

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

EXECUTIVE SUMMARY

Decrease in tax collection	<p>In 2010-11 the collection of taxes from land revenue decreased by 3.62 <i>per cent</i> as compared to Budget Estimates for the year in respect of Land Revenue. However, it increased by 33.71 <i>per cent</i> over the previous year which was attributed by the Department to the increase in conversion of land under Section 8A of OLR Act, 1960, alienation of Government land to the different agencies, collection of premium thereof and collection of more royalty etc. In respect of stamp duty and registration fee the decrease in collection (7.60 <i>per cent</i>), as compared to the Budget Estimate was attributed to excess target fixed in comparison to previous years which was not correct since the target (₹ 450 crore) fixed for 2010-11 was less than the target (₹ 495.66 crore) for 2009-10.</p>
Very low recovery by the Department against the observations pointed out by us in earlier years	<p>During the period 2005-06 to 2009-10 we had pointed out non / short levy, blocking, non / short realisation of land revenue and fee etc., with revenue implication of ₹ 1,013,49 crore in 45,527 cases. Of these, the Department / Government accepted audit observations in 32,982 cases involving ₹ 73.84 crore but recovered only ₹ 3.78 crore in 2,425 cases. The average recovery position, being 5.2 <i>per cent</i>, as compared to acceptance of objections was very low and it ranged between 0.11 <i>per cent</i> and cent <i>per cent</i> in respect of land revenue.</p> <p>Similarly, during the period 2005-06 to 2009-10 we had pointed out non / short levy, non / short realisation of stamp duty and registration fee etc., with revenue implication of ₹ 1,020.54 crore in 2,06,592 cases. Of these, the Department / Government accepted audit observations in 14,490 cases involving ₹ 13.78 crore; but recovered ₹ 6.51 crore in 4,177 cases. The average recovery position, being 47.24 <i>per cent</i>, as compared to acceptance of objections was very low and it ranged between 4.48 <i>per cent</i> and 96.99 <i>per cent</i> in respect of stamp duty and registration fee.</p>
Results of audit conducted by us in 2010-11	<p>In 2010-11 we test checked the records of 129 units relating to land revenue, stamp duty and registration fees and found non-collection, non / short assessment, blocking of revenue etc. involving ₹ 150.51 crore in 8,205 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 29.96 crore in 5,186 cases in respect</p>

	<p>of land revenue and ₹ 2.21 crore in 758 cases in respect of stamp duty and registration fees pointed out by us during the year 2010-11. An amount of ₹ 1.71 crore in 482 cases in respect of land revenue and ₹ 0.86 crore in 1,062 cases in respect of stamp duty and registration fees were recovered during the year 2010-11.</p>
What we have highlighted in this Chapter	<p>In this Chapter we present illustrative cases of ₹ 4.91 crore¹ selected from the observations noticed during our test check of records relating to assessment and collection of land revenue, stamp duty and registration fees in the offices of the Tahasildars, District Sub-Registrars (DSRs) and Sub Registrars (SRs), where we found that the provisions of the Acts / Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Reports of the CAG for the past several years; but the Department has not taken adequate corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the Tahasildars / DSRs / SRs were unable to detect these mistakes.</p>
Our conclusion	<p>The Department needs to improve the internal control system including strengthening of the internal audit wing so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to frame / amend the rules for early finalisation / regularisation of lease of Government lands and to realise the Government dues as pointed out by us.</p>

4.1.1 Tax administration

The levy and collection of land revenue (LR) is regulated under the Orissa Government Land Settlement (OGLS) Act, 1962, the Orissa Prevention of Land Encroachment (OPLE) Act, 1972, the Orissa Land Reforms (OLR) Act, 1960 and Rules made thereunder in 1983. The Board of Revenue (BOR) administers the above Acts and Rules being assisted by field functionaries like Collectors, Sub Collectors and Tahasildars under the overall control of the Principal Secretary to Government in the Revenue and Disaster Management (R&DM) Department.

The levy and collection of stamp duty (SD) and registration fee (RF) are regulated under the Indian Stamp (IS) Act, 1899, the Registration Act, 1908 and Rules made thereunder. The Inspector General of Registration (IGR) under the overall control of the Principal Secretary to the Government in

1 It does not include the paragraph on occupation of Government land without any revenue being received by the Department.

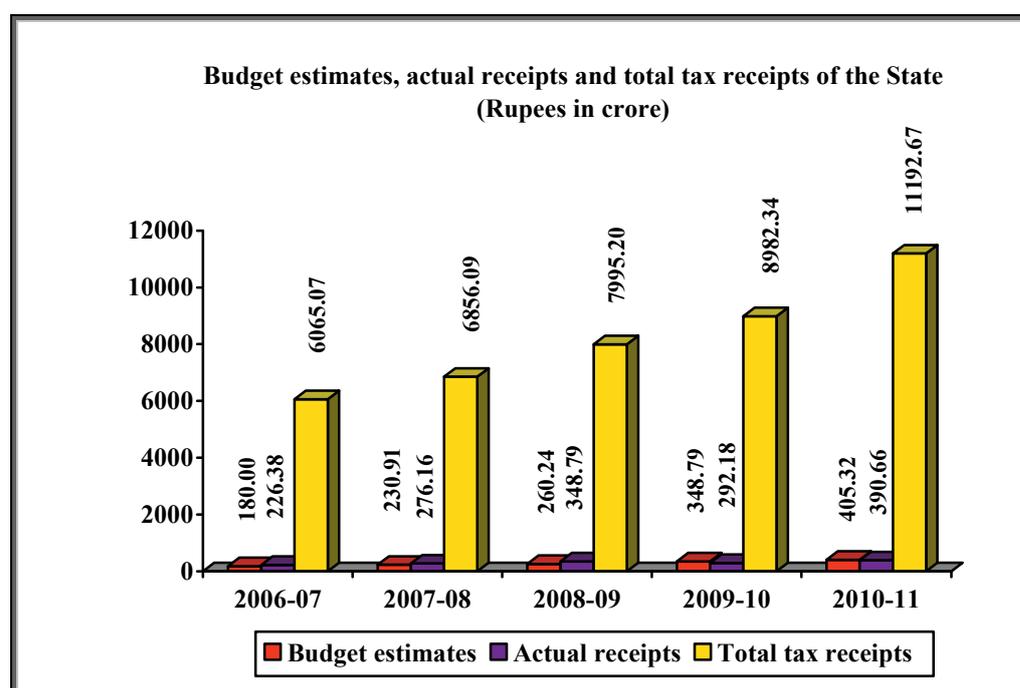
R&DM Department administers the above Acts and Rules and is assisted by a Joint Inspector General (JIG), three Deputy Inspector Generals (DIGs) and 30 District Sub Registrars (DSRs) at the district level and Sub Registrars (SRs) at the unit level.

4.1.2 Trend of receipts

Actual receipts from LR, SD and RF during the years 2006-07 to 2010-11 along with the total tax receipts during the same period are exhibited in the following tables and bar graphs showing the contribution of LR, SD and RF to the total tax receipts for the year 2010-11.

A. Land Revenue

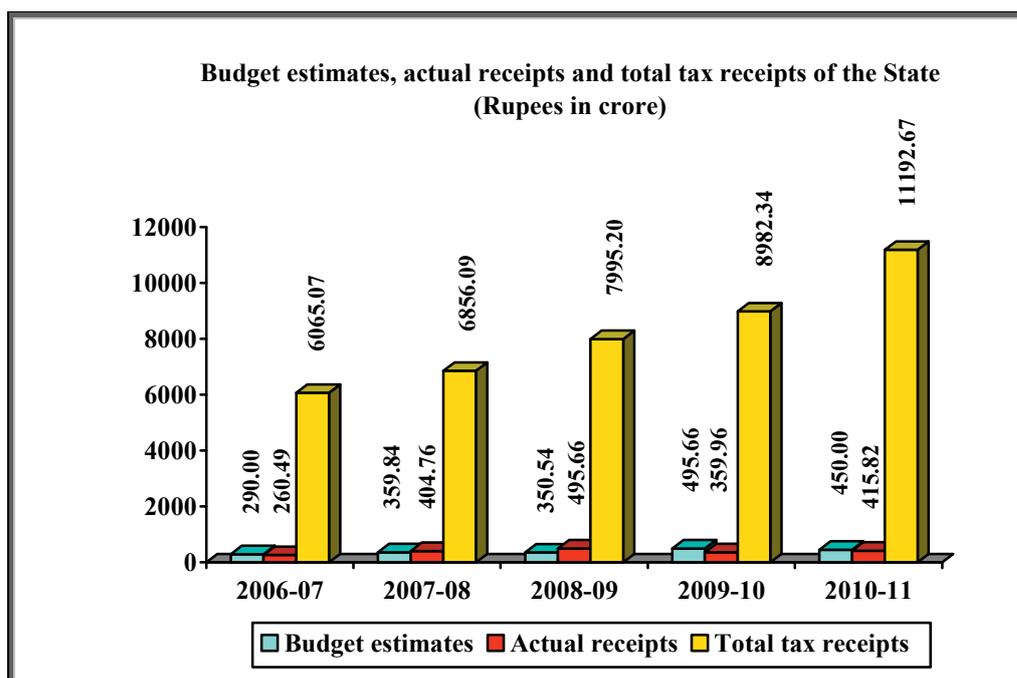
(Rupees in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	180.00	226.38	(+) 46.38	(+) 25.77	6,065.07	3.73
2007-08	230.91	276.16	(+) 45.25	(+) 19.60	6,856.09	4.03
2008-09	260.24	348.79	(+) 88.55	(+) 34.03	7,995.20	4.36
2009-10	348.79	292.18	(-) 56.61	(-) 16.23	8,982.34	3.25
2010-11	405.32	390.66	(-) 14.66	(-) 3.62	11,192.67	3.49



The reasons for increase in collection of revenue during 2006-07 to 2008-09 and 2010-11 as compared to the previous year was stated to be due to conversion of land under section 8A of OLR Act, 1960, alienation of Government land to the different agencies, collection of premium thereof and collection of more royalty etc. whereas no reasons for decrease in collection of revenue during 2009-10 as compared to the previous year was given by the Department.

B. Stamp duty and registration fee

(Rupees in crore)						
Year	Budget estimate	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	290.00	260.49	(-) 29.51	(-) 10.17	6,065.07	4.29
2007-08	359.84	404.76	(+) 44.92	(+) 12.48	6,856.09	5.90
2008-09	350.54	495.66	(+) 145.12	(+) 41.40	7,995.20	6.20
2009-10	495.66	359.96	(-) 135.70	(-) 27.38	8,982.34	4.01
2010-11	450.00	415.82	(-) 34.18	(-) 7.60	11,192.67	3.72



The shortfall of revenue during 2006-07 was attributed to the high target fixed by the Government whereas no reasons for wide fluctuations in collection of revenues for the years 2007-08 to 2009-10 were furnished by the Department. The less collection against the target during 2010-11 was also stated to be due to excess target fixed in comparison to previous years which is not correct since the target (₹ 450 crore) fixed for 2010-11 was less than the target of ₹ 495.66 crore for the year 2009-10.

4.1.3 Cost of collection

The gross collection under SD and RF, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the all India average percentage of expenditure for collection to the gross collection in the respective previous years are mentioned below:

(Rupees in crore)				
Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2008-09	495.66	15.23	3.07	2.09
2009-10	359.96	15.91	4.42	2.77
2010-11	415.82	17.09	4.11	2.47

The percentage of the cost of collection was higher than the all India average percentage. **The Government may take appropriate steps to reduce the cost or increase the collection so as not to exceed the all India average cost.**

4.1.4 Impact of audit

Revenue impact

A Land Revenue

During the last five years (2005-06 to 2009-10) we pointed out non / short levy, blocking, non / short realisation of land revenue and fees etc. with revenue implication of ₹ 1,013.49 crore in 45,527 cases. Of these, the Department / Government had accepted audit observations in 32,982 cases involving ₹ 73.84 crore and had since recovered ₹ 3.78 crore in 2,425 cases. The details are shown in the following table.

(Rupees in crore)								
Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2005-06	86	2,783	179.67	1,698	1.75	1454	1.50	85.71
2006-07	92	6,193	146.53	598	1.73	540	1.60	92.49
2007-08	82	1,664	397.15	255	0.49	255	0.49	100.00
2008-09	74	17,994	122.51	14,503	34.12	80	0.15	0.44
2009-10	62	16,893	167.63	15,928	35.75	96	0.04	0.11
Total	396	45,527	1,013.49	32,982	73.84	2,425	3.78	5.12

The recovery position as compared to the acceptance of objections was very low. **The Government may take appropriate steps to improve the recovery position.**

B. Stamp Duty and Registration Fee

During the last five years (2005-06 to 2009-10), we pointed out non / short levy, non / short realisation of SD and RF etc., with revenue implication of ₹ 1,020.54 crore in 2,06,592 cases. Of these, the Department / Government had accepted audit observations in 14,490 cases involving ₹ 13.78 crore and had since recovered ₹ 6.51 crore in 4,177 cases. The details are shown in the following table.

(Rupees in crore)								
Year	No. of units audited	Amount objected		Amount accepted		Amount recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2005-06	103	40,950	77.53	964	0.90	776	0.39	43.33
2006-07	94	42,077	355.24	1,487	1.66	1,195	1.61	96.99
2007-08	89	37,310	42.93	4,117	5.65	1,494	3.44	60.88
2008-09	109	57,147	311.96	7,733	4.23	651	1.01	23.88
2009-10	34	29,108	232.88	189	1.34	61	0.06	4.48
Total	429	2,06,592	1,020.54	14,490	13.78	4,177	6.51	47.24

The recovery position as compared to the acceptance of objections was very low. **The Government may take appropriate steps to improve the recovery position.**

4.1.5 Results of audit

During the year 2010-11 we test checked the records of 129 units relating to land revenue, stamp duty and registration fees and detected non-collection, non / short assessment, blocking of revenue etc., involving ₹ 150.51 crore in 8,205 cases which fall under the following categories.

(Rupees in crore)			
Sl. No.	Categories	No of cases	Amount
LAND REVENUE			
1.	Short realisation / non-collection of premium etc. from land occupied by local bodies, private bodies etc.	2,061	143.55
2.	Non-realisation of revenue due to delay in finalisation of Orissa Estate Abolition (OEA) Act (Bebandabasta) cases etc.	4,285	0.34
3.	Blocking of Government revenue due to non-finalisation of Orissa Land Reform (OLR) cases	647	0.71
4.	Irregular / non-lease of sairat sources	263	1.40
5.	Other irregularities	131	1.20
Total		7,387	147.20
STAMP DUTY AND REGISTRATION FEES			
1.	Blocking of Government revenue due to pending impounding cases	150	0.82
2.	Short levy of stamp duty and registration fee in respect of general power of attorney.	42	0.49
3.	Short levy of stamp duty and registration fee.	615	1.44
4.	Non-realisation of stamp duty and registration fee.	4	0.39
5.	Irregular exemption of stamp duty.	7	0.17
Total		818	3.31
Grand total		8,205	150.51

During the year, the Department accepted underassessment and other deficiencies of ₹ 29.96 crore in 5,186 cases in respect of land revenue and ₹ 2.21 crore in 758 cases in respect of stamp duty and registration fees pointed out in 2010-11. An amount of ₹ 1.71 crore in 482 cases in respect of land revenue and an amount of ₹ 0.86 crore in 1,062 cases in respect of stamp duty and registration fees were recovered during the year 2010-11.

A few illustrative audit observations involving ₹ 4.91 crore are discussed in the following paragraphs.

4.2 Audit observations

We scrutinised the records relating to assessment and collection of land revenue, stamp duty and registration fees which revealed blocking and non / short realisation of revenue as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out repeatedly, but not only do the irregularities persist, these remain undetected till an audit is conducted by us. There is need for the Government to improve the internal control system including strengthening of internal audit so that these omissions can be avoided, detected and corrected.

LAND REVENUE

4.3 Non-observance of Act / Rules and Government orders / instructions

The OGLS Act, 1962 and Rules made thereunder in 1983 read with the Government orders / instructions issued from time to time in respect of lease² / alienation³ of Government land require that Government land can be leased out / alienated to Government Departments and various bodies / organisations on payment of premium equivalent to the market value of the land, incidental charges along with the ground rent and cess at the prescribed rates. However, in case of land alienated in favour of Central Government Departments, capitalised value at the rate of 25 times of ground rent and cess is payable along with the premium.

Non-observance of the above provisions by the assessing authorities in some cases as mentioned in paragraphs 4.3.1.1 to 4.3.1.3 resulted in blocking / non / short realisation of revenue of ₹ 4.45 crore⁴.

4.3.1 Management of Government land

4.3.1.1 Occupation of Government land without any revenue being received by the Department

As per the OGLS Act, 1962 and Rules made thereunder in 1983 read with the Government's orders of October 1961, May 1963, February 1966, Government land can be leased out to Government Departments, local bodies, public sector undertakings, commercial organisations etc. on payment of premium fixed on the basis of market value plus annual ground rent at the rate of one *per cent* (0.25 *per cent* in case of public institutions such as educational and charitable institutions in urban areas) of the premium and cess at the rate of 50 *per cent* of ground rent up to 1993-94 and 75 *per cent* thereafter. In addition to the above, interest at the rate of six *per cent* per annum up to 27 November 1992 and 12 *per cent* per annum thereafter is chargeable for default in payment of the Government dues from the date of occupation of the land till the date of payment.

During test check of the records of three tahasils, we, noticed (June 2009 and September 2010) that in three cases Government lands measuring 13 acres were occupied during the period 1980-81 to 2000-01. Though the occupants applied for lease of the said lands to the concerned Tahasildars, the cases were pending at various levels which led to continued unauthorised occupation of Government land valuing ₹ 5.35 crore without remitting any cost to the Government for such occupation from the dates of occupation up to 31 March 2010. The details are

given in the following table.

- 2 A contract for letting or renting of land for a specific term.
- 3 Transfer or diversion of land from its original possessor to any other person.
- 4 It does not include the paragraph on occupation of Government land without any revenue being received by the Department.

(Rupees in crore)				
Sl. No	Name of the tahasil Name of the occupant	Date of occupation Date of application/ Recommendation/ Recommending authority	Area occupied in acres Rate of land per acre as per the Bench Mark Valuation as on 31 March 2010	Total cost of the land as on 31 March 2010
1.	<u>Sundargarh</u> Trustee Secretary, Sundargarh Educational Trust, Sundargarh	<u>1980-81</u> <u>October 1997</u> <u>March 2006</u> Tahasildar	<u>4.50</u> 0.58	2.61
The occupant applied for sanction of lease of the above Government land in mouza Talasankara for establishment of an educational institution. As per the report (August 1999) of the Revenue Inspector (RI), Sadar, the school and office building, playground etc. of the public school had been constructed on the said land. The occupant however, intimated that the land was under his occupation since 1980-81. The case was recommended (March 2006) by the Tahasildar for lease. The case record was returned (February 2007) to the Tahasildar by the Sub-Collector with some objections including eviction of three encroachers on the said land before recommending the case. The objection was yet to be complied by the Tahasildar and the case was pending with him. This led to unauthorised occupation of Ac.4.50 of land valued at ₹ 2.61 crore (March 2010) without any benefit accruing to the Government since 1980-81.				
2.	<u>Bhubaneswar</u> President, College of Pharmaceutical Science, Tomando	<u>1991</u> <u>September 1997</u> <u>July 2002</u> Tahasildar	<u>7.50</u> 0.35	2.63
The occupant applied for alienation of nine acres of Government land at village Bijipur for construction of a college, hospital building and laboratories. As per the report (June 2002) of the RI, Patrapada the college having constructed the infrastructure was running since 1991. However, an encroachment case was booked in 1997 against which ₹ 6,130 and ₹ 8,035 were realised in February 1999 and August 2005 towards dead rent and penalty up to 2005-06, but no eviction has been made or the land was leased out under the sanction of the competent authority although the Tahasildar recommended (July 2002) for lease of Ac.7.50 of land out of nine acres in favour of the occupant. The case is pending due to non-receipt of permission from the Government for sanction of lease. This has led to unauthorised occupation of Ac.7.50 of land valued at ₹ 2.63 crore (March 2010) without any benefit accruing to the Government since 1991.				
3.	<u>Parjang</u> Secretary, Regional Co- operative Marketing Society, Kamakshyanagar	<u>January 2001</u> <u>November 1998</u> Not recommended	<u>1.00</u> 0.11	0.11
The occupant applied for sanction of lease of the above Government land in mouza Gadaparjang for construction of a godown. The RI, Parjang reported (January 2010) that the land was under possession since January 2001. Although the Revenue Divisional Commissioner, Northern Division, Sambalpur approved (December 2003) the land cost at the rate of ₹ 10 lakh per acre and the current market value was at the rate of ₹ 11 lakh per acre, the Tahasildar did not recommend and finalise the lease case till date. This led to unauthorised occupation of Ac. 1.00 of land valued at ₹ 0.11 crore (March 2010) without any benefit accruing to the Government since January 2001.				
Total			13.00	5.35

The non-finalisation of these cases were due to non-specification of any time limit in the OGLS Act and Rules made thereunder as well as the inaction/delayed action of the Revenue Authorities at different levels of the Government and absence of any internal control mechanism to watch such cases for expeditious disposal of the cases at such levels.

After we pointed out the above cases, the Government stated (September 2011), in respect of Tahasildar, Sundargarh, that the Secretary, Sundargarh Educational Trust had been requested to deposit the Government dues from 1980-81 to 2009-10. The sanction of alienation of the said land in favour of the Institution was in process. However, the case had been returned to the originator for rectification of certain deficiencies. Similarly, the Government stated (September 2011) that the Tahasildar, Parjang was taking steps to obtain

the required documents from the RO, RCMS, Kamakshyanagar to settle the case and to realise the Government dues. Further, the Government added (November 2011) that the Additional District Magistrate, Dhenkanal had moved the Deputy Registrar of Co-operative Societies, Dhenkanal to instruct the Secretary, RCMS, Kamakshyanagar to provide necessary documents and co-operate with the Tahasildar concerned for finalisation of the case. The reply in respect of Tahasildar, Bhubaneswar from the Government is yet to be received (January 2012).

4.3.1.2 Non-realisation of revenue due to non-regularisation of advance possession of Government land

As per the OGLS Act, 1962 and Rules made thereunder in 1983 read with the Government's orders of October 1961, May 1963, February 1966, Government land can be leased out to Government Departments, local bodies, public sector undertakings, commercial organisations etc. on payment of premium fixed on the basis of market value plus annual ground rent at the rate of one *per cent* (0.25 *per cent* in case of public institutions such as educational and charitable institutions in urban areas) of the premium and cess at the rate of 50 *per cent* of ground rent up to 1993-94 and 75 *per cent* thereafter. In addition to the above, interest at the rate of six *per cent* per annum up to 27 November 1992 and 12 *per cent* per annum thereafter is chargeable for default in payment of the Government dues from the date of occupation of the land till the date of payment. As the process of alienation or lease of the Government land is a time consuming process, advance possession of land is sometimes given to the indenting departments of the Government and other organisations to start the projects expeditiously in the field under specific orders of the Government. Such cases are subsequently regularised under the above Act/Rules. Further, Government land can be alienated or leased out to a Central Government Department on payment of premium fixed on the basis of market value and capitalised value representing 25 times of the annual ground rent (at the rate of one *per cent*) and cess (at the rate of 75 *per cent* of the ground rent) from 1994-95 onwards for one time settlement as per the Government's instruction dated 22 January 2005. Under the OGLS (Amendment) Rules 2010 effective from 11 February 2010, incidental charges at the rate of ten *per cent* of the premium on lease/alienation of Government land was also leviable.

Despite our observations in previous Reports (Revenue Receipts) of the CAG, during test check of the records of three tahasils, we, however, noticed (June to August 2010) that in three cases advance possession of Government land measuring 15 acres was allowed by the Government between September 1987 and October 2009 for public utility purposes. The cases were pending for regularisation due to non-observance of the formal procedures for sanction of alienation or lease of lands by the competent authority. This led to occupation and enjoyment of Government land from the dates of advance possession without realisation

and remittance of ₹ 4.14 crore towards premium, incidental charges, capitalised value, ground rent, cess and interest calculated up to 31 March 2010. The details are given in the following table.

(Rupees in lakh)							
Sl. No	Name of the tahasil Name of occupant	Date of occupation Advance possession Area in acres	Premium/ Incidental Charges (IC)	Ground rent/ Capitalised value (CV)	Cess/ Capitalised value (CV)	Interest	Total
1.	<u>Keonjhar</u> Installation Officer, All India Radio (now Prasar Bharati)	<u>September 1987</u> 2.00	<u>50.00</u> 5.00 (IC)	<u>11.50</u> -	<u>7.75</u> -	145.66	219.91
The occupant applied (May 1990) for sanction of the above land at mouza Muktapur for construction of a Low Power TV Relay Centre. The advance possession was given in September 1987. In the meantime the occupant's status was converted into a commercial organisation, but the advance possession was not regularised by sanction of alienation by competent authority. The regularisation of the case was delayed for want of consent from Prasar Bharati for payment of Government dues, which led to non-realisation of Government revenue of ₹ 2.20 crore calculated up to March 2010.							
2.	<u>Anandpur</u> Executive Engineer, EHT Construction Division, GRIDCO (now OPTCL), Angul	<u>July 2008</u> 10.00	<u>102.50</u> 10.25 (IC)	<u>3.80</u> -	<u>2.85</u> -	25.80	145.20 ⁵
The occupant applied (October 2001) for sanction of the above land at mouza Salapada for construction of 132/33 KV GRID Sub-Station. As per the report (July 2008) of RI, Ghasipura, the land was already in possession of the occupant. Although the advance possession was sanctioned (February 2009) by the Government subject to prior collection of the Government dues tentatively, the case was not yet regularised against collection of Government dues of ₹ 1.45 crore calculated up to March 2010 from the occupant.							
3.	<u>Berhampur</u> Deputy Director General of Meteorology, Regional Meteorological Centre, Kolkata	<u>October 2009</u> 3.00	<u>31.66</u> 3.17 (IC)	7.91 (CV)	5.94 (CV)	-	48.68
The occupant applied (July 2006) for alienation of the above Government land at mouza Aswasanapur for establishment of a Doppler Weather Radar Station. Although the advance possession was given as per the Government's sanction (August 2009), the case has not been regularised by the competent authority through alienation. This resulted in non-levy / realisation of Government revenue of ₹ 0.49 crore calculated up to March 2010.							
Total		15.00	202.58	23.21	16.54	171.46	413.79

The non-regularisation of these cases was due to non-specification of time limit in the OGLS Acts / Rules made thereunder as well as inaction or delayed action by the Revenue Authorities at different levels of the Government and absence of an Internal Control Mechanism to watch such cases for expeditious disposal at such levels.

After we pointed out the above cases, the Government stated (September 2011) that in respect of Tahasildar, Anandpur, as per the orders of the Government during sanction of advance possession of the said land to GRIDCO and subsequent instructions of Collector, Keonjhar, the Tahasildar, Anandpur collected (September 2009) ₹ 15.26 lakh towards premium, ground rent and cess. The objections raised by the Collector, Keonjhar had already been complied by the Tahasildar and the case was re-submitted to the Collector, Keonjhar for onward transmission to the Revenue Divisional Commissioner (Northern Division), Sambalpur for sanction of the case, after which the balance of the Government dues would be realised. The

5 This is the minimum amount due in the absence of exact date of occupation.

Government replies in respect of other two cases are yet to be received (January 2012).

4.3.1.3 Short levy of capitalised value and non-levy of interest

During test check of the records (July 2010) of Tahasildar, Mahakalpada, we noticed that alienation of Government land measuring Ac.19.59 in Keyarbank village for setting up a Radar Centre for defence purpose and incremental facilities to Interim Test Range (ITR), Chandipur in favour of the Estate Manager, Defence Research and Development Organisation (DRDO), Ministry of Defence, Government of India was sanctioned (September 2006) by the Government for a period of 99 years in consideration of the requisition routed through the Home (Special Section) Department of the Government in January 2003 and the lease deed was executed (January 2007) in favour of DRDO. However, we observed that the premium of ₹ 89.55 lakh along with capitalised value of ₹ 22.38 lakh (25 times of ground rent only at the rate of ₹ 89,546 *per annum* without taking into account the cess) was realised in 2003-04. This resulted in short levy and short realisation of capitalised value of ₹ 16.79 lakh (25 times of cess at the rate of ₹ 67,160 *per annum*) and interest of ₹ 14.10 lakh from the DRDO as calculated by us up to 31 March 2010.

After we pointed out the case, the Government stated (November 2011) that the Collector, Kendrapara had moved the Estate Manager, Estate Management Unit (R&D), Chandipur, Balasore justifying the claim of the State Government for payment of capitalised value of cess with interest. The Tahasildar, Mahakalpada had been instructed to issue demand notice and take follow up steps for realisation of the dues.

Stamp Duty and Registration Fee

4.4 Non-observance of the provisions of the Acts / Rules and Government instructions

The Indian Stamp (IS) Act, 1899 and the Registration Act, 1908 prescribe that sale agreements, lease deeds and conveyance deeds etc. are registered on realisation of stamp duty (SD), additional stamp duty (ASD) and registration fee (RF) at the prescribed rates on the consideration truthfully and correctly mentioned therein.

Non-observance of the provisions of the above Acts by the assessing authorities in the case as mentioned in paragraph 4.4.1 resulted in short realisation of SD and RF of ₹ 0.46 crore.

4.4.1 Short realisation of stamp duty and registration fees

As per the Indian Stamp Act, 1899, if an agreement is produced before the registering officer without proper stamp duty the instrument is to be impounded and deficit SD and RF is to be realised. Further, an agreement to sell any immovable property is to be registered as a conveyance by full payment of SD and RF in case of transfer of the possession of such property before or at the time or after the execution of such agreement. If any SD is payable at the time of execution of a conveyance, in pursuance of such agreement, the same would be adjusted towards the total amount of duty chargeable on the conveyance.

During test check of the records of the DSR, Nayagarh (February 2009 and September 2010), we noticed that as per the orders of the Registrar of Co-operative Societies, Orissa, the Managing Director, Nayagarh Co-operative Sugar Industries Limited

(NCSIL) executed a sale and purchase agreement on 20 June 2004 with the Chairman-cum-Managing Director, M/s ECP Industries, Mumbai for transfer of the assets and business of the sugar factory at a consideration of ₹ 5.22 crore to be paid in instalments. At the time of execution of the agreement, possession of the aforesaid assets and business was handed over to the purchaser. As per the Act, the agreement for sale was to be registered as a deed of conveyance. SD and RF of ₹ 52.20 lakh (SD of ₹ 41.76 lakh at the rate of eight *per cent* and RF of ₹ 10.44 lakh at the rate of two *per cent* on ₹ 5.22 crore) was to be realised at the time of registration. But, after impounding the document it was registered on 10 August 2004 against payment of ₹ 2.40 lakh and ₹ 0.60 lakh only towards SD and RF respectively by taking into account the payment of ₹ 25 lakh already made by the purchaser on 20 June 2004. Further, a modified agreement signed on 24 November 2004 was also allowed to be registered on 17 December 2004 after impounding and realising further payment of ₹ 2.40 lakh and ₹ 0.60 lakh towards SD and RF. Both the documents were released on the respective dates of registration.

Thus, despite having two opportunities to realise the SD and RF due, the DSR registered the documents without receipt of the prescribed SD and RF thereby extending undue favour to the purchaser. Meanwhile, Government in their Cabinet decision (May 2009) allowed to settle the transfer of the business and assets of NCSIL against concessional payment of ₹ 4.98 crore (as a onetime settlement) which was fully paid by the purchaser by 28 December 2010. However, the final sale deed is yet to be executed against payment of SD and RF of ₹ 28.84 lakh calculated at the current reduced rate of SD at the rate of five *per cent* and RF at the rate of two *per cent*. Thus, non-collection of SD and RF in time has resulted in loss of ₹ 17.36 lakh as well non-realisation of ₹ 28.84 lakh.

After we pointed out the case, the Government stated (September 2011) that the DSR, Nayagarh impounded the document under section 38(2) of Indian Stamp Act, 1899 and informed the Director, Nayagarh Sugar Complex Limited, Bhubaneswar to deposit the deficit SD and RF within 15 days. The report on the details of realisation is yet to be received (January 2012).