official gazette specifying a date from which such area shall be available for grant of lease.

7.4.1 Test check of records of District Mining Office, Koderma in November 2008 indicated that Bihar State Mineral Development Corporation was entrusted as caretaker agency to extract minerals from 2,047.96 hectares available area for the period from March 1986 to November 2003. Thereafter, no efforts were made by the department to notify the area available for grant of lease. Thus, due to non-publication of gazette notification and grant of lease for the area resulted in loss of revenue of Rs. 67.45 lakh in shape of dead rent calculated for 14 October 2004 to March 2008.

7.4.2 Test check of records of District Mining Office, Giridih in July 2008 indicated that 191.50 hectares of land leased out to a lessee expired in March 2003. Thereafter, no efforts were made by the department to identify the area that could have been leased out again. The gazette notification for granting of fresh lease was issued in January 2008. Delay in issuing gazette notification resulted in loss of revenue of Rs. 2.21 lakh in shape of dead rent calculated for 14 October 2004 to 8 January 2008.

After the cases were pointed out between July and November 2008, the District Mining Officer, Giridih stated in August 2008 that due to shortage of staff, gazette notification could not be published while no reply was received from District Mining Officer, Koderma. Further reply has not been received (January 2010).

The matter was reported to the department and Government in May 2009; their replies have not been received (January 2010).

CHAPTER VIII - OTHER NON-TAX RECEIPTS

8.1 Results of audit

Test check of the records of the following receipts during 2008-09 indicated non-raising of demand, loss of interest, loss/non-realisation of revenue etc. amounting to Rs. 641.10 crore in 226 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
INTEREST RECEIPTS			
1.	Interest receipts (A review)	1	620.89
	Total	1	620.89
FOREST RECEIPTS			
1.	Forest receipts (A review)	1	0.41
2.	Loss of revenue due to departmental lapses	3	0.01
3.	Loss of revenue due to delay in initiation of certificate cases	3	0.25
4.	Non-eviction of encroached forest land	4	0.79
5.	Non-disposal of forest produce	11	0.29
6.	Other cases	19	6.36
	Total	41	8.11
WATER RATES			
1.	Loss of revenue due to non achievement of target of irrigation	16	0.28
2.	Delay in assessment of water rates	16	8.73
3.	Other cases	152	3.09
	Total	184	12.10
Grand Total		226	641.10

During 2008-09, the departments accepted non-raising of demand, loss of interest, loss/non-realisation of revenue etc. of Rs. 14.04 crore in 145 cases of which 144 cases involving Rs. 14.03 crore were pointed out in audit during the year 2008-09 and rest in earlier years.

A few illustrative audit observations involving Rs. 621.70 crore including reviews on “**Interest Receipts**” and “**Forest Receipts**” are mentioned in the succeeding paragraphs:

INTEREST RECEIPTS

8.2 Interest Receipts

Highlights

- Non- adherence to the provisions of the Bihar Reorganisation Act, 2000 resulted in non-realisation of interest of Rs. 97.21lakh.

(Paragraph 8.2.7.2)

- Lack of monitoring by the Finance department led to disbursement of loans by the loan sanctioning departments without fixing the terms and conditions for its repayment. This resulted in loss of interest of Rs. 1,015.74 crore.

(Paragraph 8.2.8)

- Non-initiation of certificate proceedings resulted in a loss of Rs.12.41 lakh, non-realisation of interest of Rs.4.37 crore and principal of Rs.3.89 crore from 254 loanees. Further, short initiation of certificate cases resulted in non-realisation of Government dues amounting to Rs.19.88 crore.

(Paragraphs 8.2.9.1 and 8.2.9.2)

- The loan sanctioning departments did not recover the instalments due from defaulting loanees and accrued interest. This resulted in non-recovery of interest of Rs. 577.72 crore and principal of Rs. 442.37 crore.

(Paragraph 8.2.10)

- Arithmetical mistakes in working out the amount of interest payable by 15 loanees resulted in short raising of demand of Rs. 3.24 crore.

(Paragraph 8.2.11)

- Penal interest of Rs. 38.59 crore, though leviable against 22 loanees who had defaulted in repayment of principal and interest, was not levied.

(Paragraph 8.2.12)

8.2.1 Introduction

Interest receipts are one of the major sources of non-tax revenue of the State. System/procedure for sanction of loans, recovery of principal as well as interest and control mechanism for watching timely repayment of principal and interest etc. are governed by the Bihar Financial Rules, Volume-I as adopted by the Government of Jharkhand. Loans and advances made by the State Government fall under head “interest bearing loans and advances” to local funds, private individuals etc. and interest free advances to government servant and permanent advances.

Loans and advances carry different rates of interest as fixed by the State Government keeping in view the purpose of loan/advance. These are required to be repaid within the stipulated period in periodical instalments along with interest.

Under the provisions of the Act/Rules, interest should be charged at the rates prescribed by Government for any particular loan or for the class of loans concerned. The authority which sanctions a loan may, insofar as the law allows, enforce a penal rate of compound interest upon overdue instalments of interest or principal and interest. The terms and conditions specified in orders sanctioning the loans and advances prescribe the periodicity of instalments, the rates of interest, the mode and the manner of repayment of the principal and interest.

A review of the system of levy and collection of interest receipts on loans and advances was conducted in audit. It revealed a number of system and compliance deficiencies which have been mentioned in the subsequent paragraphs.

8.2.2 Audit objectives

The review was conducted with a view:

- to evaluate the status of raising demand and collection of dues as per the terms and conditions of the loans sanctioned;
- to assess the adequacy and effectiveness of internal control mechanism and maintenance of related records; and
- to examine the compliance with the provisions of the Act/Rules.

8.2.3 Organisational set up

The proposals received from different organisations for grant of loans and advances are processed by the concerned Heads of Administrative departments who sanction the loans with the concurrence of Finance department. Recoveries of loans and advances along with the interest are required to be watched by the respective Heads of the Administrative department. At present, there are six major loan disbursing departments¹ that sanction loans for different purposes.

8.2.4 Scope of audit

The audit of interest receipt was conducted to ascertain the extent of compliance with the provisions of the Act and Rules. The records of the loans sanctioned by four departments² out of six for the period 2003-04 to 2007-08 were test checked during August 2008 to March 2009. The departments were selected, based on the criteria of loan disbursement.

8.2.5 Acknowledgement

Indian Audit and Accounts department acknowledges the co-operation of the Finance, Industry, Energy, Urban Development and Panchayati Raj (Rural Development) departments in providing necessary information and records for audit. An entry conference was held with the Secretary, Finance department in January 2009 to discuss the audit objectives, criteria, scope and methodology

¹ Co-operative, Energy, Housing, Industries, Panchayati Raj (Rural Development) and Urban Development.

² Energy, Industries, Panchayati Raj (Rural Development) and Urban Development.

of the review. Audit findings, as a result of test check of records, were reported to the concerned departments, Finance department and the Government in April 2009 and were discussed in the exit conference held in September 2009. The Government was represented by the Chief Secretary, Government of Jharkhand and Principal Secretary, Finance department. The Principal Secretary, Finance department agreed with all the points raised in the review and assured to take necessary corrective/remedial measures.

Audit findings

8.2.6 Trend of revenue

8.2.6.1 Under the provisions of Rule 54 of Bihar Budget Procedures (BBP), the estimates of revenue and receipt should show the amounts expected to be realised within the year. In estimating fixed revenue for the ensuing year, the calculations should be based upon the actual demand including any arrears due for past years and the probabilities of their realisation during the year. In the case of fluctuating revenue, the estimate should be based upon a comparison of the last three years receipts. Further, the Controlling Officer should examine the budget received from the Disbursing Officer and submit it to Finance department.

Audit noticed that the administrative departments did not prepare and submit the budget estimates of interest receipts to the Finance department during 2003-04 to 2007-08. Instead the Finance department prepared the budget estimates on adhoc basis as mentioned in the following table:

Year	Budget estimates	Actual receipts	Variations (+) increase (-) decrease	Percentage of variation (+) increase (-) decrease
1	2	3	4	5
2003-04	56.03	46.65	(-) 9.38	(-) 17
2004-05	89.24	18.63	(-) 70.61	(-) 79
2005-06	89.24	71.49	(-) 17.75	(-) 20
2006-07	59.25	38.09	(-) 21.16	(-) 36
2007-08	61.48	87.14	(+) 25.66	(+) 42

The variations between budget estimates and actual realisation ranged between (-) 79 and (+) 42 *per cent* and indicate that the budget estimates prepared were not realistic. There is a need for preparing the budget estimates in accordance with the provisions of the Budget Manual.

Reasons for non-preparation of budget estimates and variations between budget estimates and actual interest receipts, though called for (November 2008), were not furnished (November 2009) by the concerned departments including the Finance department.

8.2.6.2 It was further noticed that major portion of interest receipts was from the interest realised on cash balance investment, while interest receipts from other source was meagre as detailed in the following table:

(Rupees in crore)

Year	Interest realised on loans and advances granted by the Government	Interest realised on Cash Balance Investment	Total Interest Receipt
1	2	3	4
2003-04	1.13	45.52	46.65
2004-05	1.54	17.09	18.63
2005-06	3.64	67.85	71.49
2006-07	1.89	36.20	38.09
2007-08	5.57	81.57	87.14

System deficiencies

8.2.7 Improper maintenance of records and registers

Under the provisions of Bihar Financial Rules, it is the duty of the departmental controlling officers to see that all sums due to government are regularly and promptly assessed, realised and duly credited in the Public Account. In order to assess the interest receipts due, basic records/registers like loan register, sanction register, demand, collection and balance register in which details of sanction, date of drawl of loans, amount of loan, schedule of repayment, rate of interest and penal interest, particulars of repayments of principal, payment of interest are required to be noted. **Audit noticed that no system was instituted by the Finance department to monitor the maintenance of records and submission of the returns.**

Test check of records of Energy department revealed that demand collection and balance register and loan register, were not maintained properly. Essential details like date of drawal of loans, amount of loan, schedule of repayment, rate of interest and penal interest etc. were not mentioned in the register. In case of Urban Development department and Industry department the registers like loan ledger, demand collection and balance register etc. were not maintained at all. Absence or improper maintenance of the registers is indicative of the fact that the departments do not have an effective control over the payment and recovery of loans and interest thereon. These are discussed in the succeeding paragraphs.

8.2.7.1 Non-adherence to the provisions of Bihar Reorganisation Act, 2000

Under the provisions of the Bihar Reorganisation Act 2000, the outstanding amount of loan and accrued interest sanctioned by the Government of Bihar before reorganisation of the State to the loanees situated in Jharkhand shall be recovered by the State of Jharkhand.

As per Finance Accounts of the Government of Bihar for 2000-01 (up to 14.11.2000), the total arrears of loans sanctioned by Government of Bihar and amount of accrued interest stood at Rs. 1,512.60 crore and Rs. 1,875.83 crore respectively. This also included the arrears of loan and interest sanctioned to the loanees pertaining to the areas of present Jharkhand State. However, the amount of loans/advances/interest recoverable by the Government of Jharkhand has not been apportioned till date. The extent of

realisable amount could not, therefore, be ascertained in audit. No record in this regard was available with any of the administrative departments test checked. Further, no demand was raised against the loanees and no recovery of principal and interest was effected.

8.2.7.2 Urban development department

It was noticed that no register to watch the recovery of the loans and advances was maintained by the Urban development department. As such, its efficacy in collection of the loans and interest could not be ascertained in audit. Test check of loan ledgers of five urban local bodies³ revealed that loans amounting to Rs.1.50 crore that were granted by the Urban development department of the Government of undivided Bihar between 1983-84 and 2000-01 (up to 14.11.2000) were still outstanding. The interest, though recoverable, has also not been demanded by the department till date. It worked out to Rs. 97.21 lakh for the years 2003-04 to 2007-08.

8.2.7.3 Status of loans and advances

The status of loans and advances sanctioned by the Government and interest realised thereon during the years 2003-04 to 2007-08 were as mentioned in the following table:

(Rupees in crore)						
Sl. no.	Particulars	2003-04	2004-05	2005-06	2006-07	2007-08
1.	Opening balance	631.20	760.79	1,330.01	5,067.04	5,462.10
2.	Amount advanced during the year	133.53	576.80	3,746.84	410.81	597.66
3.	Amount repaid during the year	3.94	7.58	9.81	15.75	44.22
4.	Closing balance	760.79	1,330.01	5,067.04	5,462.10	6,015.54
5.	Net addition	129.59	569.22	3737.03	395.06	553.44
6.	Interest received	46.65	18.63	71.49	38.09	87.14
7.	Interest received on loans and advances (in <i>per cent</i>) ⁴	6.70	1.78	2.24	0.72	1.52

In 2005-06 there was a steep rise in the loans advanced. This was stated to be due to inclusion of power bonds issued for Rs. 2,855.91 crore by the State Government towards dues of central public sector units (National Thermal Power Corporation, Damodar Valley Corporation, National Hydroelectric Power Corporation etc.) against energy supplied to the Jharkhand State Electricity Board. The amount was treated by the State Government as loan to the Jharkhand State Electricity Board. Similarly, interest paid by the State Government on such power bonds amounting to Rs. 489.95 crore was also treated as loans to the Jharkhand State Electricity Board and accordingly included as loan.

Total loans under the different heads of accounts went up by 853 *per cent*

³ Municipality: Jugsalai, Municipal Councils: Adityapur and Chaibasa and Notified Area Committees: Jamshedpur and Mango.

⁴ Interest received on loans and advances = Interest receipts/{(OB+CB)/2}X100.

during the last five years and stood at Rs. 6,015.54 crore as on 31 March 2008. The percentage of interest received on loans and advances to outstanding loan showed a decline from 6.70 *per cent* in 2003-04 to 1.52 *per cent* in 2007-08, which needs immediate corrective action. Although, the Finance department was requested (October 2008) to furnish the information regarding the amount of overdue principal and accrued interest as well as loanee wise position of the loans, but it has not been furnished till date. The information was also not available with the other administrative departments.

Thus, due to the failure of the Finance department to monitor the maintenance or records and ensure submission of returns by the loan disbursing authorities complete information regarding position of overdue principal and interest could not be ascertained by audit.

The Government may consider measures for enforcing accountability to ensure maintenance of records and submission of returns by the loan disbursing departments so that the repayment of loans and accrued interest could be monitored.

8.2.8 Sanction of loans without stipulating terms and conditions

Under the provisions of the Bihar Financial Rules Volume I, before sanctioning and disbursing a loan, the sanctioning authority is required to specify the terms and conditions which, *inter-alia*, include the date of commencement of payment of instalments, rate of interest, its periodicity and the term within which the loans together with interest are to be repaid. The loan sanctioning departments are required to record all these details in various registers like the loan sanction register and demand, collection and balance register for monitoring the repayment of loans and payment of interest. **Audit noticed that there was no monitoring on the part of the Finance department to ensure that the loans were disbursed only after specifying the terms and conditions.**

Test check of the records revealed that loans amounting to Rs. 3,792.30 crore were sanctioned by the Government but no terms and conditions were specified in the sanctioned order for recovery of the principal, interest and penal interest. This resulted in non levy of interest as discussed in the following paragraphs:

- The State Government paid loans amounting to Rs. 3,766.45 crore between 2002-03 and 2006-07 on power bonds and interest on power bonds issued against purchase of power from the central public sector undertakings by the Jharkhand State Electricity Board and converted these as loans to the Jharkhand State Electricity Board. However, no terms and conditions for repayment of loan and accrued interest had been stipulated.

After the case was pointed out, the Energy department stated that required information would be obtained from the Finance department. No reply was received from the Finance department.

- Loans aggregating Rs. 25.85 crore were sanctioned and disbursed to municipalities and notified area committees by Urban development department during 2000-01 to 2005-06, but no terms and conditions for repayment of loans and interest were fixed even after lapse of two to seven

years from the date of disbursement of loans.

The department did not furnish any reasons for sanction and disbursement of loans without stipulating the terms and conditions which was a prerequisite as per the provisions of the Bihar Financial Rules.

Non-specifying of terms and conditions resulted in non-realisation of the principal amount and non-levy of interest of Rs. 1,015.74 crore, which could have been levied (based on the rates applicable to other loans sanctioned by the departments) by the above mentioned departments.

The Government may consider instituting a mechanism for monitoring by the Finance department to ensure that loans are not disbursed without specifying the terms and conditions.

8.2.9 Certificate cases

Under the provisions of Bihar and Orissa Public Demands Recovery Act, 1914, any money which is declared by any law for the time being in force as arrears of revenue is recoverable as arrears of land revenue. The Government dues are recoverable by initiating certificate proceedings against the defaulters. The certificate proceedings, *inter-alia*, include attachment and sale of the defaulter's moveable and immovable property etc. The Requiring Officer and the Certificate Officer are jointly responsible for prompt disposal of certificate cases. Further, interest on public demand to which certificate relates shall be charged at the rate of 12 *per cent* per annum from the date of signing of certificate up to the date of realisation. Under the provisions of Limitation Act, 1963, certificate case is required to be instituted within 30 years from the date of raising demand. **Audit noticed that neither did any system exist for monitoring the initiation of the certificate case nor was any time limit fixed for disposal of the certificate proceedings.** Irregularities noticed during audit have been discussed in following paragraphs:

8.2.9.1 Non-initiation of certificate proceedings

Seed money loan and industrial loan

Test check of records of loans disbursed by three Industrial Area Development Authorities⁵ and six District Industry Centres⁶ indicated that Rs.4.10 crore was outstanding against 1,407 loanees. The age-wise details are mentioned in the following table:

Age group	Number of Cases	Amount (Rupees in lakh)
Above 30 years	328	12.41
Above 20 years but less than 30 years	664	58.04
Above 10 years but less than 20 years	304	168.05
Above 5 years but less than 10 years	108	166.92
Less than 5 years	3	4.09
Total	1,407	409.51

⁵ Adityapur, Bokaro and Ranchi.

⁶ Chaibasa, Deoghar, Dhanbad, Giridih, Hazaribag and Ranchi.

It would be seen from the foregoing table that in 328 cases, loans and interest amounting to Rs. 12.41 lakh has been outstanding for more than 30 years. In all these cases department has not initiated certificate proceedings and under the provision of limitation Act, 1963, certificate proceedings in these cases can not be initiated now. This resulted in loss of revenue of Rs. 12.41 lakh.

After the cases were pointed out, the General Manager, District Industry Centre, West Singhbhum, Chaibasa stated that the legal successor of the deceased loanees were expressing their inability to pay the outstanding dues, while the General Manager of other District Industry Centres and Managing Directors of Industrial Area Development Authorities stated that action would be taken for realisation of dues.

Interest free sales tax loan

Test check of records of three Industrial Area Development Authorities⁷ and six District Industry centres⁸ revealed that in case of interest free sales tax loan, interest of Rs. 4.37 crore, besides principal of Rs. 3.89 crore was outstanding for recovery against 254 loanees till March 2008. The department did not initiate certificate proceedings against the defaulting loanees to realise the amount, even though the lapse in some case was more than 30 years, from the expiry of the respective loan repayment terms.

8.2.9.2 Short initiation of certificate cases

Test check of records of Adityapur Industrial Area Development Authority, Jamshedpur and District Industry Centre, Deoghar revealed that in Adityapur Industrial Area Development Authority, a loanee was sanctioned a loan of Rs. 32.50 crore with the condition for repayment in six instalments commencing from July, 2006. The loanee, however, did not pay even a single instalment. As per terms and conditions of agreement, in case of default in repayment, the entire amount of loan along with the interest was to be recovered under the Bihar and Orissa Public Demands Recovery Act, 1914. But the authority initiated certificate proceedings for Rs. 25.12 crore instead of Rs. 44.96 crore, including interest of Rs. 12.46 crore. Similarly, the District Industry Centre, Deoghar initiated certificate proceedings against two loanees for Rs. 25.18 lakh instead of Rs. 28.78 lakh, due to arithmetical mistakes. These cases resulted in short initiation of certificate proceeding by Rs. 19.88 crore.

After the cases were pointed out, the General Manager, District Industry Centre, Deoghar agreed to revise the demand certificate.

8.2.9.3 Non-finalisation of certificate cases

Test check of the records of three Industrial Area Development Authorities⁹ and five District Industries Centres¹⁰ indicated that 215 certificate cases involving Rs. 2.33 crore, filed during the period from 1968-69 to 2004-05, had not been finalised, till date. The status of these cases as furnished by the

⁷ Adityapur, Bokaro and Ranchi.

⁸ Chaibasa, Deoghar, Dhanbad, Giridih, Hazaribag and Ranchi.

⁹ Adityapur, Bokaro and Ranchi.

¹⁰ Chaibasa, Deoghar, Giridih, Hazaribag and Ranchi.

department are mentioned in the following table:

(Rupees in lakh)

Sl. no.	Particulars	Number of cases.	Amount	Remarks
1.	Cases in which address was found incorrect	16	15.94	The cases were required to be returned to the requiring officers to trace out the correct address, which was not done.
2.	Cases in which loanees have shifted to other districts/places	17	38.19	No action was taken to transfer the cases to the concerned authority.
3.	Cases in which warrants were issued.	7	9.46	No further action was taken to seize and dispose of the property.
4.	Cases in which warrants were not issued/ served	175	169.00	No specific actions were taken to issue the warrant.
Total		215	232.59	

Non-finalisation of certificate cases resulted in non-realisation of certified amount of Rs. 2.33 crore as well as interest of Rs. 1.40 crore calculated for the period 2003-08. The chances of recovery of Rs. 2.33 crore were remote, as some of the cases were as old as 40 years.

The Government may consider prescribing a time limit for initiation and finalisation of certificate cases and evolve a monitoring system to ensure that recovery proceedings are initiated in time so that the amounts are not time barred and become irrecoverable under the provisions of Limitation Act, 1963.

Compliance deficiencies

8.2.10 Non-assessment and non-raising of demand for interest

Under the provisions of Bihar Financial Rules, the administrative departments are responsible for prompt assessment and recovery of the revenues payable to the Government.

Test check of records indicated that 65 loanees were sanctioned loans amounting to Rs. 1,351.34 crore during 2000-01 to 2006-07, but interest thereon was neither assessed nor was it levied by the concerned departments. This resulted in non-recovery of interest of Rs.577.72 crore for the period from 2003-04 to 2007-08. Besides, instalment of principal amount of Rs. 442.37 crore, were also not recovered as mentioned in the following table:

(Rupees in crore)

Sl. no.	Name of the department	Amount of loan	No. of cases	Period of loan	Instalment of principal due	Interest due (from 2003-04 to 2007-08)	Total
1	Energy Department	1,236.06	3	2001-02 to 2006-07	413.93	512.02	925.95

2	Urban Development	110.10	44	2000-01 to 2006-07	28.06	63.26	91.32
3	Panchayati Raj	5.18	18	2000-01 to 2006-07	0.38	2.44	2.82
	Total	1,351.34	65		442.37	577.72	1,020.09

After the cases were pointed out, the Energy department stated that all the three loanees were being asked to pay the amount of interest.

The Panchayati Raj department stated that in every sanction order of loan and advances, 25 per cent is deducted to meet the interest due on District Boards. However, there was nothing on record to indicate the recovery of the interest at source and its credit to proper head, as discussed in the following paragraph:

Recovery and non-adjustment of interest

The Panchayati Raj department sanctioned loan of Rs. 6.90 crore to different District Boards during 2000-01 to 2006-07. The amount to be deducted on account of loan was Rs.1.73 crore, being 25 per cent of sanctioned loan amount. It was stated that the amount was deducted but no records relating to this deduction were produced. As such, audit could not ascertain the correctness of the amount deducted and their credit to the appropriate head of account.

Audit scrutiny indicated that the amount to be adjusted was neither drawn and deposited nor was it credited by book transfer to the head '0049-Interest Receipts' by the District Boards. Further, it was noticed that the administrative department did not reconcile the accounts with treasury records, which resulted in Rs. 1.73 crore remaining unadjusted and ultimately lapsed.

8.2.11 Short raising of demand

The Managing Director Adityapur Industrial Area Development Authority was entrusted by the department of Industry for disbursement and recovery of soft loan along with interest accrued thereon. Further, General Managers of District Industry Centres were empowered by the department of Industry for disbursement and recovery of interest free sales tax loan along with interest from defaulters.

Adityapur Industrial Area Development Authority and District Industry Centres, Deoghar and Giridih raised a demand of Rs. 25.86 crore on account of interest against 15 loanees between August 2007 and July 2008. Audit noticed arithmetical mistakes in working out the demands. The correct amount worked out to Rs.29.10 crore. This resulted in short raising of demand of Rs. 3.24 crore. Further, no action was taken against the loanee for non-payment of interest demanded. Even the demanded amount of Rs. 25.86 crore was not recovered upto March 2009.

After the cases were pointed out, the General Manager, District Industry Centre, Deoghar accepted to issue revised demand.

8.2.12 Non-levy of penal interest

Under the provisions of the Bihar Financial Rules Volume I, in the event of default in repayment of principal or interest, a penal rate of interest over and above the normal rates may be levied on all overdue instalments of interest or principal and interest.

Test check of records of three departments¹¹ indicated that Rs. 1,273.74 crore was disbursed to 22 loanees¹² during 2000-01 to 2006-07. The terms and conditions of the sanction orders provide for levy of penal interest at the rate of 2.5 *per cent* per annum. Principal amount of Rs. 425.15 crore was due for recovery up to March, 2008, but not a single instalment was paid by the loanees along with interest of Rs. 522.90 crore payable thereon. Thus, the loanees were liable to pay penal interest of Rs. 38.59 crore which was not levied by the concerned departments.

8.2.13 Non-raising of interest on interest free sales tax loan

Under the provisions of Bihar Industrial Policy 1986, industrial units commencing production on or after 1 September 1986, interest free sales tax loan, equivalent to the amount of sales tax paid under the Bihar Sales Tax Act and Central Sales Tax Act, was to be given. This incentive was available for a period of five years from the date of commencement of production. The amount of loan was to be repaid in 10 half yearly equal instalments after five years of disbursement of loan. In case of default in repayment of interest free sales tax loans, interest was leviable at the rate of 16 *per cent* per annum.

Scrutiny of the records of Adityapur Industrial Area Development Authority, Jamshedpur, Ranchi Industrial Area Development Authority, Ranchi and District Industry Centre, Deoghar indicated that interest free sales tax loans amounting to Rs.86.68 lakh were paid to 48 loanees during 1996-97 to 1998-99. However, no details of the fact were mentioned in demand collection and balance register. The loans were due for repayment during the period from 2001-02 to 2008-09 but the loanees did not pay even a single instalment of loan. Thus, they were liable to pay interest from the date of default which worked out to Rs. 36.69 lakh for the period from 2003-04 to 2007-08 along with instalment of principal of Rs. 85.45 lakh. The department also did not raise demand for payment of outstanding amount.

8.2.14 Loss of interest due to delay in disbursement of loans

Under the provisions of the Bihar Financial Rules Volume I, an amount should be drawn from the treasury for immediate disbursement. Accordingly, the loans sanctioned by the Government and drawn by the concerned department are to be paid to the loanees immediately without undue delay, so as to avoid loss of interest to the Government.

Test check of records of Energy department indicated that in March 2002, the department sanctioned and drew Rs. 3.80 crore as loan for hydel power projects and kept the amount in the account of Tenughat Vidyut Nigam Limited. The amount was transferred to Jharkhand Renewable Energy

¹¹ Energy, Panchayati Raj and Industry.

¹² Energy (3), Panchayati Raj (18) and Industry (1).

Development Agency in October 2003, after a lapse of 18 months. This resulted in loss of revenue in shape of interest of Rs. 76.47 lakh.

Similarly, the Industry Department had provided a sum of Rs. 1.10 crore to Adityapur Industrial Area Development Authority, Jamshedpur and four District Industry Centres¹³ for disbursement of interest free sales tax loan through single window system before 31 May 1997. However, the loans were disbursed between June 1997 and October 2000 with delays ranging between one and 41 months. This resulted in loss of interest of Rs. 18.59 lakh.

8.2.15 Loss of revenue due to irregular utilisation of receipts

The Bihar Financial Rules provides that money receipt as dues of the Government shall be remitted without undue delay into treasury. The rule further provides that the receipt shall be remitted latest by the following day.

The Industry Department sanctions and distributes loans through Industrial Area Development Authorities and District Industry Centres to the loanees. The loanee-wise funds are made available to the authority that distributes the amount to different loanees and watch its recovery according to the terms and condition fixed by the department.

Test check of records of Bokaro Industrial Area Development Authority indicated that the authority collected a sum of Rs. 2.55 crore on account of interest free sales tax loan and seed money loan with interest. Out of which, Rs. 2.17 crore was remitted into the Government account in different spells during 1997-98 to 2007-08 with delays ranging from one to seven years. In addition, Rs. 33.63 lakh was redistributed as loan to different loanees without prior sanction of the Government and Rs. 4.37 lakh was not remitted into the Government account till date. The distribution of loans without sanction of the department/Government and delay in remittance to the Government account was against the principles of financial propriety and resulted in loss of interest of Rs. 61.41 lakh (calculated upto March 2008 at the bank rate of eight *per cent*).

After this was pointed out in January 2009, the secretary Bokaro Industrial Area Development Authority accepted that the redistribution of the amount was made from realised principal and interest, and stated that the balance amount would be remitted into the Government account.

Further, in Ranchi Industrial Area Development Authority, it was noticed that Rs. 28.10 lakh, realised in 2002-03 on account of repayment of interest free sales tax loan and seed money loan with interest, was not remitted into Government Account, till March 2009. This resulted in loss of interest of Rs. 11.24 lakh (calculated upto March 2008 at the bank rate of eight *per cent*). Non-existence of any monitoring system by the administrative department to watch timely remittance of money into the Government account led to its retention, which was against the provision of the Financial Rules. Misutilisation of revenue collected could not be ruled out.

After this was pointed out in January 2009, the authority accepted to remit the

¹³ Chaibasa, Dhanbad, Hazaribag and Ranchi.

balance amount into the Government account.

8.2.16 Loans sanctioned for non-development purposes

By a decision of November, 1964, under provisions of the Bihar Financial Rules Volume I, financial assistance in the shape of loans is to be granted only to profit making societies or organisations.

Loans amounting to Rs. 5.18 crore were granted to 18 Zila Parishads between 2001-02 and 2006-07 by the Rural Development department for payment of salaries to the employees in contravention of the above decision. The loans were disbursed to organisations which had no resource to make repayment of loan and interest. As a result, not a single instalment of principal and accrued interest has been recovered so far.

After this was pointed out, the District Development Commissioner-cum-Chief Executive Officer, Zila Parishad Jamshedpur accepted non-repayment of loans and interests. It stated that as the Parishad had no source of income, loans were sanctioned. Further reply has not been received (November 2009).

8.2.17 Conclusion

Proper maintenance of basic registers/records like loan register, sanction register and demand, collection and balance register by the departments is essential for effective control over the sanction and recovery of loans and interest thereon. Audit scrutiny revealed that these were either not maintained or maintained improperly. Lack of monitoring by the Finance department led to sanctioning of loans without prescribing/fixing terms and conditions of repayments. There was absence of monitoring by the administrative departments for non-realisation of overdue loans and recovery of interest. The internal control mechanism of the departments was weak. There is a need for the Government to have a comprehensive look at the system and procedure for prompt recovery of loans and interest.

8.2.18 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues:

- measures for enforcing accountability to ensure maintenance of records and submission of returns by the loan disbursing departments so that the repayment of loans and accrued interest could be monitored;
- instituting a mechanism for monitoring by the Finance department to ensure that loans are not disbursed without specifying the terms and conditions; and
- prescribing a time limit for initiation and finalisation of certificate cases and evolve a monitoring system to ensure that recovery proceedings are initiated in time.

FOREST RECEIPTS

8.3 Forest Receipts

Highlights

- Certificate cases for Rs. 44.85 lakh, were not instituted against defaulters. Further, non/delayed finalisation of certificate cases resulted in non-realisation of Rs 71.93 lakh besides loss of interest of Rs. 55.23 lakh.

(Paragraphs 8.3.7.1 to 8.3.7.3)

- Working plan of only 13 out of 31 territorial divisions had been prepared and approved by the Government of India. Delay in preparation/approval of working plans ranged between 2 and 14 years. Control forms prescribed for management of forests were not prepared/submitted by six divisions test checked.

(Paragraph 8.3.8)

- In five forest divisions, non-harvesting of bamboo from 78,249.64 hectares of forest area, due for exploitation during 1992-93 to 2007-08, resulted in loss of Rs. 354.15 crore.

(Paragraph 8.3.11.1)

- In Gumla Forest Division, non-exploitation of timber during 2003-08 in 380 hectares annually resulted in loss of revenue of Rs. 47.04 crore.

(Paragraph 8.3.11.4)

- In Kolhan and Porahat forest divisions, though 14,072.51 hectares of encroached forest land was evicted from encroachers but royalty of Rs. 324.69 crore for trees illicitly felled from that area was not levied/realized.

(Paragraph 8.3.12.2)

- In 16 forest divisions, non-disposal of seized minerals (extracted illegally from forest area) resulted in blockage of revenue of Rs. 1.14 crore.

(Paragraph 8.3.15)

8.3.1 Introduction

The State of Jharkhand comprising geographical area of 79,714 square kilometer has 23,605.47 square kilometer (29.61 *per cent*) of forest area. Forest receipts, a source of non-tax receipts, are largely derived from sale proceeds of major and minor forest produce, royalty, compensation, fees, fines etc. imposed under the Indian Forest Act, other Acts and Rules made thereunder.

The regulation of exploitation, seizure, sale, protection of forest produce and eviction from encroached forest land are governed by Indian Forest Act, 1927, Forest Conservation Act, 1980 and Bihar Public Land Encroachment Act, 1956.

The system of collection of the forest receipts was reviewed in audit. It revealed a number of system and compliance deficiencies which are discussed in the subsequent paragraphs.

8.3.2 Organisational set up

The Secretary is the head of Forest and Environment department at the Government level in the State. There are three Principal Chief Conservators of Forest who are technical advisors to the State Government. They are assisted by three Additional Principal Chief Conservators of Forests, seven Chief Conservators of Forest (CCsF) and five Regional Chief Conservators of Forest. There are 32 Conservators of Forest and 62 Divisional Forest Officers in the State. A forest division is subdivided into ranges which are headed by Range Forest Officer. A range is divided into beats which are headed by the foresters and Beat is further divided into Sub-Beats under Forest Guards.

8.3.3 Audit objectives

A review was conducted with a view to ascertain whether:

- provisions of Acts, Rules and departmental instructions were enforced to safeguard revenue to the State;
- internal control mechanism of the department was adequate and effective to prevent leakage and evasion of revenue; and
- effectiveness of pursuance of cases pending in the court of law or appellate authorities.

8.3.4 Scope and methodology of audit

A review was conducted between August 2008 and March 2009 in 27¹⁴ out of 62 Forest Divisions, six¹⁵ out of 32 Conservators of Forests, one out of three Additional Principal Chief Conservators of Forest and one out of three offices of the Principal Chief Conservators of Forest for the period from 2003-04 to 2007-08. The units were selected on the basis of maximum revenue yield. Data/information collected through proforma and questionnaires from the divisions and other offices were also analysed.

8.3.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Forest and Environment department in providing necessary information and records. An entry conference was held with the Secretary, Forest and Environment department, Jharkhand on 9 January 2009. He was apprised of the audit objectives, scope and methodology of the review. Audit findings

¹⁴ **Territorial Divisions:** Bokaro, Daltonganj North, Deoghar, Dhanbad, Dumka, Godda, Giridih, Gumla, Hazaribag West, Jamtara, Khunti, Kolhan, Latehar, Pakur, Porahat, Ranchi West, Saraikela and Simdega **Social Forestry Divisions:** Chaibasa, Deoghar, Dumka, Garhwa and Hazaribag, **Wild Life Divisions:** Hazaribag and Ranchi. **Afforestation Divisions:** Chaibasa and Chatra.

¹⁵ **Conservators of Forests:** Buffer Area, Daltonganj, Core Area, Daltonganj, Southern Circle, Chaibasa, Territorial Circle, Hazaribag, Conservator of Forest cum Director, Palamu Project Tiger, Daltonganj, Conservator of Forest Cum State Silviculturist, Ranchi

were reported to the Government in April 2009 and were discussed in the exit conference held in September 2009. The Government was represented by Chief Secretary, Government of Jharkhand and Secretary, Forest and Environment department. The Secretary, Forest and Environment department agreed with all the points raised in the review and assured to take appropriate corrective measures in respect of the deficiencies pointed out in the review.

8.3.6 Trend of revenue

According to the provisions of the Bihar Budget Manual (as adopted) read with Jharkhand Financial Rules, the responsibility for preparation of estimates of revenues rests with the Finance department. The Forest and Environment department is responsible for compilation of correct estimates of revenue and sending it to Finance department on the date fixed by the latter. The department is responsible for regular reconciliation of figures of the department with those booked by the Accountant General (A&E), Jharkhand.

A comparison of budget estimates and actual receipts as booked in the Finance Accounts of the State with the data furnished by the department during 2003-08 was as mentioned in the following table:

(Rupees in crore)					
Year	Budget estimate	Actual receipt as per Finance Account	Actual receipt as reported by PCCF	Variation (+) excess (-) short fall Col. 2 to 3	Percentage of variation Col. 5 to 3
1	2	3	4	5	6
2003-04	2.82	21.74	22.41	(+) 18.92	(+) 671
2004-05	20.00	4.51	4.69	(-) 15.49	(-) 77
2005-06	25.00	40.84	40.65	(+) 15.84	(+) 63
2006-07	25.00	3.68	5.27	(-) 21.32	(-) 85
2007-08	28.38	4.06	4.15	(-) 24.32	(-) 86

The variations between Budget estimates and actual receipts ranged between (-) 85 to (+) 671 *per cent*. The reasons for excess/short realisation were not furnished (March 2009) by the department. This indicated that budget estimates were not prepared on a realistic basis. Further, figures were not reconciled with those booked by the Accountant General (A&E). The department, though requested, did not furnish the budget estimates prepared and sent to the Finance department. The extent to which the preparation of budget estimates was based on scientific methods could not, therefore, be assessed in audit.

➤ Revenue of the State of the Jharkhand *vis-à-vis* neighbouring States

A comparison of the forest receipts/forest area of the State with neighbouring States is mentioned in the following table:

	Jharkhand	West Bengal	Chhattisgarh	Madhya Pradesh	Orissa
Forest covered area in Square Km					
	22,591	12,413	55,863	76,013	48,374

Forest receipts (Rupees in crore)					
2004-05	4.51	40.44	159.85	559.11	84.72
2005-06	40.84	38.61	203.17	490.40	59.13
2006-07	3.68	40.87	205.79	536.50	130.63
2007-08	4.06	NA	258.07	608.89	82.66

From the above it can be seen that forest receipts of Jharkhand were much lower than those of the neighbouring States. In terms of area, the forest area in West Bengal is less but revenue is higher.

Audit findings

System deficiencies

8.3.7 Recovery of arrears

As per Bihar Re-organisation Act, 2000, it is the responsibility of Jharkhand State, the successor State, to monitor the recovery of arrears in its territorial jurisdiction. The position of uncollected revenue for the state as on 31 March 2008, though called for, was not furnished (November 2009). As such, the reliability of the database and system of its maintenance could not be verified in audit.

However, information collected by test check of records of eleven forest divisions revealed arrears of Rs. 5.18 crore involved in 662 cases on 31 March 2008. Most of these arrears pertained to the period prior to creation of Jharkhand as under:

(Rupees in lakh)						
Sl. no	Division	No. of cases	Period	Amount under certificate cases	Amount not covered under certificate cases	Amount outstanding
1	Kolhan	23	1957-58 to 1979-80	2.27	Nil	2.27
2	Gumla	25	1990 to 1994	306.03	Nil	306.03
3	Latehar	157	1960-61 to 1986-87	27.55	4.33	31.88
4	Dhanbad	68	1953-54 to 1987-88	12.78	Nil	12.78
5	Giridih	79	1962-63 to 1994	26.86	Nil	26.86
6	Porahat	NA	1944-45 to 1983-84	2.47	23.40	25.87
7	Hazaribag (W)	47	1976 to 2003	34.51	Nil	34.51
8	Ranchi (W)	NA	1949 to 1986-87	14.80	9.25	24.05
9	Dumka	41	1970-71 to 1986-87	3.31	Nil	3.31
10	Chaibasa (S)	42	1960-61 to 1978-79	1.79	6.24	8.03
11	Daltonganj (N)	180	1960-61 to 2006-07	42.35	Nil	42.35
	Total	662		474.72	43.22	517.94

Age-wise analysis of the certificate cases is mentioned in the following table:

Period	Cases	Amount (Rupees in lakh)
50 yrs and 60 yrs	13	0.11
40 yrs and 50 yrs	142	3.99
30 yrs and 40 yrs	266	23.18
20 yrs and 30 yrs	144	65.66
10 yrs and 20 yrs	62	334.58
5 yrs and 10 yrs	11	28.57
Less than 5 yrs	2	0.98
Total	640¹⁶	457.07

Under the provisions of Bihar and Orissa Public Demand Recovery Act, 1914 read with Limitation Act, 1963, certificate cases for recovery of arrears must be initiated within 30 years. Thereafter the recovery will be barred by limitation of time. Accordingly, the possibility of the recovery of Rs. 27.28 crore pending collection for more than 30 years is remote.

Irregularities noticed in institution and finalisation of certificate cases in the test checked divisions are discussed in the succeeding paragraphs:

8.3.7.1 Absence of time limit for initiation of certificate cases

Under the provisions of the Indian Forest Act, 1927 and Rules made thereunder read with the Bihar and Orissa Public Demands Recovery Act, 1914, all money payable to the Government under the Act or any Rule made thereunder, may be recovered as arrears of land revenue. The Requiring Officer and the Certificate Officer are jointly responsible for prompt disposal of certificate cases. However, **no time limit for initiation of certificate proceedings has been specified in the Acts.**

Test check of records of four Divisional Forest Officers¹⁷ revealed that arrear of Rs. 43.22 lakh, outstanding against defaulters, during 1944 to 1987 were yet to be recovered till date. The concerned DFOs had at no time made any efforts to send the cases to the Certificate Officer for institution of certificate proceedings. This resulted in non-institution of certificate cases for Rs. 43.22 lakh. Further, in Dhanbad Forest Division, in one case, involving Rs. 1.63 lakh, though the DFO had requested (July 2000) for initiation of certificate proceedings. However, it has not been instituted till date.

8.3.7.2 Non-finalisation of certificate cases

The Act/Rule does not provide any time limit for finalisation of certificate cases.

Test check of records of five forest divisions¹⁸ indicated that 327 certificate

¹⁶ Due to non-availability of information/records, pendency of certificate cases in respect of four divisions, Ranchi West, Porahat, Dhanbad (21 cases) and Kolhan (1 case), amounting to Rs 17.65 lakh could not be worked out.

¹⁷ Chaibasa (South), Latehar, Porahat and Ranchi (W).

¹⁸ Dhanbad, Giridih, Kolhan, Latehar and Porahat (number of cases not available).

cases involving Rs. 71.93 lakh, filed upto 2001, were pending for finalisation upto March 2008. Further, the notices issued to debtors were not being served, as debtors had become either traceless or dead, as mentioned in the following table:

Reasons	Number of cases
Notices not issued/served	24
Debtors being traceless/ dead	27
Warrant issued	07
Debtors absent	27
No information regarding action taken on certificate cases	241
Hearing complete but verdict not pronounced (2004)	01
Total	327

The divisions had no information regarding names and addresses of their legal heir. Thus, due to improper pursuance, revenue of Rs. 71.93 lakh remained unrealised and was likely to be lost.

8.3.7.3 Loss of interest due to delayed institution of certificate cases

Under the Bihar and Orissa Public Demands Recovery Act, 1914, interest at the rate of 12 *per cent* per annum is leviable from the date of signing of certificate till the date of realisation. No such provision exists in Indian Forest Act, 1927 as applicable to Jharkhand.

Test check of records of four forest divisions¹⁹ indicated that the certificate cases involving Rs. 54.91 lakh were instituted after delays ranging between one and thirty years. This not only resulted in non-collection of the arrears but also resulted in loss of interest amounting to Rs. 55.23 lakh, which it could have earned under PDR Act, 1914.

The above status is indicative of the facts that the internal controls of the department are weak and need strengthening.

The Government may consider strengthening the mechanism for ensuring speedy initiation/disposal of certificate cases and prescribing a time limit for initiation and finalisation of certificate cases.

8.3.7.4 Loss due to discontinuation of certificate cases

No provision exists in the PDR Act to drop certificate proceeding once initiated. However, in Forest Division, Latehar, it was noticed that five certificate cases pertaining to Latehar forest division, involving dues of Rs. 4.91 lakh, were dropped by the Certificate Officer in violation of the Act. RCCF had instructed in July 1999 to investigate the reasons for dropping the cases. However, there was nothing on record to indicate that any action was taken on the instructions of RCCF. Dropping of cases resulted in loss of revenue of Rs. 4.91 lakh.

¹⁹ Dhanbad, Giridih, Gumla and Latehar.

8.3.7.5 Non-maintenance of register-IX and register of outstanding dues

Under the provisions of PDR Act, certificate proceedings are initiated for realisation of arrears for which the Requiring Officer sends the proposal to the Certificate Officer and enters the details of such cases in Register-IX. **Audit noticed that there was no internal control to monitor maintenance of the records.**

In four forest divisions²⁰, Register-IX was not being maintained. In forest divisions, Bokaro and Dhanbad, case records of certificate cases were not available though the concerned DFOs had been declared Certificate Officers. Further, a register of outstanding dues, to keep watch over realisation of arrears, was not being maintained in any of the test checked divisions.

8.3.7.6 Non-maintenance of demand, collection and balance register

No provision exists to maintain a register for monitoring demand and collection of revenue realisable. The register is essential to keep effective control over the regular and timely realisation of forest revenue. However, no such register was prescribed to be maintained either at division or at higher level.

The above facts indicate that there is a need for strengthening the internal controls, monitoring and proper maintenance of the records.

The Government may consider strengthening the internal controls for monitoring and maintenance of the records.

8.3.8 Delay in preparation of working plan

Under the Bihar Forest Rules (as adopted), forests are managed according to provisions of approved Working Plan, which details scheme for management of silvicultural operations. Absence of Working Plan prevents extraction of the forest produce which adversely affects both the revenue of the department and also the forests. Further, the National Working Plan Code provides for finalisation of a working plan two years in advance of expiry of the existing plan and for future management of forests, it provides for submission of control forms²¹ by the Divisional Forest Officer annually to the Conservator of Forests, within two months of the close of the control year²². There are four circles responsible for preparation of working plans, each headed by the Conservator of Forest, Working Plan Circle. **Audit noticed that there was no monitoring mechanism at the Government level to monitor timely submission of the working plans to the Government so that it could be approved/finalised within the prescribed time limit.**

Scrutiny indicated that Working Plans for only 13 out of 31 divisions for various periods were approved by Government of India while in 18 divisions, Working Plans had expired between 1994-95 and 2006-07. Of these 18

²⁰ Bokaro, Dhanbad, Giridih and Latehar.

²¹ Control forms 1 to 7, containing details of deviation, felling provisions for volume yield, results of felling, area yield, silvicultural operations and plantation control.

²² Control year: A term in the Forest department. The year starts in July and ends in June of that year.

divisions, Working Plans of only three divisions had been prepared and sent to the Government of India for approval while remaining 15 Working Plans were pending at various stages in the department. The delay in preparation/approval of Working Plans ranged between 2 and 14 years. Further, in six divisions²³ it was noticed that even control forms that are essential for preparation of working plans, were not prepared for submission to the respective CFs.

Delay in preparation of the working plans indicated that the monitoring mechanism was weak and ineffective. Non-preparation of the new working plans before expiry of the existing working plans resulted in deferring of timber extraction and revenue from the divisions.

8.3.9 Weak internal controls

Every department is required to institute appropriate internal controls for its efficient and effective functioning by ensuring proper compliance with laws, Rules and instructions. Internal controls help in creation of reliable financial and management information systems for prompt and efficient services and adequate safeguards against non/short collection or evasion of revenues. Internal controls should be reviewed and updated from time to time.

8.3.9.1 Internal audit

The department did not have an internal audit wing of its own. The internal audit wing of the Finance department was responsible for internal audit of the Forest department. It was, however, noticed that no frequency and duration of audit was fixed for audit of the Forest department and only 4 out of 112 units had been audited by the Finance department during 2003-08.

8.3.9.2 Vigilance wing

There existed a vigilance section under the direct charge of the Principal Chief Conservator which looks after complaints against the departmental officers. Information obtained indicated that this section remained non-functional during the period under review.

The Government may consider establishing a separate internal audit and vigilance wing for the department to ensure effective and efficient functioning of the department.

8.3.10 Forest offences

The status of offence cases pending in the Court of the State as on 31 March 2008, was not furnished by the department. However, test check of records of nine Forest Divisions²⁴ revealed that 1,640 offence cases were pending in the courts between 2003-04 and 2007-08 involving Rs. 830.26 crore as royalty and compensation as discussed below:

²³ **DFOs:** Giridih, Gumla, Kolhan, and Porahat **CFs:** Core Area, Daltonganj and Project Tiger Circle, Daltonganj

²⁴ Bokaro, Deoghar, Dhanbad, Giridih, Gumla, Kolhan, Latehar, SF Hazaribag and Wild life Ranchi.

- Under the provisions of Bihar Forest Rules, ‘offence case register²⁵, is required to be maintained to record all offence cases.

In six forest divisions²⁶, such registers were not being maintained properly. Thus, details of forest produce damaged or the assessment of damage was not being recorded and the progress of cases in courts was not being monitored. Due to improper maintenance of offence registers, actual number of cases pending and efficiency in pursuing the cases in the courts for the finalisation could not be ascertained.

- The monthly report, required to be submitted by DFO to CF, relating to offence cases neither reflected the number of cases pending in courts prior to the year 2000 nor number of cases disposed off by the courts during the period reported upon. This indicated lack of monitoring at the apex level in respect of cases pertaining to the period prior to the year 2000.

8.3.10.1 Delayed/non-preparation of offence reports

According to Bihar Forest Rules (as applicable to Jharkhand) and instruction issued in September 2000, forest guards were required to submit offence report within 24 hours to the Forester, who is to submit investigation report to the range officer within 15 days and range officer is to submit a report within 30 days to the divisional officer. All forest offences are to be filed in the Court within two months of its commission. Under Criminal Procedure Code, no Court shall take cognizance of an offence, after expiry of one year.

- In five forest divisions²⁷, it was noticed that only intimation regarding offence committed, in 104 cases pertaining to the period 2005-06 and 2007-08, were submitted to the DFOs by the range officers but no offence report was prepared by the range officers. No data/record relating to the details of the offence and loss suffered was made available to audit. As such the quantity and value of forest produce destroyed could not be ascertained.
- In ten forest divisions²⁸, submission of offence reports to divisional forest officers in 882 cases involving Rs. 1.45 crore were delayed beyond due dates by range officers. Delays ranged between 1 and 1,717 days.
- In eight forest divisions²⁹, 632 offence cases for the period 2004-08, involving Rs. 88.68 lakh, were sent to court with delays ranging from 1 to 2,280 days. There was nothing on record or any information produced to audit about the cognizance of the cases filed in the court in respect of cases filed after expiry of one year. Audit noticed from the information furnished that 406 cases were filed after a lapse of one year. Further, the latest position of cases registered in Court was not recorded in offence case

²⁵ Schedule XVIII – Form No. 22 A has been prescribed for maintenance of offence case register which contains information about date and place of occurrence of offence, details of offence, details of damage of forest produce, assessment of royalty and compensation, action taken by the division and details of action taken by Court.

²⁶ Bokaro, Giridih, Gumla, Latehar, SF Hazaribag and Wild Life, Ranchi.

²⁷ Core Area Daltonganj, Deoghar, Khunti, Latehar and Simdega.

²⁸ Bokaro, Core Area Daltonganj, Dhanbad, Deoghar, Giridih, Khunti, Kolhan, Latehar, Porahat and Simdega.

²⁹ Bokaro, Core Area, Daltonganj, Deoghar, Giridih, Khunti, Kolhan, Latehar and Simdega.

register. Audit could not ascertain whether any action was taken for speedy disposal of the cases.

- In Hazaribag West Forest Division, 16 offence cases pertaining to 1999-2007, involving Rs. 6.51 lakh, were returned by the Court on the grounds of being barred by limitation of time. Further, in the office of Conservator of Forest, Core Area, Project Tiger, Palamu and Divisional Forest Officer, Kolhan Forest Division, Chaibasa it was seen that 142 offence cases, involving Rs 23.08 lakh, instituted in the respective Courts were disposed/discontinued by the Courts. Reasons and date of order were not on records. No action was taken by the divisions to review the cases, resulting in loss of revenue of Rs. 29.59 lakh.
- In four forest divisions³⁰, 148 offence cases for the period 1999-2008 were neither compounded nor sent to Court resulting in blockage of revenue of Rs. 34.74 lakh.

Delay in preparation, submission of offence reports and institution of cases in Courts, not only results in cases becoming time barred but also offenders becoming traceless leading to loss of revenue.

The Government may consider putting in place a mechanism for timely preparation and submission of offence reports.

Compliance deficiencies

8.3.11 Implementation of working plan

In order to ensure regeneration commensurate to felling, Government of India, while approving Working Plan of a division, permits felling of trees only after making allocation of requisite fund for undertaking regeneration operation. Further, instructions (August 2003) were also issued by the Government of India for preparation of annual report³¹ on exploitation of forest produce, to be submitted, in prescribed proforma within two months of the end of control year, by a division to the Conservator. **Audit noticed discrepancies in exploitation of forest produce, which are discussed in the succeeding paragraphs.**

8.3.11.1 Non-harvesting of bamboo

Bamboo is felled/exploited in four-year felling cycle and each felling series becomes due for harvesting every fourth year. If bamboo from felling series is not harvested within the specified period, it starts sprouting and becomes useless resulting in loss of revenue. Further, non-felling of bamboo within the specified period prevents fresh growth of coppice shoots/clumps which eventually generate future bamboo crop. **Audit noticed that the exploitation of bamboo was not monitored at the apex level though its extraction was provided in the working plan of the division approved by the Government of India.**

³⁰ Bokaro, Giridih, Hazaribag (West) and Latehar.

³¹ Annual report on felling showing 'stand volume' of trees, compartment and circle wise, including dead, dying and diseased trees and for meeting demands under rights and concessions granted to people.

Test check of Working Plans of five territorial divisions indicated that 78,249.64 hectare area of bamboo coups were due for exploitation during 1992-93 to 2007-08. Of which, only 252 hectares was extracted during 2001-05. The concerned DFOs did not take any action to exploit bamboo in 78,249.64 hectares which resulted in loss of revenue of Rs. 354.15 crore (calculated at the minimum price) upto March 2008 as indicated in the following table:

Name of the division	Area of Bamboo coups not extracted (in hectares)	Exploitable period	Estimated yield (in number)		Rate	Estimated Revenue
			Culms	Stump		
Koderma	15,022.81	1992-93 to 2007-08	1,18,380 (Sale Units) ³²		Rs. 1850 per sale unit	21.90
Garhwa (North)	15,814.82	2003-04 to 2007-08	6,44,84,928	5,47,39,045	Rs. 6 per piece	71.53
Daltonganj (North)	10,717.69	1999-2000 to 2007-08	7,86,62,486	6,67,73,888	-do-	87.26
Buffer Area, Daltonganj	7,915.64	2001-02 to 2007-08	4,16,24,327	3,53,33,464	-do-	46.17
Latehar	28,778.68	2002-03 to 2005-06	21,21,56,428		-do-	127.29
Total	78,249.64					354.15

8.3.11.2 Non-availability of bamboo in coups

Test check of records of the Conservator of Forest, Buffer Area, Daltonganj indicated that four bamboo coups of 1,092 hectares valued at Rs. 3.95 crore were transferred to Daltonganj South State Trading Division in May 2003 for extraction. As per approved working plan the average yield per hectare (based on sample survey done in Durup and Karakat village/forest area), was 3,262 culms and 2,769 stumps. However, in November 2003, the coups were returned by the State Trading Division, Daltonganj stating that no bamboo was found in the coups. The department did not furnish any reply about the non-availability of bamboo at the harvesting stage.

8.3.11.3 Loss due to non-lifting of bamboo from coups

Test check of records of Conservator of Forest, Buffer Area, Daltonganj indicated that Dauna bamboo coups of 186 hectare were transferred to Daltonganj South State Trading Division in May 2003 for extraction. The State Trading Division intimated in March 2005 that 2,847 *tona* bundles of cut bamboo could not be lifted due to non-repairing of forest road by the territorial division. Thus, Government suffered a loss of Rs. 85,000.

³² One sale unit = 116 bundles of bamboo consisting of 20 bamboos of 1 meter length in each bundle.

8.3.11.4 Non-exploitation of timber

Working Plan of a division provides for felling of matured trees in a fixed felling/rotation cycle, depending upon their species. The timber coups that are due for exploitation as per the working plan are marked by the territorial division and handed over to State Trading division alongwith the records containing the estimated yield of timber. Non-felling results in deterioration in the quality of the timber which eventually leads to loss of revenue. As per the working plan, the annual felling in the working circle of Gumla division was 380 hectares.

Test check of records of the Divisional Forest Officer, Gumla in February 2009 indicated that as per working plan, trees standing on 380 hectares of forest land, having 28.32 Cu.M per hectare timber valued at Rs. 47.04 crore³³, were due for exploitation annually during 2003-08. But no exploitation was carried out for which no reasons were furnished.

Further, in Koderma forest division, though felling of trees in 40,970.91 hectares was approved by the Government of India, annual report, for exploitation of khair, dead, dying and diseased trees and for meeting demands of local people under “Rights and Concessions”, was not prepared, which resulted in non-extraction of timber. Due to non-assessment of the quantity of the available yield, loss of revenue could not be quantified in audit.

8.3.11.5 Non-extraction of forest produces through Eco-Development Committees and Van Samittees

The State Government constituted Eco-Development Committees and Van Samittees in Reserve and Protected Forests to ensure active participation of local people in management and protection of forest. It was also decided to extract forest produce through these committees under supervision and control of the forest department.

In 13 forest divisions³⁴, 3,793 Eco-Development Committees/Van Samittees were constituted, but no forest produce was extracted through/by these committees. Apart from not earning revenue on the produce, the department did not achieve the avowed objective of active participation of local people as well as extraction of forest produce.

The foregoing paragraphs are indicative of the fact that the monitoring system of the department needs strength to ensure proper implementation of the working plan so as to save the Government from loss of revenue and decay of forest produce.

The Government may consider:

(i) evolving a monitoring mechanism to ensure timely preparation of the forest working plan and for obtaining timely approval from the Government of India.

(ii) strengthen the monitoring system of the department for proper

³³ 28.32 CuM x 5 years x 380 hectares x Rs. 8743 per CuM.

³⁴ **Conservators of Forests:** Buffer Area Daltonganj and Core Area, Daltonganj **DFOs:** Bokaro, Deoghar, Dumka, Giridih, Gumla, Jamtara, Khunti, Kolhan, Porahat, Ranchi (East) and Wild Life, Ranchi

implementation of the working plans approved by Government of India.

8.3.12 Loss of royalty

Indian Forest Act, 1927, read with the State Amendment (Bihar Act of 1990) provides for realisation of royalty and compensation for damages to forest produce and forest land from encroachers. The Act, further, provides that encroachment of forest land shall be cognizable and a non-bailable offence. If any forest officer, not below the rank of the divisional forest officer, has reasons to believe that encroachment of forest land has been done, he shall evict the encroachers using the powers conferred on a Magistrate under the Bihar Public Land Encroachment Act, 1956. By instructions issued in May 2002 (in the light of judgement of the Supreme Court), the Government of India directed the Chief Secretary, Secretary, Department of Forest and Environment and Principal Chief Conservator of Forest of all the States to get the encroachers evicted from forest land in a time bound manner, but not later than 30 September 2002. Towards this end, committees at State and circle levels, as required, were constituted in April 2003 to monitor the work of eviction of forest land and to formulate a plan for evictions of the encroached forest land, ensure its execution and review the implementation of plan.

8.3.12.1 In Saraikela³⁵ forest division, it was noticed that 681.95 hectares of forest land was encroached in July 2002³⁶ but could not be evicted even after a lapse of seven years. The department did not assess the royalty realisable on the number of trees felled illicitly, issue demand notices against the encroachers and exercise powers conferred upon them under the Bihar Public Land Encroachment Act for eviction. Non-compliance to the provisions of the Act, non-adherence to the Government of India's instructions and absence of monitoring at the apex level resulted in non-raising of demand of Rs. 7.86 crore (Royalty: Rs. 7.02 crore³⁷ and Sales Tax: Rs. 84.29 lakh³⁸) on 3.41 lakh trees³⁹.

8.3.12.2 In two forest divisions, Kolhan and Porahat it was noticed that 44,660.79 hectares of forest land was under encroachment since 1978 and the trees standing on these lands were illicitly felled and removed by the offenders. According to information furnished by the divisions, 14,072.51 hectares of encroached forest land was evicted between 2002-03 and 2007-08. However, neither the quantity of forest produce illicitly felled nor the value realisable thereon from the offenders was assessed by the department. Thus, the Government suffered loss of Rs. 324.69⁴⁰ crore on 1.41 crore trees

³⁵ Saraikela Forest Division came into existence with forest land of North Forest Division, Chaibasa and Dhalbhum Forest Division, Jamshedpur

³⁶ According to report of DFO, Chaibasa North Forest Division dated 24.7.2002.

³⁷ 3,40,975 trees x Rs 206 (minimum value of one tree) = Rs 7,02,40,850 or Rs 7.02 crore.

³⁸ Sales tax leviable on Rs. 7.02 crore @ 12 per cent = Rs. 84.29 lakh

³⁹ 681.95 hectares x 2500 (maximum trees per hectare in one hectare as per Government order dated 24.11.1998) = 17,04,875 trees. 0.2 (minimum density) of 17,04,875 trees = 3,40,975 trees or 3.41 lakh trees.

⁴⁰ Density of forest: 0.4 (as per working plan)
Evicted Area of forest : 14,072.51 hectares

(Royalty: Rs. 289.89 crore and Sales tax: Rs. 34.79 crore). The loss has been worked out on the basis of density of the forest as per working plan and the minimum price per tree recovered as royalty from different user agencies to whom forest land was transferred for non-forest purposes during the period.

8.3.12.3 According to the Forest (Conservation) Act, 1980, standing trees coming in the alignment of a project are marked and the cost of trees is recovered from the user agency in whose favour the approval for transfer of forest land is accorded.

In Jamtara Forest Division, it was noticed that as per a report of survey conducted by the division in September 2005, 1,091 trees were reportedly damaged in course of construction of Ajay Barrage Irrigation Project. The actual occurrence of the damages was not on record. No action was taken (January 2009) by the DFO to assess the royalty realisable from the user agency that worked out to Rs. 20.09 lakh.

8.3.12.4 In 16 forest divisions⁴¹, it was noticed that 227.60 hectares of forest land was encroached between 2004-05 and 2007-08. The royalty and compensation for destruction of forest produce as worked out by the department was Rs. 1.25 crore which was realisable. But neither were the encroachers evicted nor was the amount of Rs. 1.25 crore realized. There was nothing on records to show that DFOs utilised power of Magistrate conferred upon them under the provisions of the BPLE Act which could have helped in early disposal of cases. In the absence of monitoring at apex level, encroachers of 227.60 hectares of forest land could not be evicted. Also, revenue of Rs. 1.25 crore, could not be realised.

8.3.13 Non-disposal of seized forest produce

Under the provisions of the Indian Forest Act, 1927 and instructions issued by the Principal Chief Conservators of Forest, Bihar in May 1959 and July 1996, seized forest produce involved in Court cases is required to be disposed immediately after obtaining permission of the Court, to avoid natural decay. Cases pending for more than six months in the courts were to be reviewed quarterly by the divisional forest officer in first week of January, April, July and October. Further, under Section 48 of the Indian Forest Act, unclaimed forest timber shall vest with the Government. According to an order issued by the Principal Chief Conservator of Forest in September 1999, unclaimed seized/illicit forest produce is required to be disposed immediately or transferred to State Trading Corporation with the permission of the respective courts. Prosecution is required to be initiated in claimed cases only.

To check illicit felling and smuggling, the Government issued (August 1990)

Trees: 14,072.51 ha x 2500 (maximum tree per hectare in one hectare as per Government order dated 24.11.1998) = 3,51,81,275 trees. 0.4 density of 3,51,81,275 trees = 1,40,72,510 trees or 1.41 crore trees.

Value :1,40,72,510 x Rs.206 (minimum value of one tree) = Rs. 289,89,37,060 or Rs.289.89 crore

Sales tax leviable at the rate of 12%: on Rs. 289,89,37,060 = Rs.34,78,72,447 or 34.79 crore.

⁴¹ Bokaro, Core Area Daltonganj, Daltonganj North, Deoghar, Dhanbad, Giridih, Godda, Hazaribag (West), Jamtara, Latehar, Pakur, Ranchi (West), SF Deoghar, SF Hazaribag, Simdega and Wild Life, Ranchi

instruction that raids be conducted within 24 hours of occurrence of illicit felling in any forest and steps be taken to prosecute and arrest the offenders immediately.

8.3.13.1 A monthly report in prescribed forms 'Ka', 'Kha' and 'Ga' for monitoring illicit felling, confiscation, encroachment and financial achievement is to be submitted by each division to Principal Chief Conservators of Forest up to 5th of each month but it was not being prepared by any of the test checked divisions. This indicated that monitoring of offence cases was lacking at the apex level.

8.3.13.2 In four forest divisions⁴², during 2004-08, 15,500 trees of different species, in 65 cases, were illicitly felled and removed by the offenders. Neither the smugglers were traced nor were the illicitly felled timbers recovered resulting in loss of Rs. 10.41 lakh (assessed by the divisions) to the Government.

8.3.13.3 In six forest divisions, perishable forest produce valued at Rs. 17.54 lakh, seized between 2004-05 and 2007-08, were lying un-disposed of. No periodical review was conducted by the divisional forest officers for its disposal, resulting in blockage of revenue of Rs. 17.54 lakh as detailed in the following table:

(Rupees in lakh)				
Sl. no.	Division	Name of forest produce	Quantity	Value
1	Wild Life Division, Hazaribag	Katha liquid	15 Kg	1.49
2	Simdega Forest Division	Kendu leaves	189.75 Qtls	7.62
3	Godda Forest Division	Ghangri	1,300 Gms	2.33
		Mahua seed	155 Bags	
		Mahua oil	5,130 Ltrs	
4	Core Area, Tiger Project, Daltonganj	Katha Biscuits	128.50 Kg	3.29
		Katha liquid	165.00 Kg	
		Kendu leaves	30 Kg	
5	Dhanbad Forest Division	Katha	749 Kg	1.12
6	Latehar Forest Division	Katha	145.30 Kg	1.69
	Total			17.54

8.3.13.4 In 14 forest divisions⁴³, timber⁴⁴ valued at Rs. 46.86 lakh, in 707 cases, was seized by the department during 2004-08 and the cases were forwarded to the court. The seized forest produce were required to be disposed of after obtaining court's orders. But the department did not initiate any action to obtain permission of the court for disposal of seized timber.

⁴² Bokaro, Giridih, Jamtara and Social Forestry Division, Hazaribag.

⁴³ **Territorial Divisions:** Chaibasa South, Dhanbad, Dumka, Gumla, Khunti, Kolhan, Latehar, Pakur, Ranchi (West), Simdega, Wild Life, Hazaribag and Wild Life, Ranchi **Conservators of Forest:** Buffer Area Daltonganj and Core Area, Daltonganj.

⁴⁴ 4,736 pieces 153.53 CuM and 915.19 cft, 890 chirans, 244 botas of timber, 44 ballies and 508 bundles of fuel wood.

Further, in nine forest divisions⁴⁵, unclaimed timber⁴⁶ was seized between 2004-05 and 2007-08 but neither the volume nor the value were assessed. Based on departmental schedule of rates, the value of timber worked out to Rs. 52.80 lakh. The department did not dispose of the forest produce immediately instead, the cases were forwarded to Court. This resulted in blockage of revenue of Rs. 99.66 lakh. Further, timbers lying in the open, exposed to the vagaries of nature, were likely to deteriorate in quality and value.

8.3.13.5 Scrutiny of records of test checked divisions indicated that stock register of seized/confiscated forest produce was not being maintained. As a result, position of the produce actually in the stock could not be verified in audit. Physical verification of seized produce was also not conducted in any of the divisions test checked.

8.3.14 Non-disposal of confiscated vehicles

Under section 52 of the Indian Forest Act, 1927 read with 52A and 52B of Bihar Amendment Act of 1990, when there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with the vehicle used in committing any such offence may be seized and confiscated by the divisional forest officer to be sold through public auction after allowing 30 days time for appeal from the date of confiscation. Further, the Government constituted committees at the state and district levels in May 1999 and July 2001, to determine the reserve price of confiscated vehicles and their sale through auction.

In 12 forest divisions, 94 vehicles, seized and confiscated between March 1991 and March 2008, were lying undisposed in the divisions. Of 94, in 46 cases even reserve price was not fixed even after 1 to 18 years. Reserve price for 48 vehicles was fixed at Rs. 22.60 lakh but the vehicles were not auctioned/sold as mentioned in the following table:

(Rupees in lakh)

Sl. no.	Name of the Forest Divisions	Total number of confiscated vehicles	Period of confiscation (between)	No. of vehicles for which RP fixed	Price fixed
1	Khunti	19	10/2004 to 03/2008	19	4.85
2	Ranchi (W) Lohardaga	6	03/2005 and 11/2007	Nil	Not fixed
3	Chaibasa (S)	1	11/2007 and 05/2008	1	0.40
4	Simdega	13	07/2001 and 02/2008	9	8.70
5	Wild life, Hazaribag	3	04/2005 and 06/2007	Nil	Not fixed
6	Dumka	4	06/2005 and 07/2006	Nil	Nil
7	Core Area, Daltonganj	8	8/2000 and 9/2002	8	1.61
8	Porahat	1	4/2003	1	1.25
9	Pakur	8	11/2002 and 2/2008	Nil	Nil

⁴⁵ **Conservator of Forest:** Core Area, Daltonganj **Territorial divisions:** Daltonganj (North), Godda, Khunti, Jamtara, Porahat, Ranchi (West), Saraikela and Simdega.

⁴⁶ 6,213 pieces, 58.38 CuM and 174 bundles and 267.30 qtls fuel wood.

Sl. no.	Name of the Forest Divisions	Total number of confiscated vehicles	Period of confiscation (between)	No. of vehicles for which RP fixed	Price fixed
10	Wild Life, Ranchi	2	NA	2	0.65
11	Latehar	12	3/1992 and 3/2008	Nil	Not fixed
12	Gumla	17	3/1991 and 2/2007	8	5.14
	Total	94		48	22.60

Thus, non-adherence to the Government's instructions resulted in non-disposal of confiscated vehicles and non-realisation of reserve price of Rs. 22.60 lakh.

8.3.15 Illegal extraction of minerals from forest area

Under the provisions of the Indian Forest Act, 1927, quarrying stone, burning lime or charcoal or collection or removal of any forest produce has been prohibited and was punishable. In the interim order of December 1996, the Supreme Court directed⁴⁷ to stop all such ongoing activities, without prior approval of the Central Government, within any forest in any State throughout the country. Royalty and compensation for the damage to forest produce was also to be realised from the offenders.

In 16 forest divisions⁴⁸, minerals, namely boulders, dhibra mica, shining stone, size stone, coal, morrum, iron ore, manganese and earth valued at Rs. 1.14 crore were illegally extracted from forest land. The minerals were seized (between 2003-04 and 2007-08) and were lying in the division. The DFOs did not dispose the forest produce instead, the cases were forwarded to Courts. Further, the divisions did not obtain permission from the respective Courts for disposal of minerals. This resulted in blockage of revenue of Rs. 1.14 crore.

8.3.16 Loss due to grazing

Under the provisions of Section 26 (d) of the Indian Forest Act, 1927 read with State Amendment (Bihar Act 9 of 1990), grazing on forest land is a punishable and a compoundable offence.

In 14 forest divisions⁴⁹, despite provision of funds for protection of plants in every afforestation scheme, besides regular staff in the division, during 2003-04 to 2007-08, 3,45,677 plants were destroyed by grazing. The royalty and compensation was assessed at Rs. 1.02 crore (Royalty: Rs. 37.10 lakh, Compensation: Rs. 57.21 lakh and Fine: Rs. 7.73 lakh). These cases were not compounded but referred to courts, resulting in blockage of Rs. 1.02 crore.

⁴⁷ TN Godavarman Thirumal Pad Vrs Union of India & other Working Plan (Civ) No. 202.

⁴⁸ **Conservator of Forest:** Buffer Area, Daltonganj **Territorial Divisions:** Bokaro, Chaibasa (South), Daltonganj (North), Deoghar, Dhanbad, Giridih, Godda, Jamtara, Latehar, Pakur, Porahat, Ranchi (West), Simdega, Wild Life, Hazaribag and Wild Life, Ranchi.

⁴⁹ Bokaro, Daltonganj (North), Deoghar, Dhanbad, Giridih, Hazaribag (West), Jamtara, Latehar, Pakur, Ranchi (West), SF Hazaribag, Simdega, Wild Life Hazaribag and Wild Life Ranchi.

8.3.17 Non-disposal of dry trees

As per survey reports conducted in three forest divisions⁵⁰ during 2004-08, 478 dry trees falling on roadside, valued at Rs. 42.70 lakh, were required to be disposed of immediately. Though, divisional forest officers sent proposals (between September 2004 and April 2008) to the respective State Trading Divisions for felling and disposal of these trees but the trees were not felled (February 2009). Non-felling/disposal of dry trees for one to five years was likely to result in loss of revenue of Rs. 42.70 lakh.

8.3.18 Non-disposal of manufactured wax

Test check of records of Ranchi Lac Range, a sealing wax unit under the administrative control of Conservator of Forest-cum-State-Silviculturist, Jharkhand, Ranchi, revealed that 18.50 MT of sealing wax was manufactured during 2000-01 at Rs. 77.50 per Kg. Of the 18.50 MT, of it, 2.457 MT was sold and 16.043 MT was lying in the stock for the last eight years. Due to prolonged storage, condition of the wax deteriorated in quality and value. The value fixed by Indian Lac Research Institute, Ranchi reduced from Rs 92 per Kg in 2004 to Rs 65.70 per Kg in 2006. Non-disposal of wax resulted in loss of Rs. 14.75 lakh (calculated at the rate of Rs. 92 per Kg prevailing in March 2004).

8.3.19 Non-realisation of godown rent

By an instruction issued by the Chief Conservator of Forests, Bihar in May 1982, 60 godowns of Kendu leaf were handed over (April 1987) to the Divisional Manager, Minor Forest Produce Project (MFPP) division, Hazaribag, an autonomous body, on annual rent of Rs. 1,600 per godown.

Records of the Conservator of Forest, Hazaribag Circle revealed that since 1987 neither did the Divisional Manager, MFPP division pay any rent nor did the department initiate any action towards its realisation. This resulted in non-realisation of revenue of Rs. 21.12 lakh⁵¹ as of March 2009.

8.3.20 Receipts from permanent nursery

According to a departmental order of November 2001, the plants raised in permanent nurseries (PNs) can be utilised for departmental plantation on payment at the rate of Rs. 1.57 per plant and would be sold to public at the rate of Rs. 1.50 per plant. It was further ordered that only 50 *per cent* plants in case of Rehabilitation of Degraded Forest (RDF) plantation and 25 *per cent* plants in case of Quick Growing Species (QGS) plantation can be utilised free of cost from permanent nurseries during completion year.

8.3.20.1 In Chatra Afforestation Division, scrutiny of statement for plants raised and sold from permanent nurseries, revealed that during August 2008, the closing balance of plants was 4,37,554. Though, there was no sale/consumption of plants during September 2008 to January 2009, in February 2009 the opening balance was shown as 1,99,530 plants resulting in difference of 2,38,024 plants. This reflected in shortage of plants and

⁵⁰ Dhanbad, Giridih and Godda.

⁵¹ 60 godowns x Rs.1,600 x 22 years (1987 to March 2009) = Rs. 21,12,000.00.

consequential loss of revenue of Rs. 3.74 lakh (calculated at the rate of Rs. 1.57 per plant).

8.3.20.2 In Social Forestry Division, Dumka, during 2007-08, 7,12,900 plants were planted in 385 hectares RDF plantation and 131.16 hectares QGS plantation. But, in contravention of the norms, 4,00,000 plants were utilised from PNs, free of cost, instead of 2,74,475 plants. This resulted in excess utilisation of 1,25,525 plants, free of cost, which involved a revenue of Rs. 1.97 lakh.

8.3.21 Delay in remittances of revenue

Under the provisions of Jharkhand Financial Rules read with the Bihar Treasury code (as adopted) and Rules made thereunder, all transactions to which any Government official is a party in its official capacity must be brought to account without delay. All money received by officers shall be deposited into the treasury, as soon as possible.

In Bokaro forest division, Rs. 2.51 crore was received in 2004-05 from user agencies as cost of forest produce, Cess, Bazar Samittee Cess, Sales Tax and TOT. Instead of remitting it into the Government account, it was kept under fixed deposit with a bank from July 2004 to March 2006. Out of this, in March 2006, Rs. 2.08 crore, pertaining to cost of forest produce, Bazar Samittee and Sales Tax, was remitted into the Government account. Further, in October 2007, Rs. 34.90 lakh was deposited in Government account. The balance amount of Rs. 7.99 lakh, alongwith amount of interest earned on fixed deposit, was not deposited in the Government account (March 2009). Non-remittance of revenue into Government account was against the codal provisions prescribed by the Government.

8.3.22 Conclusion

There were instances of delayed/non-preparation of working plans which led to non-felling of matured trees and harvesting of bamboo resulting in loss of revenue. Budgeting of revenue and monitoring of collection of revenue including arrears were deficient. No follow up action was taken by the department to realise arrears. Institution of offence cases, certificate cases and its follow up was poor. Proper action was not taken for disposal of seized forest produce. The department did not enforce proper maintenance of important registers and submission of periodical reports and returns. Internal controls were weak.

8.3.23 Summary of recommendations

The Government may consider:

- strengthening the mechanism for ensuring speedy initiation/disposal of certificate cases and prescribing a time limit for initiation and finalisation of certificate cases ;
- strengthening the internal controls for monitoring and maintenance of the records;
- establishing a separate internal audit and vigilance wing for the department

to ensure effective and efficient functioning of the department; and

- to putting in place a mechanism for timely preparation and submission of offence reports.
- evolving a monitoring mechanism to ensure timely preparation of the forest working plan and for obtaining timely approval from the Government of India;
- strengthening the monitoring system of the department for proper implementation of the working plans approved by the Government of India.

8.4 Other audit observations

Scrutiny of records in the offices of Irrigation departments indicated cases of non-recovery, short recovery and non-deposit of tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, 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 so that recurrence of such lapses in future can be avoided.

WATER RATES

8.5 Non-observance of provisions of Acts/Rules

The Bihar Irrigation Act, 1997 (Act II of 1998) and Bengal Irrigation Act, 1876 (adopted by the Government of Jharkhand) provide for:

- payment of water rates for water supplied for purposes other than those of irrigation; and*
- preparation of the statement of irrigated land (sudkar), preparation of detailed measurements cultivator-wise (khesra) and preparation of demand statement (khatiani) is required to be completed within the stipulated period of 99 days in respect of kharif and 68 days for rabi crops for the purpose of recovery of water rates;*

The Irrigation department did not observe some of the provisions of the Act/Rules in cases as mentioned in the paragraph 8.5.1 to 8.5.2 for levy and collection of water rates which resulted in non/short realisation of water rates of Rs. 39.51 lakh.

8.5.1 Non/short realisation of water rates

Under the Bihar Irrigation Act, the Canal Officer (Executive Engineer) may supply water for purposes other than those for irrigation on payment of water rates as prescribed by the Government. Water is not to be supplied without execution of an agreement for a purpose other than agriculture.

Test check of records of office of the Executive Engineer, Waterways Division, Ranchi in December 2008 indicated that the department did not raise any demand of water rates for water withdrawn by Birla Institute of

Technology, Mesra, Ranchi due to non-execution of agreement. The records revealed that the user agency had withdrawn 1,25,411.65 thousand gallons water during 2003-04 to 2007-08 for which water rates amounting to Rs. 5.64 lakh, though realisable, were not demanded by the department. This resulted in non-realisation of Rs. 5.64 lakh.

After the case was pointed out in December 2008, the Executive Engineer stated that steps were being taken to realise the amount. Further reply has not been received (January 2010).

8.5.2 Non-raising of demand due to non-preparation of *khatiani*

Test check (September and December 2008) of records of office of three Executive Engineers⁵², Water Ways divisions indicated that out of the total area of 22,455.31 hectares of irrigated land, *khatiani* in respect of 19,870 hectares of land was not prepared and despatched (during 2006-07 to 2007-08), to revenue division for raising demand and collection of revenue. Consequently, water rates amounting to Rs. 33.87 lakh could not be realised.

After the cases were pointed out (September and December 2008), the Executive Engineer, Chaibasa and Hazaribag stated that preparation of *khatiani* could not be completed in time due to shortage of staff while the Executive Engineer, Ranchi stated that the work was under process.

The matter was reported to the department and the Government in March 2009; their replies have not been received (January 2010).

**Ranchi
The**

**(R. K. Verma)
Principal Accountant General (Audit)
Jharkhand**

Countersigned

**New Delhi
The**

**(Vinod Rai)
Comptroller and Auditor General of India**

⁵² Chaibasa, Hazaribag and Ranchi.