



सत्यमेव जयते

**Report of the  
Comptroller and Auditor General of India  
(Revenue Sector)**

**For the year ended 31 March 2013**



**Government of Meghalaya  
Report No. 1 of 2014**

**REPORT OF THE COMPTROLLER &  
AUDITOR GENERAL OF INDIA**

**(REVENUE SECTOR)**

**FOR THE YEAR ENDED 31 MARCH 2013**

**GOVERNMENT OF MEGHALAYA  
(Report No. 1 of 2014)**

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## PREFACE

*This Report of the Comptroller and Auditor General of India has been prepared for submission to the Governor of Meghalaya under Article 151 of the Constitution of India.*

*This Report presents the results of audit of the Departments of the Government of Meghalaya under the Revenue Sector.*

*The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2012-13 as well as those which came to notice in earlier years but could not be included in the previous Reports. Matters relating to the period subsequent to 2012-13 have also been included, wherever necessary.*

*The audits have been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.*

## EXECUTIVE SUMMARY

This Report contains 37 paragraphs and one Performance Audit relating to under-assessments/non-realisation/short realisation of penalties, taxes, duties *etc.* The total money value involved is ₹ 843.35 crore. Some of the major findings are mentioned below:

### CHAPTER I: GENERAL

➤ During the year 2012-13, the total revenue raised by the State Government (₹ 1332.66 crore) was 24.09 *per cent* of the total revenue receipts (₹ 5532.33 crore). The balance 75.91 *per cent* of receipts during 2012-13 comprised of State's share of divisible taxes and duties amounting to ₹ 1192.45 crore and grants-in-aid amounting to ₹ 3011.22 crore. The revenue raised by the State Government in 2012-13 as compared to 2011-12 was 25.04 *per cent* higher.

*(Paragraph 1.1)*

➤ Test check of the records of taxes on sale, trade *etc.*, state excise, motor vehicles tax, forest receipts and other non-tax receipts conducted during the year 2012-13 revealed under assessments/short/non-levy/loss of revenue amounting to ₹ 471.13 crore in 272 cases. During the year, the Departments accepted under assessments/short/non levy/loss of revenue of ₹ 51.80 crore in 53 cases pointed out in 2012-13 and recovered ₹ 0.96 crore.

*(Paragraph 1.5)*

### CHAPTER II: TAXES ON SALE, TRADE *etc.*

Loss of revenue of ₹ 2.83 crore due to failure to complete assessments in time.

*(Paragraph 2.8)*

Cess of ₹ 8.28 crore could not be recovered due to failure of the STs to initiate penal provisions.

*(Paragraph 2.9)*

Under-assessment of tax of ₹ 0.31 crore in respect of 32 dealers due to erroneous deduction of ₹ 15.44 crore from the aggregate sale price.

*(Paragraph 2.10)*

Due to non-completion of scrutiny by the ST, VAT amounting to ₹ 25.06 crore and penalty and interest of ₹ 38.44 crore and ₹ 28.54 crore respectively remained unrealised.

*(Paragraph 2.11)*

There was evasion of VAT of ₹ 14.22 crore by unregistered dealers on sale of minerals to five industrial units on which penalty of ₹ 14.22 crore was also leviable.

*(Paragraph 2.12)*

There was excess tax collection of ₹ 5.87 crore by two industrial units which was liable to be forfeited. Besides, penalty of ₹ 11.74 crore was also leviable.

*(Paragraph 2.13)*

Excess remission of tax of ₹ 7.30 crore was irregularly allowed to a manufacturing unit.

*(Paragraph 2.14)*

Under-assessment of tax of ₹ 33.73 lakh due to acceptance of invalid declaration forms.

*(Paragraph 2.15)*

A manufacturing unit was exempted from payment of tax of ₹ 46.77 lakh on goods taxable under the Purchase Tax Act.

*(Paragraph 2.16)*

An industrial unit irregularly retained tax of ₹ 9.22 lakh in violation of the provision of the scheme for which interest of ₹ 2.15 lakh was also leviable.

*(Paragraph 2.17)*

Short payment of tax of ₹ 14.59 lakh due to grant of tax incentives to an industrial unit beyond the specified level of turnover.

*(Paragraph 2.18)*

Irregular adjustment of advance tax on coal led to under assessment of tax of ₹ 11.06 lakh.

*(Paragraph 2.19)*

A dealer fraudulently utilised 'C' form and evaded tax of ₹ 49.16 lakh on which penalty of ₹ 98.32 lakh was also leviable.

*(Paragraph 2.20)*

Four dealers concealed turnover of ₹ 37.38 crore and evaded tax of ₹ 1.50 crore on which penalty of ₹ 3 crore was also leviable.

*(Paragraph 2.21)*

A dealer concealed sales of ₹ 6.54 crore thereby evading tax of ₹ 2.62 crore due to failure on the part of the ST to properly link records.

*(Paragraph 2.22)*

Excess tax of ₹ 1.26 crore collected by a manufacturing unit on sale of non-taxable goods had not been forfeited.

*(Paragraph 2.23)*

Incorrect application of rate led to under-assessment of tax of ₹ 2.53 crore.

*(Paragraph 2.24)*

Failure of the ST to detect excess collection of tax of ₹ 24.51 lakh by a dealer resulted in non-levy of penalty of ₹ 49.02 lakh.

*(Paragraph 2.25)*

A dealer concealed turnover of ₹ 1.58 crore and evaded tax of ₹ 19.75 lakh for which penalty of ₹ 39.50 lakh was also leviable.

*(Paragraph 2.26)*



Failure of the Block Development Officers (BDOs) to deduct tax at source enabled eight dealers to conceal turnover of ₹ 3.92 crore and evade tax of ₹ 22.27 lakh for which interest of ₹ 18.01 lakh and penalty of ₹ 44.54 lakh was also leviable.

*(Paragraph 2.27)*

### **CHAPTER III: OTHER TAXES AND DUTIES**

Non-registration of a lease agreement with the District Registrar resulted in non-realisation of stamp duty of ₹ 0.46 crore.

*(Paragraph 3.4)*

Two cement manufacturing companies evaded electricity duty of ₹ 0.45 crore on which penalty not exceeding ₹ 1.80 crore was also leviable.

*(Paragraph 3.5)*

### **CHAPTER IV: STATE EXCISE**

Three bottling plants concealed 117151 BL of ENA and evaded excise duty payment of ₹ 1.51 crore.

*(Paragraph 4.6)*

Violation of a Government order led to short-realisation of import pass fee of ₹ 24.01 lakh.

*(Paragraph 4.7)*

There was short-realisation of licence fees amounting to ₹ 12.70 lakh from 4 bottling plants and 12 bonded warehouses

*(Paragraph 4.8)*

Twelve distilleries failed to register the brand names of 46 brands leading to non-realisation of revenue of ₹ 64.70 lakh.

*(Paragraph 4.9)*

Ten companies failed to pay security deposit amounting to ₹ 14.50 lakh.

*(Paragraph 4.10)*

Seventeen licences were irregularly cancelled by the ERTS Department without realisation of the arrear licence fees resulting in loss of revenue amounting to ₹ 78.44 lakh.

*(Paragraph 4.11)*

### **CHAPTER V: TRANSPORT**

Non-renewal of leases of five weighbridges resulted in loss of revenue of ₹ 1.17 crore.

*(Paragraph 5.6)*

Loss of revenue of ₹ 5.39 crore due to non-recovery of arrears of road tax from 5442 vehicles owners.

*(Paragraph 5.7)*

Loss of revenue of ₹ 35.64 lakh and resultant non-levy of penalty of ₹ 18.13 crore due to non-coverage of vehicles for emission testing.

*(Paragraph 5.8)*

Fine amounting to ₹ 31.28 lakh was not levied against 1564 vehicles owners who had not renewed their permits after expiry of validity period.

*(Paragraph 5.9)*

Three TD check posts failed to detect overloading of 218752 MT of coal leading to non-realisation of fine of ₹ 21.88 crore.

*(Paragraph 5.10)*

## CHAPTER VI: FOREST RECEIPTS

Short/non-realisation of export fee of ₹ 0.27 crore on transport of 17,367 MT of forest produce.

*(Paragraph 6.5)*

Irregular import of 3497.47 MT of charcoal and evasion of royalty of ₹ 0.21 crore.

*(Paragraph 6.6)*

A cement company concealed purchase of 10.10 lakh MT of limestone and evaded payment of royalty of ₹ 6.19 crore.

*(Paragraph 6.7)*

Short-realisation of Net Present Value amounting to ₹ 0.43 crore on diversion of 118.97 hectares of forest land

*(Paragraph 6.8)*

## CHAPTER VII: MINING RECEIPTS

A Performance Audit on “Controls and System for mining in Meghalaya” revealed the following irregularities:

➤ The Department failed to cancel the mining leases and levy penalty on 10 lease holders for carrying out mining activities without obtaining clearance from MoEF in gross violation of the FC Act as well as the MCDR.

*(Paragraph 7.5.9)*

➤ Failure in setting up of a mechanism to determine the limestone extracted from non-forest areas resulted in non-collection of royalty amounting to ₹ 3.23 crore on 5.89 lakh MT of limestone.

*(Paragraph 7.5.11)*

➤ The DMR failed to take action against 138 coal exporters who had exported coal to Bangladesh without payment of royalty through Baghmara, Gasuapara and Dalu resulting in non-realisation of revenue amounting to ₹ 3.13 crore.

*(Paragraph 7.5.12.1 & 7.5.12.2)*

➤ There was short-realisation of revenue of ₹ 81.40 crore by five check gates between 2008-09 and 2012-13 due to failure of the DMR to periodically assess the performance of the check gates or scrutinise the returns submitted by them.

*(Paragraph 7.5.14.1)*

➤ Due to absence of check gates at Shella Bazar and Bholaganj, 103.57 lakh MT of limestone was exported to Bangladesh between 2008-09 and 2012-13 without payment of cess amounting to ₹ 17.29 crore.

*(Paragraph 7.5.14.2)*

- Failure of the DMR to promptly act upon the complaints made by the check gate officials of Dawki and Borsora and provide adequate security to them resulted in illegal export of coal without payment of royalty amounting to ₹ 130.74 crore.  
*(Paragraph 7.5.14.2)*
- Three DMR check gates under-reported movement of 8.78 lakh MT of coal to Bangladesh and failed to realise royalty amounting to ₹ 30.77 crore on which penalty amounting to ₹ 7.69 crore was also realisable.  
*(Paragraph 7.5.15)*
- Five lease holders produced 25.36 lakh MT of limestone (having a royalty value of ₹ 15.98 crore) between June 2010 and December 2012 against which, they deposited royalty amounting to only ₹ 0.99 crore thereby resulting in short-realisation of Government revenue amounting to ₹ 14.99 crore.  
*(Paragraph 7.5.19.1)*
- Between 2008-09 and 2012-13 an amount of ₹ 12.20 crore was shown as expended by the DMR on research, survey and mapping *etc.*, but no reports of the surveys or investigations or mappings carried out could be furnished to justify the expenditure.  
*(Paragraph 7.5.21)*
- Despite an investigation by the Meghalaya State Pollution Control Board (MSPCB) in November 2011 revealing that the entire stretch of seven sampling locations of Lukha river was severely polluted due to Acid Mine Drainage (AMD), no efforts have been made by the Government either to implement the recommendations of MSPCB or take effective steps to control AMD.  
*(Paragraph 7.5.23.1)*

## CHAPTER I-GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenues raised by the Government of Meghalaya during the year 2012-13, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are shown below:

Table 1

(₹ in crore)

Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13 <sup>1</sup>
<b>1.</b>	<b>Revenues raised by the State Government</b>					
	• Tax revenue	369.44	444.29	571.45	697.54	847.72
	• Non-tax revenue	225.31	275.09	301.69	368.24	484.94
	<b>Total</b>	<b>594.75</b>	<b>719.38</b>	<b>873.14</b>	<b>1065.78</b>	<b>1332.66</b>
<b>2.</b>	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	595.23	612.38	901.65	1,044.19	1192.45
	• Grants-in-aid	1,620.66	2,115.59	2,491.23	2,544.50	3011.22
	<b>Total</b>	<b>2,215.89</b>	<b>2,727.97</b>	<b>3,392.88</b>	<b>3,588.69</b>	<b>4203.67</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>2,810.64</b>	<b>3,447.35</b>	<b>4,266.02</b>	<b>4,654.47</b>	<b>5532.33</b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>21.16</b>	<b>20.87</b>	<b>20.47</b>	<b>22.90</b>	<b>24.10</b>

(Source: Finance Accounts)

The above table indicates that during the year 2012-13, the revenues raised by the State Government (₹ 1332.66 crore) was 24.09 per cent of the total revenue receipts as against 22.90 per cent in the preceding year. The balance 75.89 per cent of receipts during 2012-13 was from the Government of India.

**1.1.2** The following table presents the details of tax revenues raised during the period 2008-09 to 2012-13:

<sup>1</sup> For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Meghalaya for the year 2012-13. Figures under the head 0020 - Corporation tax; 0021 - Taxes on income other than corporation tax; 0032 - Taxes on wealth; 0037 - Customs; 0038 - Union excise duties; 0044 - Service tax and 0045 - Other taxes and duties on commodities and services - 901 Share of net proceeds assigned to the States booked in the Finance Accounts under A-tax revenue have been excluded from the revenue raised by the State Government and included in the State's share of divisible Union taxes.

Table 2 (Tax revenue)

							(₹ in crore)
Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+) or decrease (-) in 2012-13 over 2011-12
1.	Sales Tax/VAT	271.07	298.44	327.77	425.31	549.99	(+) 29.31
	CST	10.76	22.96	85.11	87.19	81.13	(-) 6.95
2.	State excise	69.79	90.29	104.50	131.50	153.01	(+) 16.35
3.	Stamps & Registration fees	5.54	11.02	10.76	9.08	10.31	(+) 13.54
4.	Taxes and duties on electricity	0.03	0.05	0.26	0.87	0.93	(+) 6.89
5.	Taxes on vehicles	13.21	13.61	19.19	31.12	35.82	(+) 15.10
6.	Taxes on goods and passengers	3.31	3.50	4.37	4.39	4.68	(+) 6.60
7.	Other Taxes on Income and Expenditure	(-) 6.47	2.06	3.06	3.61	3.23	(-) 3.60
8.	Other Taxes and Duties on Commodities and Services	1.70	2.10	2.32	2.08	2.35	(+) 12.98
9.	Land revenue	0.50	0.26	17.11	2.40	6.27	(+) 161.25
<b>Total</b>		<b>369.44</b>	<b>444.29</b>	<b>489.34</b>	<b>697.54</b>	<b>847.72</b>	<b>21.53</b>

(Source: Finance Accounts)

The following reasons for variations were reported by the concerned Departments:

**Taxes and duties on electricity:** The increase was due to periodical inspections of installations.

**Taxes on vehicles:** The increase was due to increase of vehicles and revision of the rate of taxes.

**Land revenue:** The increase was due to the increase in collection of land revenue from the lessees.

**Excise:** The increase was due to the increase of consumption and implementation of holograms.

The other Departments did not inform (December 2013) the reasons for variation despite being requested (May 2013 and August 2013).

**1.1.3** The following table presents the details of major non-tax revenues raised during the period 2008-09 to 2012-13:

Table 3 (Non-Tax Revenue)

(₹ in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+)/decrease (-) in 2012-13 over 2011-12
1.	Mining receipts	132.73	198.21	215.58	262.58	357.97	(+) 36.32
2.	Interest receipts	17.82	23.28	24.72	27.13	25.38	(-) 6.45
3.	Forestry and wild life	17.36	20.03	22.05	26.03	30.87	(+) 18.59
4.	Public works	6.70	7.02	12.71	17.02	43.43	(+) 155.17
5.	Crop husbandry	3.22	2.80	4.11	4.58	4.97	(+) 8.51
6.	Animal husbandry	1.37	1.54	1.68	1.76	1.87	(+) 6.25
7.	Education, sports, art and culture	0.93	0.77	1.00	0.79	1.04	(+) 31.64
8.	Medical and public health	0.74	0.56	0.69	1.35	1.43	(+) 5.92
9.	Others	44.44	20.88	19.15	27.00	17.98	(-) 33.40
<b>Total</b>		<b>225.31</b>	<b>275.09</b>	<b>301.69</b>	<b>368.24</b>	<b>484.94</b>	<b>31.69</b>

(Source: Finance Accounts)

The following reasons for variations were reported by the Departments:

**Mining and Geology Department:** The increase was due to revision in the rate of royalty on coal.

The other Departments did not inform (December 2013) the reasons for variation despite being requested (May 2013 and August 2013).

## 1.2 Response of the Government and assurances

The succeeding paragraphs 1.2.1 to 1.2.5 discuss the response of the Departments/Government to audit.

### 1.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government

The Accountant General (AG) (Audit), Meghalaya conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during such inspection not settled on the spot. The IRs are issued to the heads of offices with copies forwarded to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG (Audit) within one month from the date of issue of

the IRs. Serious financial irregularities are separately reported to the heads of the departments and the Government.

Review of IRs issued up to March 2013 disclosed that 174 paragraphs involving money value of ₹ 1235.76 crore relating to 174 IRs remained outstanding at the end of June 2013 as mentioned in Table 4.

**Table 4**

	June 2011	June 2012	June 2013
Number of outstanding IRs	154	181	174
Number of outstanding audit observations	661	747	676
Amount involved (₹ in crore)	1487.85	1300.75	1235.76

Department-wise details of IRs, audit observations pending settlement as on 30 June 2013 and the amounts involved are mentioned in Table 5.

**Table 5 (Outstanding IRs and paragraphs)**

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Excise, Registration, Taxation & Stamps	(a) Taxes on sales, trade, etc.	53	268	577.47
		(b) State Excise	25	66	46.42
		(c) Stamps & Registration	14	22	1.63
		(d) State Lotteries	1	1	15.87
2.	Transport	Taxes on motor vehicles	45	162	391.54
3.	Mines and Minerals	Non-ferrous mining and metallurgical industries	19	60	178.98
4.	Environment and Forests	Forestry and wild life	17	97	23.85
<b>Total</b>			<b>174</b>	<b>676</b>	<b>1235.76</b>

In respect of six IRs issued during 2012-13, even the first reply required to be received from the heads of offices within one month from the date of issue of the IRs were not received upto December 2013. Pendency of IRs due to non-receipt of the replies is indicative of the fact that the Heads of offices and Heads of the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the audit in the IRs.

*The Government may take suitable steps to install an effective system to ensure prompt and appropriate remedial action on audit observations as well as take appropriate action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules and also do not take action to recover amount realisable/outstanding demand in a time bound manner.*

### 1.2.2 Departmental audit committee meetings

The Government has set up audit committees to monitor and expedite the progress of settlement of IRs and paragraphs contained in the IRs. Details of audit committee meetings held during 2012-13 and paragraphs settled are mentioned in Table 6.

Table 6 (Position of Audit Committee Meetings)

(₹ in crore)

Name of the Department	Number of meetings held	Number of paragraphs settled
Excise, Registration, Taxation & Stamps (State Excise)	01	80
<b>Total</b>	<b>01</b>	<b>80</b>

The position of audit committee meetings remained the same as compared to the previous year (during which also only one Meeting was held) although the number of paras settled was higher as compared to the previous year (during which 26 paras were settled). However, the position when compared to the total outstanding paragraphs as depicted in Table 5 of this Chapter reveals that only 11.83 per cent of the total outstanding paragraphs could be settled.

An analysis of the total outstanding paragraphs indicated that highest number of audit objections were outstanding in respect of the Taxation Department. Thus the Taxation Department in particular and the other Departments in general need to gear up to arrange Audit Committee Meetings at regular intervals so that the position can be improved.

*The Government may make it mandatory for the Departments to hold at least one Audit Committee meeting every year.*

### 1.2.3 Position of Inspection Reports

The summarised position of Inspection Reports (IRs) issued during the year 2012-13 including those of previous four years and their status as on 01 April 2013 are tabulated below:

Table 7 (Position of Inspection Reports)

(₹ in crore)

Year	Opening balance			Addition			Clearance			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2008-09	270	693	1,686.57	50	246	980.08	10	122	1,359.79	310	817	1,306.86
2009-10	310	817	1,306.86	38	161	804.30	46	98	279.35	302	880	1,831.81
2010-11	302	880	1,831.81	55	220	269.78	203	444	613.74	154	656	1,487.85
2011-12	154	656	1,487.85	34	222	844.51	24	143	508.58	164	735	1,823.78
2012-13	164	735	1,823.78	52	272	471.13	39	314	1055.12	177	693	1,239.79

It would be seen from the above table that number of outstanding IRs and audit paragraphs has come down and so has the money value.



#### 1.2.4 Response of the Departments to the draft audit paragraphs

The draft paragraphs are forwarded to the secretaries of the concerned departments through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the departments is invariably indicated at the end of each such paragraph included in the Audit Report.

Thirty eight audit paragraphs and one Performance Audit proposed to be included in the Report of the Comptroller and Auditor General of India for the year ended March 2013, Government of Meghalaya were forwarded to the Secretaries of the respective Departments between August 2013 and November 2013. Out of these, reply was furnished to only one paragraph up to November 2013. The remaining 37 paragraphs and one Performance Audit have been included without the response of the Government.

The lack of response of the Departments to the draft audit paragraphs and the Performance Audit is a matter of concern and the Government should address this issue at the earliest.

#### 1.2.5 Follow up on Audit Reports - summarised position

As per Headquarters' instructions the State PACs are to send paras upto 2007-08 to the concerned Government for follow up. Accordingly, all outstanding paras for the Audit Reports upto 2008-09 have been referred to the PAC for necessary action.

A review of outstanding paragraphs included in the Reports of the Comptroller and Auditor General of India (Revenue Receipts), Government of Meghalaya disclosed that the concerned Departments of the State Government had not submitted *suo motu* explanatory notes on 150 paragraphs of Audit Reports for the years 2008-09 and 2011-12 (as on November 2013) as mentioned in the following table:

Table 8

Year of Audit Report	Date of presentation of the Audit Report to the Legislature	Number of paragraphs/reviews included in the Audit Report		Number of paragraphs/reviews for which <i>suo motu</i> replies are awaited	
		Paragraphs	Reviews	Paragraphs	Reviews
2008-09	28 May 2010	45	2	45	2
2009-10	16 March 2011	64	1	64	1
2010-11	23 March 2012	44	3	36	2
2011-12	09 October 2013	31	1	31	1
<b>Total</b>		<b>184</b>	<b>7</b>	<b>176</b>	<b>6</b>

The Departments also failed to submit ATNs on 48 paragraphs pertaining to revenue receipts for the years from 1982-83 to 2009-10 on which recommendations had been made by the PAC in their 16<sup>th</sup> to 37<sup>th</sup> Reports

presented before the State Legislature between December 1988 and March 2013, as mentioned below:

Table 9

Year of Audit Report	Number of paragraphs on which recommendations were made by the PAC but ATNs are awaited	Number of PAC Report in which recommendations were made
1982-83	2	16 <sup>th</sup>
1984-85	9	26 <sup>th</sup> 19 <sup>th</sup>
1987-88	1	26 <sup>th</sup>
1988-89	1	20 <sup>th</sup>
1989-90	1	20 <sup>th</sup>
1990-91	11	26 <sup>th</sup> 20 <sup>th</sup>
1991-92	3	26 <sup>th</sup> 20 <sup>th</sup>
1997-98	1	33 <sup>rd</sup>
2008-09	16	37 <sup>th</sup>
2009-10	3	39 <sup>th</sup>
<b>Total</b>	<b>48</b>	

Thus, failure of the concerned Departments to comply with the instructions of the PAC defeated the objective of ensuring accountability of the executive.

### **1.2.6 Compliance with earlier Audit Reports**

During the years from 2008-09 to 2012-13, the Departments/Government accepted audit observation involving revenue implication of ₹ 3276.63 crore (out of the total money value of ₹ 5381.57 crore) of which only ₹ 174.09 crore had been recovered till March 2013 as mentioned in Table 9.

Table 10 (Compliance with earlier Audit Reports)

Year of Audit Report	Total money value	Accepted money value	Amount recovered during the year
2008-09	1175.55	827.77	0.25
2009-10	1036.25	1.96	0.58
2010-11	1836.44	1587.03	172.99
2011-12	444.93	178.06	0.27
2012-13	888.40	681.81	-
<b>Total</b>	<b>5381.57</b>	<b>3276.63</b>	<b>174.09</b>

The amount recovered was thus only 5.31 *per cent* of the accepted amount while the Government/departments have accepted 60.89 *per cent* of the cases included in the Audit Reports. Thus the percentage of recovery against the accepted cases has been very low.

*The Government/Departments should take urgent steps to ensure recovery of the amount atleast in the accepted cases.*

### 1.3 Effectiveness of the mechanism for dealing with issues raised by audit

In order to analyse the effectiveness of system for addressing the issues highlighted in the IRs/Audit Reports by the departments/Government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last five years by one department has been evaluated and results included in this Audit Report.

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the **Taxation Department** in dealing with cases detected in the course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2008-09 to 2011-12.

#### 1.3.1 Position of Inspection Reports

The summarised position of IRs issued during the last five years, paragraphs included in these reports and their status as on September 2013 are shown below:

Table 11 (Position of Inspection Reports)

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
2008-09	19	111	76.40	14	109	47.58	-	10	2.73	33	210	121.25
2009-10	33	210	121.25	6	50	96.42	-	11	26.13	39	249	191.54
2010-11	39	249	191.54	21	142	101.36	21	164	102.96	39	227	189.94
2011-12	39	227	189.94	10	92	374.86	1	41	69.31	48	278	495.49
2012-13	48	278	495.49	14	125	341.30	12	134	275.70	50	268	561.09

Thus, during the last five year period, the closing balance of IRs and paragraphs registered an increasing trend which the Department needs to look into.

#### 1.3.2 Assurance given by the Department/Government on the issues highlighted in the Audit Reports

##### 1.3.2.1 Recovery of accepted cases

The position of paragraphs pertaining to the Taxation Department included in the Audit Reports of the last four years, those accepted by the Department and the amount recovered during 2012-13 are mentioned below:

Table 12 (Status of recovery of accepted cases)

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year (2012-13)
2008-09	23	784.99	5	481.98	-
2009-10	29	498.23	4	0.97	-
2010-11	23	215.39	-	-	-
2011-12	15	247.99	1	176.32	-
<b>Total</b>	<b>90</b>	<b>1746.60</b>	<b>10</b>	<b>659.27</b>	<b>-</b>

During the year, the Department failed to make any recovery in respect of any of the cases brought out in the previous Audit Reports which is a matter of concern.

### 1.3.2.2 Action taken on the recommendations of Audit

The performance audits conducted by the AG (Audit) are forwarded to the concerned departments/Government with a request to furnish their replies. These performance audits are also discussed in the Exit Conference and the Department's/Government's views received during the Exit Conferences and at other points are included while finalising the performance audits for the Audit Reports.

The following table shows the issues highlighted in the performance audit(s) on the Taxation Department that featured in the Audit Reports between 2008-09 and 2011-12 including the recommendations and action taken by the Department/Government.

Year of Audit Report	Name of the performance audit	Major Recommendations	Action taken by the Department/Government
2008-09	Transition from sales tax to VAT	<ul style="list-style-type: none"> <li>➤ Preparation of VAT manual.</li> <li>➤ Prescribing norms/guidelines for scrutiny of the returns by the AOs and monitoring the process.</li> </ul>	<p>VAT Manual has been prepared and has been circulated for use by the AOs.</p> <p>In respect of seven other recommendations, action taken was awaited (December 2013).</p>
2009-10	Exemptions, concessions and remissions under the Meghalaya Industrial Policy 1997 and the schemes made there under	<p>Taking steps to harmonise and sync the SWA guidelines with the provisions of the Industrial Policy 1997 and the Scheme of 2006</p> <p>Imposing penal action on defaulting industries set up in EPIP who fail to fulfil minimum export obligations</p> <p>Relocating the Byrnihat check post to a more suitable location</p>	<p>A High Level Committee has been constituted by the Government to oversee the process of setting up of integrated check gates in the State. As of December 2013, suitable location has not yet been identified by the Committee.</p> <p>In respect of four other recommendations, action taken was awaited (December 2013).</p>
2010-11	Cross-verification of declaration forms used in interstate trade or commerce	<p>Prescribing a system for ascertaining the genuineness of the forms submitted by the dealers through cross-verification of transaction with the issuing States.</p> <p>Issuing necessary instructions for timely submission of the declaration forms and ensuring that exemption/concession of tax is not allowed in the forms submitted after the prescribed period of three months without any recorded reasons.</p>	<p>The Commissioner of Taxes has made it mandatory for all AOs to verify the genuineness of 'C' forms from the TINXSYS website before making assessments.</p> <p>In respect of six other recommendations, action taken was awaited (December 2013).</p>
2011-12	Assessment, levy and collection of tax under the	Amend the MVAT Act and Rules suitably to avoid any ambiguity for effective levy and collection of VAT.	Action taken on all the five recommendations was awaited (December 2013)

	MVAT Act	Keeping a system in place for timely and effective completion of scrutiny and assessments.	
		Strengthening the check posts and the EB so as to prevent leakage of revenue.	

***The Government needs to devise suitable mechanism to monitor and ensure that the concerned Departments examine the recommendations offered by Audit through the reviews/performance audits etc. to assure good governance, plug scope for leakage and optimise revenue potential.***

#### ***1.4 Audit Planning***

The unit offices under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter alia* include critical issues in Government revenues and tax administration *i.e.* budget speech, white paper on State Finances, reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years *etc.*

During the year 2012-13, out of 107 auditable units, 52 units were audited. Besides, one Performance Audit on “Controls and System for Mining in Meghalaya” was also conducted.

#### ***1.5 Results of audit***

##### ***1.5.1 Position of local audits conducted during the year 2012-13***

Test check of the records of taxes on sale, trade *etc.*, state excise, motor vehicles tax, forest receipts and other non-tax receipts conducted during the year 2012-13 revealed under assessments/short/non-levy/loss of revenue amounting to ₹ 471.13 crore in 272 cases. During the year, the departments accepted under assessments/short/non levy/loss of revenue of ₹ 51.80 crore in 53 cases pointed out in 2012-13 and recovered ₹ 0.96 crore.

##### ***1.5.2 This Report***

This Report contains 37 paragraphs and one Performance Audit involving ₹ 843.35 crore. These are discussed in the succeeding Chapters II to VII.

## CHAPTER-II: TAXES ON SALE, TRADE *etc.*

### 2.1 Tax Administration

Commercial Taxes Department is the most important revenue-earning Department of the State. The Additional Chief Secretary to the Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS) Department is in overall charge of the Sales Tax Department at the Government level. The Commissioner of Taxes (COT) is the administrative head of the Department. He is assisted by two Deputy Commissioners of Taxes (DCT) and two Assistant Commissioners of Taxes (ACT). One of the ACT, functions as the Appellate Authority. At the district level, the Superintendents of Taxes (ST) have been entrusted with the work of registration, scrutiny of returns, collection of taxes, levy of interest and penalty, issue of road permits/declaration forms *etc.* The collection of tax is governed by the provisions of the Central Sales Tax (CST) Act, 1956, the CST Rules, 1957, the Meghalaya Value Added Tax (MVAT) Act, 2003, the MVAT Rules, 2005 and the Meghalaya (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants Taxation) (MSL) Act. Before the introduction of VAT on 1 May 2005, the Meghalaya Sales Tax (MST) Act and the Meghalaya Finance (Sales Tax) (MFST) Act were in place, which have, since been repealed with the introduction of VAT.

### 2.2 Trend of receipts

Actual receipts from VAT during the last five years 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table and graph.

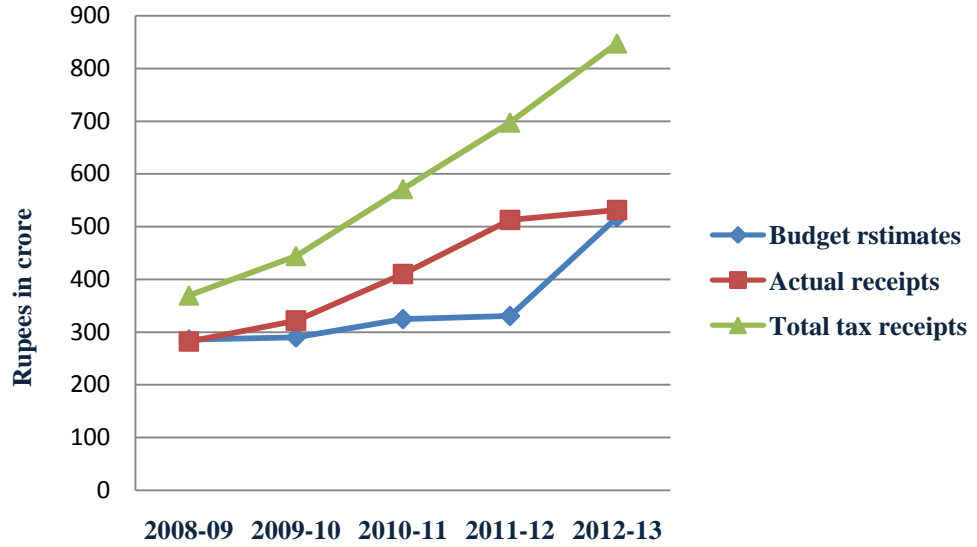
Table 1

(₹ in crore)

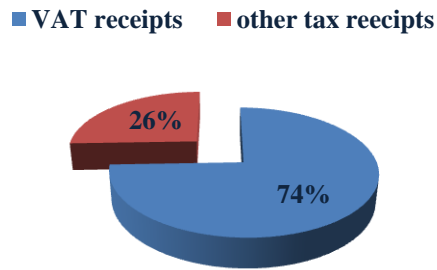
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts <i>vis-à-vis</i> total tax receipts
2008-09	285.42	281.83	(-) 3.59	1	369.44	76.29
2009-10	289.42	321.40	31.98	11	444.29	72.34
2010-11	324.16	409.88	85.72	26	571.45	71.73
2011-12	330.07	512.50	182.43	55	697.54	73.47
2012-13	517.17	631.12	113.95	18	847.72	74.44

Thus, the percentage of variation which was negligible in 2008-09 increased to 26 *per cent* in 2010-11 and further to 55 *per cent* in 2011-12. In 2012-13, the variation came down to 18 *per cent*. This shows that the budget estimates were not realistically framed.

A line graph showing the budget estimates of the State *vis-à-vis* the total receipts of the State and the actual tax receipts of the State may be seen below:



Also, a pie chart showing the position of VAT receipt *vis-à-vis* the other tax receipts during the year 2012-13 may be seen below:



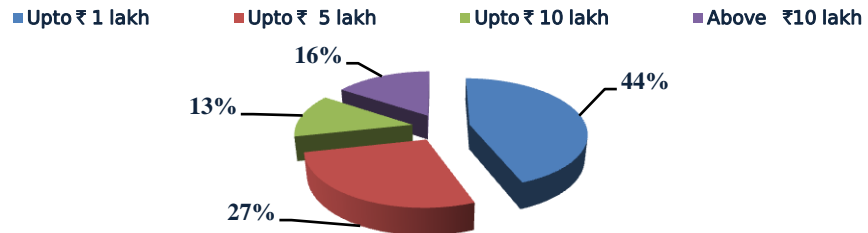
### 2.3 Assessee profile

As per information furnished by the Department, the number of the VAT assesses that were registered during 2012-13 was 7039. The breakup of these assesses based on their annual turnover is mentioned in the following table:

Table 2

Upto ₹ 1 lakh	Upto ₹ 5 lakh	Upto ₹ 10 lakh	Above ₹ 10 lakh
3110	1928	899	1102

A pie-chart showing the number of dealers registered upto 2012-13 *vis-à-vis* the annual turnover may be seen below:



As would be seen from the above, a sizeable number of the dealers (44 per cent of

the total dealers) registered with the Taxation Department are small dealers *i.e.* having turnover less than ₹ one lakh.

*It is recommended that the Department may monitor constantly the turnover of the dealers in this segment to ensure that the dealers who cross the thresh hold limit are brought under the tax net immediately.*

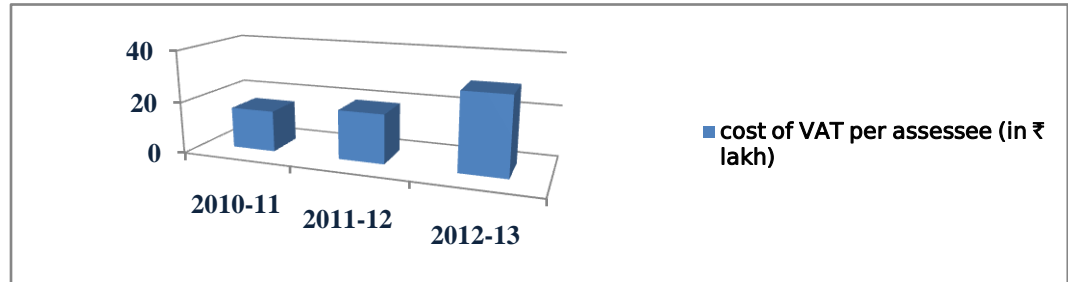
#### 2.4 VAT per assessee

The VAT per assessee during the year and the preceding two years is shown in the following table:

Table 3

(₹ in crore)

Year	Total no of assesseees	Total VAT collection	Cost of VAT per assessee
2010-11	21,019	324.77	0.016
2011-12	22,447	425.31	0.019
2012-13	18,359	549.99	0.030



It may be seen that the cost of VAT per assessee has gone up during 2012-13. However, the number of assesseees under VAT has decreased.

#### 2.5 Position of arrears

As per information furnished by the Department, ₹ 108.18 crore was pending collection as on 31 March 2013. The breakup of the position of arrears during 2008-09 to 2012-13 is given in the following table:

Table 4

(₹ in crore)

Year	Opening balance of arrears	Additions during the year	Collection by the end of the year	Balance arrears
2008-09	22.86	24.73	5.76	41.88
2009-10	41.85	39.44	4.10	77.19
2010-11	77.19	7.06	74.78	9.47
2011-12	9.47	1.02	0.18	10.31
2012-13	10.31	98.51	0.64	108.18

It would be seen from the above that the arrears of revenue which had decreased to ₹ 9.47 crore in 2010-11 went up by 1042 *per cent* to ₹ 108.18 crore in 2012-13. In comparison, the arrear collections have not shown any improvement. This indicates that the revenue recovery mechanism of the Department is weak which has resulted in piling up of huge arrears.

*The Department must take urgent steps to revamp its revenue recovery mechanism.*



## 2.6 Cost of collection

The cost of collection (expenditure incurred on collection) of the Taxation Department during 2012-13 is shown in the following table:

Table 5

(₹ in crore)

Year	Actual revenue	Cost of collection	Percentage of expenditure on collection	All India average percentage during the preceding year
2010-11	409.88	8.71	2.13	0.96
2011-12	512.50	10.33	2.02	0.75
2012-13	631.12	10.84	1.71	0.83

Although the cost of collection of the Department has been showing a steady decline, it is still on the higher side when compared to the all India average percentage during the preceding years is on the higher side. As such, the Department should take effective steps to bring it down at least to the all India average cost of collection.

## 2.7 Impact of Audit Reports

### 2.7.1 Revenue Impact

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation *etc.*, with revenue implication of ₹ 662.72 crore in 110 paragraphs. Of these, the Department/Government had accepted audit observations in 12 paragraphs involving ₹ 662.72 crore and had since recovered ₹ 167.42 crore. The details are shown in the following table:

Table 6

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2008-09	23	784.99	5	481.98	1	167.42
2009-10	29	498.23	4	0.97	-	-
2010-11	23	215.39	-	-	-	-
2011-12	15	247.99	1	176.32	-	-
2012-13	20	112.88	3	3.12	-	-
<b>Total</b>	<b>110</b>	<b>1859.48</b>	<b>13</b>	<b>662.39</b>	<b>1</b>	<b>167.42</b>

The above table reveals that except for the recovery of ₹ 167.42 crore received from Government of India on account of VAT compensation, the recovery in respect of paragraphs included in the Audit Reports (Revenue Receipts) has been nil. This is a matter of concern as with the passage of time the chances of recovery in these cases become remote.

*It is recommended that the Government may in the interest of revenue instruct the Department to take concrete steps for recovery of the amounts at least in those cases which have been accepted by the Department.*

### 2.7.2 Amendments in the Acts/Rules/notification/orders issued by the Government at the instance of audit

Based on audit observations, the Government notified the following changes:

- **Verification of declaration forms:** The Department has instructed all the STs to verify the genuineness of the declaration forms from the TINXSYS website before carrying out assessments.
- **Preparation of VAT Manual:** The Department has prepared the VAT Manual detailing the process to be followed by the STs while carrying out scrutiny and assessments and also prescribing various rules and procedures to be followed by the STs and the dealers.
- **Erection of Integrated checkgates:** Action has already been initiated to establish integrated checkgates and the process of site selection is in progress.

### 2.7.3 Results of Audit

Test check of the records of 14 units relating to VAT during 2012-13 revealed under-assessment of tax and other irregularities involving ₹ 341.30 crore in 125 cases which fall under the following categories:

Table 7

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/Short realisation of tax	44	228.89
2.	Evasion of tax	10	58.98
3.	Loss of revenue	15	17.12
4.	Other irregularities	56	36.31
<b>Total</b>		<b>125</b>	<b>341.30</b>

During the course of the year, the Department accepted under assessments and other deficiencies of ₹ 26.21 crore in 39 cases. An amount of ₹ 0.26 crore was realised in 12 cases during the year 2012-13.

A few illustrative cases having financial impact of ₹ 112.88 crore in terms of underassessment/short levy/non-levy of tax and other provisions of the Acts are discussed in the paragraphs 2.8 to 2.27.

**2.8 Loss of Revenue - ST, Circle-I, Shillong**

**Loss of revenue of ₹ 2.83 crore due to failure to complete assessments in time.**

The Meghalaya Value Added Tax (MVAT) Act, 2003 and the Rules made there under stipulate that:

- Every registered dealer must submit to the concerned ST a quarterly tax return within 21 days from the end of the quarter [**Section 35**];
- The concerned ST is to assess on best judgement basis the tax liability of any dealer who fails to submit his return for any period by the prescribed date [**Section 55 (5)**];
- If a dealer fails to pay the full amount of tax within 21 days from the end of the quarter, simple interest at the rate of 2 *per cent* per month from the first day of the month following the said date shall be payable on the amount of default [**Section 40**];
- If a dealer wilfully fails to furnish his tax returns, penalty at twice the amount of additional tax assessed shall be levied [**Section 55 (6)**];
- No assessment shall be made after the expiry of five years from the end of the tax period to which the assessment relates [**Section 57 (1)**].

Five dealers<sup>1</sup> deposited tax of ₹ 0.48 crore for the period between May 2005 and April 2007 but failed to submit their quarterly returns since May 2005. Despite non-submission of returns, no action was initiated by the ST to assess these dealers on best judgement basis and the case records were left unattended. Also, notwithstanding that the five dealers did not submit their quarterly returns, the ST issued 604 road permits to them between May 2005 and April 2007. It was observed from the Road Permit Registers<sup>2</sup> that these dealers purchased spices, detergents, cosmetics, toiletries, onion, safety matches *etc.* valuing ₹ 8.98 crore between May 2005 and April 2007 by utilising 440 road permits. Thus, they were liable to pay balance tax of ₹ 0.61 crore. Besides, the dealers were also liable to pay interest of ₹ one crore (calculated upto March 2013) for non-payment of tax within the due period and a penalty of ₹ 1.22 crore for wilfully avoiding payment of tax.

Since no assessments can be made after the expiry of five years from the end of the tax period to which the assessment relates, they have become time-barred. Thus, failure of the ST<sup>3</sup> to make timely best judgement assessments led to a revenue loss of ₹ 2.83 crore.

<sup>1</sup> (i) M/s P.K. Enterprise (ii) M/s L.T. Trading (iii) M/s Eve's Cosmetics (iv) M/s Laxmi Trading (v) M/s K.B. Agency House.

<sup>2</sup> Maintained by the ST.

<sup>3</sup> Shri K.M. Roy Khyllab held the charge of ST during the period being reported (*since retired*).

On this being pointed out (December 2012), the ST in his reply stated (May 2013) that the dealers were untraceable and that efforts were on to locate them. Further development in the matter was awaited (December 2013).

## **2.9 Non-payment of Cess - STs, Jowai and Khliehriat**

### **Cess of ₹ 8.28 crore could not be recovered due to failure of the STs to initiate penal provisions.**

The Meghalaya Cement Cess Act, 2010 and the Rules made there under stipulate that

- A cess at the rate of ₹ 20 per MT shall be collected<sup>4</sup> at the time of lifting of cement for sale or transfer from every cement manufacturer within the State [Section 3 and 4];
- Quarterly statement of sale/transfer of goods shall be submitted by the cement manufacturer to the ST within 21 days from the closure of the quarter [Rule 4 (5)];
- Cess shall be payable within 21 days from the end of every month of the year [Rule 4 (6)];
- For non-payment of cess within the due date, a penalty not exceeding the amount of cess in arrears, in addition to cess due, shall be payable within the date as prescribed [Section 7];
- If any cess due including penalty is not paid within the time specified it shall be recoverable by detaining the cement belonging to the manufacturer. In addition, additional penalty equal to double the amount of cess is also recoverable. [Section 8 and Rule 7];
- If the producer fails to pay the amount of cess and penalty, it shall be recovered by selling the cement seized through auction [Rule 7 (3)].

**2.9.1 (ST, Jowai)** Three<sup>5</sup> cement manufacturers sold/despached 631520.922 MT of cement for different periods between January 2011 and September 2011 but failed to pay cess amounting to ₹ 1.26 crore (upto March 2013). Although the cement manufacturers submitted quarterly statements of sale/transfer of cement, the ST failed to initiate any action in order to realise the cess and levy penalty of ₹ 1.26 crore and additional penalty of ₹ 2.52 crore for non-payment of cess. Thus failure on the part of the ST<sup>6</sup> to initiate penal action led to non-realisation of revenue of ₹ 5.04 crore.

<sup>4</sup> With effect from 4 January 2011.

<sup>5</sup> M/s Jaintia Cements Ltd., M/s Adhunik Cements Ltd., M/s Meghalaya Cements Ltd.

<sup>6</sup> Shri D. Toi held the charge of ST during the period being reported.

**2.9.2 (ST, Khliehriat)** Two<sup>7</sup> cement manufacturers neither furnished any quarterly statements of sale/despatch of cement (June 2013) nor paid the cess due on sale of cement. From the quarterly returns<sup>8</sup> it was seen that the cement manufacturers despatched 405408.55 MT of cement for various periods between January 2011 and March 2012 for which cess of ₹ 0.81 crore was payable but not levied and recovered by the ST. For non-payment of cess, penalty of ₹ 0.81 crore and additional penalty of ₹ 1.62 crore was also leviable. Thus, failure of the ST<sup>9</sup> to initiate penal action led to non-realisation of revenue of ₹ 3.24 crore.

Also, in none of the two instances pointed out any action was taken by the STs to seize the goods and auction them in order to realise the Government dues.

The cases were reported to the ERTS Department, Government of Meghalaya (GOM) in June 2012 and May 2013; reply was awaited (December 2013).

**2.10 Under assessment of tax due to grant of incorrect deduction – STs, Jowai, Williamnagar and Circle-II, Tura**

**Under assessment of tax of ₹ 0.31 crore in respect of 32 dealers due to erroneous deduction of ₹ 15.44 crore from the aggregate sale price.**

As per Section 8A of the CST Act, 1956 in determining the taxable turnover of a dealer, a deduction shall be made from the aggregate of the sale price by applying the following formula:

$$\frac{\text{Rate of tax X Aggregate of sale price}}{100 + \text{Rate of tax}}$$

It was further stipulated that no deduction on the basis of the above formula shall be made if the turnover does not include the element of sales tax collected by the dealer.

The COT in September 2010 fixed the minimum price of coal at ₹ 3044 per MT which is equal to the pit head price of coal as determined by the Mining and Geology Department and excludes the element of tax. As such no deduction under Section 8A is admissible.

In three unit offices, it was seen that 32 dealers while disclosing turnover of ₹ 742.56 crore on sale of 24.40 lakh MT of coal at ₹ 3044 per MT and claimed deduction of ₹ 15.44 crore under Section 8A of the CST Act. Although the dealers were not eligible for tax deduction, the same was accepted by the STs at the time of assessments thereby resulting in under assessment of tax of ₹ 0.31 crore as mentioned in the table below:

<sup>7</sup> M/s Hill Cements Ltd., M/s JUD Cements Ltd.

<sup>8</sup> Quarterly returns are to be submitted by all registered dealers under Section 35 of the MVAT Act.

<sup>9</sup> Shri J. B. Laloo and Shri J. L. Kharwanlang held the charge of ST during the period.

Table 8

(₹ in crore)

Name of the unit office	Return period	Number of dealers	Turnover disclosed	Deduction claimed	Under assessment <sup>10</sup>
ST <sup>11</sup> , Jowai	December 2010 to March 2012	Six <sup>12</sup>	180.46	3.93	0.08
ST <sup>13</sup> , Williamnagar	March 2011 to June 2012	Sixteen <sup>14</sup>	187.45	4.06	0.08
ST <sup>15</sup> , Circle-II, Tura	March 2011 to March 2012	Ten <sup>16</sup>	374.65	7.45	0.15
<b>Total</b>			<b>742.56</b>	<b>15.44</b>	<b>0.31</b>

The cases were reported to the ERTS Department, GOM in June 2012 and May 2013; reply was awaited (December 2013).

### 2.11 Non-realisation of VAT revenue – ST, Circle-III, Shillong

**Due to non-completion of scrutiny by the ST, VAT revenue amounting to ₹ 25.06 crore on which penalty of ₹ 38.44 crore and interest of ₹ 28.54 crore was leviable, remained unrealised.**

The Meghalaya Value Added Tax (MVAT) Act, 2005 and the Rules made there under stipulate that:

- Each and every tax return submitted by a dealer shall be scrutinised by the ST [Section 39 (1)];
- If any short/non payment of tax is detected, the ST shall ask the dealer to pay the additional tax along with interest [Section 39 (2)];
- If a dealer fails to pay the full amount of tax within 21 days from the close of the quarter, simple interest at the rate of two *per cent* from the first day of the month following the said date shall be payable on the amount of default [Section 40];

<sup>10</sup> Calculated at 2 *per cent* of the deduction claimed.

<sup>11</sup> Shri D. Toi held the charge of the ST during the period.

<sup>12</sup> (i) E.M. Coal Mines (ii) M/s Shangpung Coal Suppliers (iii) M/s R.L. Enterprise (iv) M/s L.P. Enterprise (v) M/s National Enterprise (vi) M/s War Passah Coal Traders

<sup>13</sup> Shri M. Bamon held the charge of the ST during the period.

<sup>14</sup> (i) M/s GS Traders (ii) M/s BK Sangma Coal Agency (iii) M/s Nangwin N. Sangma Coal Carrier (iv) M/s Honey G. Momin (v) M/s P. Marak coal Agency (vi) M/s L. Coal Traders (vii) M/s E.D. Rohonath Marak (viii) M/s R.M. Sangma Coal Traders (ix) M/s Hill View Coal Agency (x) M/s M.M. Coal Dealer (xi) M/s K.G. Momin Coal Agency (xii) M/s Santi Coal Trader (xiii) M/s Sangma Coal Dealer (xiv) M/s E.D. Sangma Coal Dealer (xv) M/s P. Marak coal Agency (xvi) M/s Marak Coal Traders

<sup>15</sup> Shri D.C. Marak held the charge of the ST during the period.

<sup>16</sup> (i) M/s M.R. Coal Agency (ii) M/s S&S Coal Traders (iii) M/s Meghalaya Coal Agency (iv) M/s R.J. Coal Trader (v) M/s B.D. Sangma Coal Agency (vi) M/s R.N. Coal Traders (vii) M/s Green Valley Enterprise (viii) M/s Marak Coal Agency (ix) M/s B.R. Sangma Coal Agency (x) M/s H.K. Coal Agency

➤ If a dealer furnishes a false return of turnover, he shall in addition to the tax payable, be penalised by way of composition of offence a sum equal to double the amount of tax due [Section 96 (i)].

Examination of the records of an automobile dealer<sup>17</sup> revealed the following irregularities:

**2.11.1** The dealer submitted quarterly tax returns to the ST for the period from 2005-06 to 2008-09 showing a total turnover of ₹ 56.51 crore whereas in the audited accounts also submitted by the dealer to the ST<sup>18</sup> for the same period, the sale turnover was shown as ₹ 212.64 crore. Thus the dealer concealed a turnover of ₹ 156.13 crore and consequently evaded VAT of ₹ 19.52 crore<sup>19</sup> on which interest of ₹ 25.25 crore (calculated upto April 2013) and penalty of ₹ 39.04 crore was leviable.

On this being pointed out (January 2013) the ST in his reply stated (May 2013) that the additional turnover of ₹ 156.13 crore was from sale of vehicles which were purchased from M/s Tata Motors Ltd. on which VAT had already been paid by the company. The reply is not acceptable as the dealer did not show the purchase of vehicles from M/s Tata Motors Ltd. and subsequent re-sale of the vehicles in his returns. Thus by not doing so, the dealer concealed the entire turnover of ₹ 156.13 crore.

**2.11.2** Further, as per quarterly tax returns furnished by the dealer, VAT of ₹ 33.80 crore was shown to have been paid for the period from 01 May 2005 to 31 March 2012 whereas the treasury *challans* submitted by the dealer for the aforesaid period showed actual VAT payment of ₹ 27.96 crore only leaving a balance of ₹ 5.84 crore to be paid. In addition, for the period from May 2005 to March 2012 the dealer belatedly paid tax of ₹ 11.31 crore on different dates between March 2006 and April 2012. For belated/non-payment of tax, interest of ₹ 4.85 crore was also leviable but was not levied and recovered by the ST.

Thus, due to failure in scrutiny of returns by the ST, there was non-realisation of VAT revenue amounting to ₹ 55.46 crore.

The case was reported to the ERTS Department, GOM in January 2013; reply was awaited (December 2013).

<sup>17</sup> M/s Modrina Enterprise.

<sup>18</sup> Shri J.B. Laloo, Shri G.G. Marbaniang and Shri E. S. Mawroh held the charge of the ST during the period.

<sup>19</sup> Calculated at 12.5 per cent.

### **2.12 Evasion of tax by unregistered dealers – ST, Khliehriat**

**There was evasion of VAT of ₹ 14.22 crore by unregistered dealers on sale of minerals to five industrial units on which penalty of ₹ 14.22 crore was also leviable.**

Under the provisions of the MVAT Act, 2003

- Any dealer whose gross annual turnover exceeds ₹ one lakh shall get himself compulsorily registered under Section 31 of the MVAT Act and obtain a certificate of registration (RC);
- A dealer whose gross annual turnover exceeds ₹ 50,000 can however, apply for voluntary registration under Section 32 of the MVAT Act.
- The COT from time to time shall undertake surveys to detect unregistered dealers as per Section 83 of the Act *ibid*;
- Any dealer who makes taxable sales without registration will be assessed to tax under Section 56 (1) of the MVAT Act and will be liable to pay penalty in addition to the amount of tax so assessed, a sum not exceeding the amount of assessed tax under Section 56 (2) of the Act.

Five industrial units<sup>20</sup> purchased coal (12,64,487 MT), limestone (6,22,297 MT), shale (72,553MT) and sand (8,424 cu. m.) valued at ₹ 352.03 crore from unregistered dealers within the State between 2005-06 and 2012-13 and deposited the royalty at the prescribed rates on these purchases. However, VAT amounting to ₹ 14.22 crore was not paid by the sellers. Thus, failure of the COT to undertake surveys of unregistered dealers led to evasion of tax of ₹ 14.22 crore by the unregistered dealers. Besides, penalty not exceeding ₹ 14.22 crore was also leviable.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (July 2013).

### **2.13 Excess/irregular retention of tax – ST, Khliehriat**

**There was excess tax collection of ₹ 5.87 crore by two industrial units which was liable to be forfeited. Besides, penalty of ₹ 11.74 crore was also leviable.**

As per Section 3(b) of the Meghalaya Industrial (Tax Remission) Scheme, 2006 eligible<sup>21</sup> cement and clinker manufacturing units with an installed capacity of more than 600 MT per day are permitted to retain 96 *per cent* of VAT collected as subsidy while the balance four *per cent* is to be deposited into Government account. Further, under Section 61(i)(b) of the MVAT Act, if a dealer collects tax in excess of the tax payable by him, he is liable to pay, in addition to the tax

<sup>20</sup> M/s Cement Manufacturing Company Ltd., M/s Hill Cement Company Ltd., M/s JUD Cement Ltd., M/s Green Valley Industries Ltd and M/s Meghalaya Power Ltd.

<sup>21</sup> Any industrial unit which has obtained approval from the Single Window Agency and the Eligibility Certificate from the Industries Department.



collected, a penalty equal to twice the sum so collected by way of tax. In Meghalaya, 'clinker' is taxable at the rate of five *per cent*.

Tax returns submitted by two<sup>22</sup> cement and clinker manufacturing units indicated that the units sold clinker and collected tax at 13.5 *per cent* instead of five *per cent*. Between April 2011 and March 2012 the units sold clinker valued at ₹ 71.92 crore and collected tax of ₹ 9.71 crore (at 13.5 *per cent*) instead of ₹ 3.60 crore (at 5 *per cent*), out of which, they retained ₹ 9.32 crore as subsidy under the Remission Scheme of 2006 and remitted ₹ 0.39 crore to the Government. For excess collection of tax of ₹ 6.11 crore, out of which they irregularly retained ₹ 5.87 crore (96 *per cent* of ₹6.11 crore) as subsidy, the units were liable to pay penalty of ₹11.74 crore in addition to forfeiting the subsidy of ₹ 5.87 crore availed. No action was however initiated by the ST<sup>23</sup> to forfeit the excess tax collected by the manufacturing units. Thus, inaction on the part of the ST to check the correctness of returns furnished by the dealers led to undue benefit of ₹ 5.87 crore to the dealers.

Further, one<sup>24</sup> of the units sold 'iron scrap' valued at ₹ 33.08 lakh between January 2010 and December 2010 and collected tax of ₹ 4.14 lakh out of which the unit retained ₹ 3.97 lakh though the unit was not eligible for claiming remission on sale of iron scrap, since it was registered as a cement manufacturing unit for claiming incentives under the Remission Scheme of 2006. Thus the subsidy of ₹ 3.97 lakh availed should be forfeited in addition to paying penalty of ₹ 7.94 lakh.

The above cases were reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013).

#### **2.14 Grant of excess remission of taxes – ST, Khliehriat**

**Excess remission of tax of ₹ 7.30 crore was irregularly allowed to a manufacturing unit.**

As per Section 3(2)(a) of the Meghalaya Industrial (Tax Remission) Scheme, 2006 the tax payable by eligible industries was to be determined in accordance with the following formula:

***Tax payable = output tax + tax liability under the CST Act – input tax***

The ERTS Department, GOM issued a corrigendum in April 2007 deleting 'tax liability under the CST Act' from the tax payable formula. The new formula was as follows:

***Tax payable = output tax – input tax***

<sup>22</sup> M/s Meghalaya Cement Manufacturing Company Ltd. and M/s JUD Cement Ltd.

<sup>23</sup> Shri J.B. Laloo held the charge of ST during the period.

<sup>24</sup> M/s JUD Cement Ltd.

The aforesaid corrigendum issued by the Government was not adhered to by one manufacturing unit<sup>25</sup> and the unit continued to claim tax remission by adding tax liability under the CST Act which was also accepted by the ST<sup>26</sup>. Between 2007-08 and 2011-12, the tax payable by the dealer was ₹ 0.86 crore<sup>27</sup> on which tax remission of ₹ 0.82 crore was admissible. But the dealer, instead, claimed tax remission of ₹ 8.12 crore by adding CST liability of ₹ 7.37 crore which was irregularly accepted by the ST. Such irregular acceptance of claim of tax remission by the ST in non-compliance with Government order led to undue financial benefit of ₹ 7.30 crore to the dealer.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013).

### **2.15 Acceptance of invalid declaration forms – STs, Khliehriat and Circle-VIII, Shillong**

#### **Under-assessment of tax of ₹ 33.73 lakh due to acceptance of invalid declaration forms.**

Under Section 8 (1) (b) of the CST Act, 1956 a registered dealer can purchase taxable goods from a registered dealer of another State at a concessional rate of tax by issuing a declaration in form 'C'. Rule 12(i) of the CST (R&T) Rules, 1957 provides that a single declaration shall cover all transactions of a sale which take place in a quarter of a financial year. In case the delivery of goods is spread over to different quarters in a financial year, separate declaration forms shall be furnished for each quarter of a financial year. Inter-State sale of goods supported by declaration(s) in form 'C' tax is leviable at four *per cent* up to 31 March 2007, three *per cent* upto 31 May 2008 and two *per cent* thereafter.

Three dealers<sup>28</sup> sold goods valued at ₹ 8.23 crore<sup>29</sup> on different dates between April 2006 and September 2012 in course of inter-State trade and produced declarations in form 'C' to the STs for assessment at concessional rates. The STs accepted the 'C' forms and accordingly assessed the dealers on various dates between December 2012 and January 2013. Since the 'C' forms furnished by the dealers contain transactions of more than one quarter, these 'C' forms are invalid and liable to be rejected. As such, irregular acceptance of invalid 'C' forms by the STs<sup>30</sup> led to under-assessment of tax<sup>31</sup> at ₹ 33.73 lakh.

<sup>25</sup> M/s Megha Technical & Engineers Private Ltd.

<sup>26</sup> Shri J.B. Laloo held the charge of the ST during the period.

<sup>27</sup> Total output tax = ₹ 5.08 crore  
Total input tax = ₹ 4.22 crore  
Tax payable = ₹ 0.86 crore

<sup>28</sup> M/s Prim Shylla & Co. and M/s Gulab Chand Jain (both under ST, Khliehriat) and M/s Meghalaya Lime and Mineral Industries (under ST, Circle-VIII, Shillong).

<sup>29</sup> Coal: ₹ 3.91 crore and lime products: ₹ 4.32 crore.

<sup>30</sup> Shri J.L. Kharwanlang held the charge of ST, Khliehriat and Shri R.C. Nongkynrih held the charge of ST, Circle-VIII during the period.

The cases were referred to the ERTS Department, GOM in April and May 2013; reply was awaited (December 2013).

**2.16 Irregular grant of exemption under the Tax Exemption Scheme of 2001 to goods taxable under the Meghalaya Purchase Tax Act – ST, Circle-VIII, Shillong**

**A manufacturing unit was exempted from payment of tax of ₹ 46.77 lakh on goods taxable under the Purchase Tax Act.**

The Meghalaya Industrial Policy, 1997 and the Meghalaya Industries (Sales Tax Exemption) Scheme, 2001 specifically stipulate that only intra or inter-State sale of finished goods which are taxable under the Meghalaya Sales Tax(MST) Act and the Meghalaya Finance (Sales Tax) (MFST) Act are exempted from payment of sales tax. In order to avail incentives under the industrial scheme, an eligible manufacturing unit has to obtain an Eligibility Certificate (EC) and a Certificate of Authorisation (CA) from the Industries and the ERTS Departments respectively.

One<sup>32</sup> unit manufactured lime and lime powder which were taxable under the Meghalaya Purchase Tax Act<sup>33</sup>. The unit was, therefore, not eligible for availing exemption under the Tax Exemption Scheme of 2001 since the benefit of exemption was only allowed to the goods taxable under the MST and the MFST Acts. It was however noticed that despite this, EC/CA were issued to the unit by the ST. The unit sold goods valued at ₹ 11.69 crore between April 2003 and March 2005 in course of inter-State trade and claimed exemption on this entire amount which was also allowed by the ST while making assessment in January 2012. Thus, irregular extension of industrial incentives to goods taxable under the MPT led to under-assessment of tax of ₹ 46.77 lakh<sup>34</sup>.

The case was reported to the ERTS Department, GOM in April 2013; reply was awaited (December 2013).

**2.17 Inadmissible remission of tax – ST, Circle-VIII, Shillong**

**An industrial unit irregularly retained tax of ₹ 9.22 lakh in violation of the provision of the scheme for which interest of ₹ 2.15 lakh was also leviable.**

Under the Meghalaya Industrial Policy, 1997 and the Meghalaya Industries (Tax Remission) Scheme 2006, Large and Medium Scale Industries (LMSI) set up on or after 15 August 1997 and existing industries undertaking expansion, modernisation or diversification will be eligible for tax incentives by way of

<sup>31</sup> For inter State sale of goods not supported by C forms tax will be 10 per cent upto 31.03.2007 and at the local rate of tax (4 per cent) from 01.04.2007 onwards.

<sup>32</sup> M/s Meghalaya Lime and Mineral Industries.

<sup>33</sup> Upto April 2005 i.e., before the introduction of MVAT Act.

<sup>34</sup> Calculated at 4 per cent.

retaining 99 per cent of the tax collected as subsidy for a period of seven years from the date of commercial production. Under Section 96 of the MVAT Act, if a registered dealer fails to pay tax in the manner prescribed then he shall be liable to pay penalty amounting to twice the amount of default by way of composition of offence. In addition, simple interest at the rate of 2 per cent per month from the first day of the month following the end of a quarter shall be payable on the amount of default under Section 40 of the Act *ibid*.

An LMSI unit<sup>35</sup> started commercial production of lime on 27 June 2004 and was entitled to avail of tax incentives for a period of seven years from 27 June 2004 to 26 June 2011. The unit, however, continued to claim remission upto 31 March 2012, which was not detected by the ST<sup>36</sup>. Between July 2011 and March 2012, the unit sold goods valued at ₹ 4.75 crore in course of inter-State trade and collected tax of ₹ 9.31 lakh out of which it irregularly retained tax of ₹ 9.22 lakh (being 99 per cent of the tax collected) in violation of the provisions of the scheme on which penalty of ₹ 18.44 lakh was leviable for non-payment of the full amount of tax. Besides, interest of ₹ 2.15 lakh was also leviable.

The case was reported to the ERTS Department, GOM in April 2013; reply was awaited (December 2013).

### **2.18 Grant of tax incentives beyond permissible limit – ST, Circle-VIII, Shillong**

#### **Short payment of tax of ₹ 14.59 lakh due to grant of tax incentives to an industrial unit beyond the specified level of turnover.**

Under the Meghalaya Industrial (Sales Tax Exemption) Scheme, 2001 and the Meghalaya Industries (Tax Remission) Scheme, 2006 eligible industries are entitled to tax incentives on sale of finished goods manufactured by the units not exceeding a specified level of turnover.

A manufacturing unit<sup>37</sup> was allowed to manufacture lime and lime products valued at ₹ 5.37 crore annually. During 2003-04, 2007-08 and 2008-09 the unit manufactured and sold goods valued at ₹ 7.95 crore, ₹ 6.14 crore and ₹ 6.35 crore respectively. The ST<sup>38</sup> while making assessments in December 2012 failed to detect the additional claim of tax incentive on excess turnover of ₹ 4.33 crore during the aforesaid periods and allowed tax incentives on the entire amount as claimed. Such inadmissible grant of exemption on excess turnover of ₹ 4.33 crore led to short payment of tax of ₹ 14.59 lakh by the manufacturing unit.

<sup>35</sup> M/s RNB Minerals and Chemicals Private Ltd.

<sup>36</sup> Shri M. Sawian held the charge of the ST during the period.

<sup>37</sup> M/s Meghalaya Lime and Mineral Industries.

<sup>38</sup> Shri R.C. Nongkynrih held the charge of ST during the period.

The case was reported to the ERTS Department, GOM in April 2013; reply was awaited (December 2013).

**2.19 Irregular adjustment of advance tax – ST, Williamnagar**

**Irregular adjustment of advance tax on coal led to under assessment of tax of ₹ 11.06 lakh.**

In Meghalaya, all dealers engaged in inter-State sale of coal have to obtain ‘P’ forms<sup>39</sup> from the STs which authorise the dealers to transport nine MT of coal per truck. An additional security at ₹ 122 per MT is collected at the taxation checkgates in case of trucks carrying coal exceeding nine MT. The COT, Meghalaya, Shillong in August 2012 directed all the STs not to adjust the additional security collected by the checkgates on excess load of coal in all pending and future assessments.

From the assessment records of a dealer<sup>40</sup> it was seen (April 2013) that the officer in charge of the Dainadubi taxation checkgate collected additional security of ₹ 11.06 lakh from the dealer between April and June 2012 for transporting excess load of 9065 MT of coal and deposited the amount in favour of the ST. While making assessment for the aforesaid period in September 2012, the ST<sup>41</sup> adjusted the additional security of ₹ 11.06 lakh against the tax liability of the dealer in violation of the instructions of the COT. It was also noticed that while adjusting the additional security, the sale turnover of excess coal was not accounted for. Thus, for non accounting of excess turnover, there was irregular adjustment of additional security by the ST leading to underassessment of tax of ₹ 11.06 lakh<sup>42</sup>.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013)

**2.20 Non-detection of fraudulent use of ‘C’ form – ST, Williamnagar**

**A dealer fraudulently utilised ‘C’ form and evaded tax of ₹ 49.16 lakh on which penalty of ₹ 98.32 lakh was also leviable.**

Under Section 8(1)(b) read with Section 8(4) of the CST Act, 1956 every registered dealer who sells goods to another registered dealer in the course of inter-State trade shall be liable to tax at the concessional rate of two *per cent* subject to production of ‘C’ form (s). Inter-State sale of goods not supported by ‘C’ form(s) shall be taxed at the local rate<sup>43</sup>. Under Section 90 (ix) of the MVAT

<sup>39</sup> ‘P’ forms can be obtained on payment of ₹ 1736 per form.

<sup>40</sup> M/s SR Marak Coal Export

<sup>41</sup> Shri M. Bamon held the charge of the ST during the period.

<sup>42</sup> Turnover = ₹ 143243403

Tax determined by ST = ₹ 3075607 – ₹ 1105930 = ₹ 1969677

Tax under assessed = ₹ 1105930

<sup>43</sup> In Meghalaya, coal is taxable at four *per cent*

Act, if any dealer evades in any way the liability to pay tax, he is liable to pay in addition to tax payable, a sum equal to twice the amount of tax evaded by way of composition of offence.

Test check of the assessment records of a dealer<sup>44</sup> revealed (April 2013) that the dealer was also registered with ST, Kabaitary of Bongaigaon district in Assam. Between July and October 2010, the dealer sold coal valued at ₹ 24.58 crore to his firm based in Assam in course of inter-State trade and produced one 'C' form numbering AS/96121745 and was accordingly assessed in July 2011 at the concessional rate of 2 per cent. Cross-verification of the 'C' form with the Assam Taxation Department's (ATD) website<sup>45</sup> revealed that the dealer in Assam had actually procured the form for issue to M/s Green Valley Enterprise, Tura for ₹ 5.40 crore. Thus, the dealer fraudulently utilised the form against sales amounting to ₹ 24.58 crore to unregistered dealers in order to avail of concessional rate of tax.

The ST<sup>46</sup> should have exercised caution by verifying the 'C' form with the ATD website since the 'C' form submitted by the dealer had a high money value of ₹ 24.58 crore. But he failed to ensure this basic check which thereby resulted in under assessment of tax of ₹ 49.16 lakh. Besides, penalty of ₹ 98.32 lakh was also leviable for wilful evasion of tax.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013).

**2.21 Short payment of tax due to under-valuation of price of coal – ST, Williamnagar**

**Four dealers concealed turnover of ₹ 37.38 crore and evaded tax of ₹ 1.50 crore on which penalty of ₹ 3 crore was also leviable.**

Under the provisions of the CST Act, tax on sale of coal in course of inter-State trade is leviable at two per cent if the sale is supported by 'C' form (s) otherwise such sale is taxable at four per cent. The COT Meghalaya in September 2010 fixed the minimum sale price of coal at ₹ 3044 per MT. Further, under the MVAT Act, if any dealer evades in any way the liability to pay tax, he is liable to pay in addition to tax payable, a sum equal to twice the amount of tax evaded by way of composition of offence.

Four dealers<sup>47</sup> sold 431811 MT of coal in the course of inter-State trade between January 2011 and June 2012. The dealers disclosed turnover of ₹ 94.06 crore in

<sup>44</sup> M/s BCMS Traders Pvt. Ltd.

<sup>45</sup> <http://tax.assam.gov.in>

<sup>46</sup> Shri M. Bamon held the charge of the ST during the period.

<sup>47</sup> (i) M/s Haney Marak (ii) M/s Marak Coal Traders (iii) M/s SR Marak (iv) M/s BCMS Traders

their returns for the aforesaid periods instead of ₹ 131.44 crore<sup>48</sup>. The ST<sup>49</sup> while completing the assessments between November 2011 and May 2012 ignored the minimum rate fixed by the COT and accepted the turnover disclosed by the dealers. Thus, failure of the ST to consider the sale price determined by the COT and assess the returns accordingly resulted in concealment of turnover of ₹ 37.38 crore and evasion of tax of ₹ 1.50 crore. Besides, penalty of ₹ 3 crore was also leviable for concealment of turnover.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013).

## **2.22 Concealment of turnover – ST, Williamnagar**

### **A dealer concealed sales of ₹ 6.54 crore thereby evading tax of ₹ 2.62 crore due to failure on the part of the ST to properly link records.**

Under Section 45 (2) of the MVAT Act if the Commissioner has reason to believe that the dealer has not accounted for the turnover of sales of goods in his return, the Commissioner shall assess the dealer to the best of his judgement. He may also direct that the dealer shall pay by way of penalty in addition to the amount of tax so assessed, a sum not exceeding one and a half times that amount. Sale of coal in course of inter-State trade is taxable at a concessional rate of two *per cent* if the sale is supported by ‘C’ form (s) otherwise such sale is taxable at four *per cent*.

A dealer<sup>50</sup> disclosed sale of coal valued at ₹ 16.46 crore to dealers in Guwahati (Assam) and West Bengal in his returns between April and September 2011 and the entire turnover was supported by ‘C’ forms. The ST assessed the dealer accordingly in December 2011. However, the records of despatch of coal submitted by taxation checkgates to the ST revealed that during the aforesaid period, the dealer also despatched 21501 MT of coal valued at ₹ 6.54 crore through Umkiang checkgate which is situated on the road connecting Meghalaya with Tripura, Mizoram and the southern part of Assam. Thus the dealer concealed this entire turnover and thereby evaded tax of ₹ 0.26 crore on which penalty of ₹ 0.39 crore was also leviable. The concealment was not detected by the ST<sup>51</sup> although the information relating to the despatch of 21501 MT of coal was available with him.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013).

<sup>48</sup> Calculated at the minimum rate of ₹ 3044 per MT (as fixed by the COT).

<sup>49</sup> Shri M. Bamon held the charge of the ST during the period.

<sup>50</sup> M/s B. Marak Coal Syndicate.

<sup>51</sup> Shri M. Bamon held the charge of the ST during the period.

**2.23 Non-forfeiture of excess tax collected under the CST Act – ST, Nongpoh****Excess tax of ₹ 1.26 crore collected by a manufacturing unit on sale of non-taxable goods had not been forfeited.**

The Government of Meghalaya notified on 12 April 2001 that no tax is payable by any eligible industrial unit on the sale of goods in the course of inter-State trade. The ERTS Department, GOM withdrew the aforesaid Scheme on 16 October 2006 and instead notified that in respect of sale of goods in the course of inter-State trade, an eligible industrial unit was to pay CST at the rate of one *per cent* provided the sale is made to registered dealer. Being aggrieved by the notification of 2006, five manufacturing units preferred an appeal to the Shillong Bench of the Gauhati High Court and the Court on 08 October 2010 quashed the notification thereby effectively allowing the manufacturers to avail exemption as provided in the notification of 2001.

A manufacturing unit<sup>52</sup> sold goods valued at ₹ 56.61 crore between October 2006 and March 2011 in course of inter-State trade and collected tax of ₹ 1.27 crore. The dealer retained ₹ 1.26 crore by way of 99 *per cent* tax remission and paid ₹ 1.27 lakh only into Government account. Since no tax was to be collected on sale of goods, the same was irregular as per the notification of 2001 leading to excess collection of tax. As such, as per Section 61 of the MVAT Act the amount of ₹ 1.26 crore retained by the dealer should be forfeited to the Government. Besides, penalty of ₹ 2.52 crore is also leviable for excess collection of tax.

On this being pointed out (June 2012), the ST stated (March 2013) that reassessment proceedings were underway. A report regarding re-assessment and realisation of tax was awaited (December 2013).

**2.24 Incorrect application of rate – ST, Circle-IV, Shillong****Incorrect application of rate led to under assessment of tax of ₹ 2.53 crore.**

It was held<sup>53</sup> by the Supreme Court of India that the value of the goods involved in the execution of works contract will have to be determined by taking into account the value of the entire works contract and deducting there from the charges towards labour and services. The Apex court also held that the State Legislature is empowered to tax all the goods involved in the execution of a works contract at a uniform rate which may be different from the rates applicable to individual goods because the goods which are involved in the execution of the works contract when incorporated in the works can be classified into a separate category for the purpose of imposing tax. Accordingly the State Government

<sup>52</sup> M/s Dyna Roof Pvt. Ltd.

<sup>53</sup> Gannon Dunkerley & Co. Vs State of Rajasthan and Larsen & Toubro Vs Union of India [1993] 88 STC 204 (SC).



levied a tax on works contract at a uniform rate<sup>54</sup> of 13.5 *per cent* after deducting there from, the charges towards labour and services.

Two dealers<sup>55</sup> executed works contract valued at ₹ 279.05 crore between April 2011 and September 2012 out of which ₹ 215.13 crore was deducted towards cost of labour and services and ₹ 5.36 crore towards sale of declared goods taxable at four *per cent*. On the balance amount of ₹ 58.56 crore, the dealers paid tax at the rate of five *per cent* on ₹ 29.76 crore and 13.5 *per cent* on ₹ 28.80 crore. The ST accepted the turnover disclosed and completed scrutiny of the aforesaid period between June 2012 and February 2013. Since the MVAT Act provided uniform rate of tax at 13.5 *per cent* on goods involved in the execution of works contract, levy and collection of tax at the rate of five *per cent* instead of 13.5 *per cent* was irregular. Thus, failure of the ST<sup>56</sup> to detect incorrect application of rate at the time of scrutiny led to underassessment of tax of ₹ 2.53 crore on which penalty of ₹ 5.06 crore was also leviable.

The case was reported to the ERTS Department, GOM in April 2013; reply was awaited (December 2013).

**2.25 Non-levy of penalty on excess tax collected– ST, Circle-IV, Shillong**

**Failure of the ST to detect excess collection of tax of ₹ 24.51 lakh by a dealer resulted in non-levy of penalty of ₹ 49.02 lakh.**

Under Section 61 (6) of the MVAT Act, if a registered dealer collects any amount of tax in excess of the tax payable by him, he shall be liable to pay by way of penalty an amount equal to twice the sum so collected in addition to the tax payable. In Meghalaya, 'Biscuit' is taxable at the rate of 12.5 *per cent* upto 25 June 2007 and four *per cent* thereafter.

A dealer<sup>57</sup> sold 'biscuits' valued at ₹ 2.88 crore within the State between July and December 2007 and collected tax of ₹ 36.04 lakh (at 12.5 *per cent*) instead of ₹ 11.53 lakh (at four *per cent*). The ST accepted the returns as correct and completed scrutiny of the aforesaid period in July 2011. Thus, by incorrect application of rate, the dealer collected an excess amount of ₹ 24.51 lakh by way of tax on which penalty of ₹ 49.02 lakh was also leviable. The ST<sup>58</sup> however failed to notice the collection of excess tax during scrutiny and thus failed to levy the penalty amount.

On this being pointed out (March 2013), the ST in his reply (May 2013) stated that a show cause notice had been issued to the dealer but there was no response

<sup>54</sup> Schedule IV attached to the Act.

<sup>55</sup> M/s GR Infra projects Ltd. and M/s BSC & SC JV.

<sup>56</sup> Shri K. Thabah held the charge of the ST during the period.

<sup>57</sup> M/s Britannia Industries Ltd.

<sup>58</sup> Shri K. Thabah held the charge of the ST during the period.

as the dealer had discontinued his business in the State with effect from October 2009. Thus, failure on the part of the ST to make proper scrutiny led to non-imposition and non-realisation of penalty.

### **2.26 Evasion of tax – ST, Circle-IV, Shillong**

**A dealer concealed turnover of ₹ 1.58 crore and evaded tax of ₹ 19.75 lakh for which penalty of ₹ 39.50 lakh was also leviable.**

Under Section 55(6) of the MVAT Act, if the COT is satisfied that the dealer in order to evade or avoid payment of tax has furnished incomplete and incorrect returns for any period, he shall direct that the dealer shall pay, by way of penalty, a sum equal to twice the amount of additional assessed.

A dealer<sup>59</sup> dealing in paints (taxable at 12.5 per cent) disclosed turnover of ₹ 10.41 crore in his returns between April 2010 and March 2011 and the ST completed the scrutiny accordingly. However, from the audited accounts submitted by the dealer to the ST, it was seen that the dealer actually sold goods valued at a minimum of ₹ 11.99 crore<sup>60</sup> during the aforesaid period. Thus, the dealer concealed turnover of ₹ 1.58 crore and evaded tax of ₹ 19.75 lakh on which penalty of ₹ 39.50 lakh was also leviable. The ST failed to notice the concealment during scrutiny thereby resulting in evasion of tax.

The case was reported to the ERTS Department, GOM in April 2013; reply was awaited (July 2013).

### **2.27 Loss of revenue due to non-deduction of tax at source – STs, Circle-I, III, IV & VI, Shillong**

**Failure of the Block Development Officers (BDOs) to deduct tax at source enabled eight dealers to conceal turnover of ₹ 3.92 crore and evade tax of ₹ 22.27 lakh for which interest of ₹ 18.01 lakh and penalty of ₹ 44.54 lakh was also leviable.**

Section 106 of the MVAT Act requires Government Departments/Organisations to deduct tax at source while making payments to contractors/suppliers failing which the person authorising the payment shall be punishable with imprisonment of upto six months or with a fine not exceeding ₹ 10,000. Under Section 90 of the Act, these penal provisions also apply to a dealer who evades tax. However, in lieu of prosecution penalty at twice the tax is leviable under Section 96. Further, under Section 40 of the Act *ibid*, simple interest at the rate of two per cent per month on the amount of tax payable is also leviable.

<sup>59</sup> M/s Berger Paints India Pvt. Ltd.

<sup>60</sup>

Opening Stock	+	value of goods received	–	Closing stock	=	Sale
₹ 0.53 crore	+	₹ 12.37 crore	–	₹ 0.91 crore	=	₹ 11.99 crore

Under the ‘Special Rural Works Programme’ implemented by the Community and Rural Development Department, GOM, housing assistance in the form of Corrugated Galvanised Iron (CGI) sheets was provided to the beneficiaries of the poor families.

Eight dealers<sup>61</sup> supplied CGI sheets valued at ₹ 3.92 crore between September 2006 and June 2010 to three<sup>62</sup> Block Development Officers (BDOs) in the State. From the quarterly returns submitted by these dealers to the concerned STs, it was seen that the dealers neither disclosed the turnover nor paid the due tax. As such, failure of the BDOs to deduct tax at source enabled the dealers to conceal their sales of ₹ 3.92 crore and evade tax of ₹ 22.27 lakh. For wilful evasion of tax, the dealer was liable to pay interest of ₹ 18.01 lakh and penalty of ₹ 44.54 lakh.

The case was reported to the Department between January and March 2013; reply was awaited (December 2013).

***Recommendation: The State Government should strictly penalise erring Government Departments for failing to deduct tax at source.***

<sup>61</sup> (i) M/s Wessli Lyngdoh (ii) M/s Marbañiang Enterprise (iii) M/s K. Shylla (iv) M/s Basgitram Hardware (v) M/s Maruti Hardware (vi) M/s Durga Hardware (vii) M/s Lyngdoh Enterprise (viii) M/s Naga Enterprise

<sup>62</sup> BDOs-Mylliem, Mawkyrwat and Mawphlang

## CHAPTER III: OTHER TAXES AND DUTIES

### 3.1 Tax administration

The levy and collection of Stamp Duty & Registration fees is administered by Additional Chief Secretary, Excise, Registration, Taxation and Stamps (ERTS) at the Department level. At the Directorate level, the Inspector General of Stamps & Registration monitors the functioning of the Department. Further, there are District Registrars/Sub-Registrars at the district level for levy and collection of Stamp Duty & Registration fees. Levy of other taxes is administered by the Commissioner of Taxes (in addition to sales tax). The components of other taxes are as follows:

- Taxes and Duties on Electricity
- Taxes on Goods and Passengers
- Other Taxes and Duties on Commodities and Services<sup>1</sup>

Other taxes are also monitored by the Additional Chief Secretary, Excise, Registration, Taxation and Stamps (ERTS) at the Department level.

### 3.2 Impact of audit reports

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation *etc.*, with revenue implication of ₹ 13.22 crore in 15 paragraphs. The Department accepted three paragraphs having a money value of ₹ 3.76 crore. No replies were furnished by the Department/Government in respect of any of the other paragraphs and no recovery was intimated. The details are shown in the following table:

Table 1

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2008-09	5	4.53	2	2.92	-	-
2009-10	4	5.18	-	-	-	-
2010-11	3	1.76	-	-	-	-
2011-12	1	0.84	1	0.84	-	-
2012-13	2	0.91	-	-	-	-
<b>Total</b>	<b>15</b>	<b>13.22</b>	<b>3</b>	<b>3.76</b>	<b>-</b>	<b>-</b>

It is a matter of concern that the Department has failed to act on any of the audit observations featured in the Audit Reports.

*It is recommended that the Department may take immediate steps to effect recovery at least in respect of the accepted cases.*

### 3.3 Results of Audit

Test check of the assessment cases and other records of three units relating to the Stamps & Registration Department<sup>2</sup> during the year 2012-13

<sup>1</sup> Includes Luxury Tax and Amusement and Betting Tax.

revealed non-realisation of stamp duty amounting to ₹ 0.53 crore in three cases. During the year, the Department failed to respond to any of the irregularities brought to its notice. No recovery in respect of any of the cases was intimated.

Two audit observations<sup>3</sup> involving ₹ 0.91 crore are mentioned in the paragraphs.

### **3.4 Non-realisation of stamp duty-District Registrar, Shillong**

#### **Non-registration of a lease agreement with the District Registrar resulted in non-realisation of stamp duty of ₹ 0.46 crore.**

Under the Indian Stamp Act, 1899, 'lease' means a lease of an immovable property and includes undertaking in writing to cultivate, occupy or pay or deliver rent for the immovable property. Clause 35(a) (v) of the Indian Stamps (Meghalaya Amendment) Act, 1993 lays down that stamp duty on lease for a term exceeding ten years but not exceeding twenty years shall be calculated at the rate of ₹ 99 per ₹ 1,000 of twice the average annual rent reserved.

It was seen from the records of the Superintendent of Taxes, Shillong in September 2013 that a lease agreement was executed between M/s Marbaniang Enterprise (lessor) and M/s Reliance Trends (lessee) in September 2011 under which the lessor transferred a commercial building measuring 22,338 square feet for a period of 12 years at a monthly lease rent of ₹ 0.15 crore, subject to an escalation of 15 *per cent* every thirty six months. Thus, the average annual lease rent for the purpose of stamp duty worked out to ₹ 2.32 crore for which stamp duty of ₹ 0.46 crore was leviable. Cross-check with the records of the District Registrar, East Khasi Hills district, Shillong, (September 2013) however, revealed that the aforesaid lease agreement was not registered, which thereby led to evasion of stamp duty of ₹ 0.46 crore.

The case was reported to the Excise, Registration, Taxation & Stamps Department, GOM in October 2013; reply was awaited (December 2013).

### **3.5 Evasion of electricity duty – ST, Jowai**

#### **Two cement manufacturing companies evaded electricity duty of ₹ 0.45 crore on which penalty not exceeding ₹ 1.80 crore was also leviable.**

Under Section 3 (i) of the Assam Electricity Duty Act, 1964 (as adopted by Meghalaya), electricity duty is payable at the rate of six paise per unit of energy generated by a person for his own use or consumption. Under Section 8 of the Act *ibid*, if any licensee generating energy for his own use evades payment of duty, he shall pay by way of penalty, a sum not

<sup>2</sup> All units under other taxes are covered during audit of Sales Tax.

<sup>3</sup> One from Stamps & Registration and one from Other Taxes.

exceeding four times the amount of duty assessed in addition to the duty payable.

The GOM through a notification in December 2010 exempted the industrial units from payment of electricity duty to the extent specified below, provided such energy is exclusively consumed for industrial production:

**Table 2**

<b>Units consumed</b>	<b>Exemption granted</b>	<b>Duty payable</b>
<b>(i) for the first 15000 units</b>	One paise per unit	Five paise per unit
<b>(ii) for the next 25000 units</b>	One and a half paise per unit	Four and a half paise per unit
<b>(iii) for the next of the units</b>	Three paise per unit	Three paise per unit

It was seen in June 2013 that two<sup>4</sup> cement manufacturing companies generated and consumed 14.89 crore units of electricity between December 2010 and March 2013 but they did not pay the admissible electricity duty. The ST however failed to initiate any action to realise duty from these companies. This resulted in non-payment of electricity duty of ₹ 44.69 lakh<sup>5</sup>. For non-payment of duty, penalty not exceeding ₹ 1.79 crore was also leviable.

The case was reported to the ERTS Department, GOM in July 2013; reply was awaited (December 2013).

<sup>4</sup> M/s Meghalaya Cement Ltd. And M/s Adhunik Cement Ltd.

<sup>5</sup>

<b>Units consumed</b>	<b>Duty payable (in ₹)</b>
1 <sup>st</sup> 15000 units	750
2 <sup>nd</sup> 25000 units	1125
Remaining 148880868 units	4466426
<b>Total</b>	<b>4468301</b>

## CHAPTER IV: STATE EXCISE

### 4.1 Tax administration

The Additional Chief Secretary, Excise, Registration, Taxation and Stamps (ERTS) Department is the head of the Excise Department at the Government level. At the Department level, the Commissioner of Excise (CE) monitors the functioning of the Department. The implementing authority at the district level is the Superintendent of Excise (SE), who is responsible for the collection of all excise duties and fees as also for the proper functioning of the bonded warehouses and distilleries. The Assam Excise Act and Rules, the Assam Distillery Rules and the Assam Bonded Warehouse Rules (adopted by Meghalaya) regulate all excise related activities including revenue collection in the State. The Excise Department is one of the highest revenue earning departments in the State, after Taxation and Mining & Geology departments.

### 4.2 Trend of receipts

Actual receipts from excise during the years 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the following table and graph.

Table 1

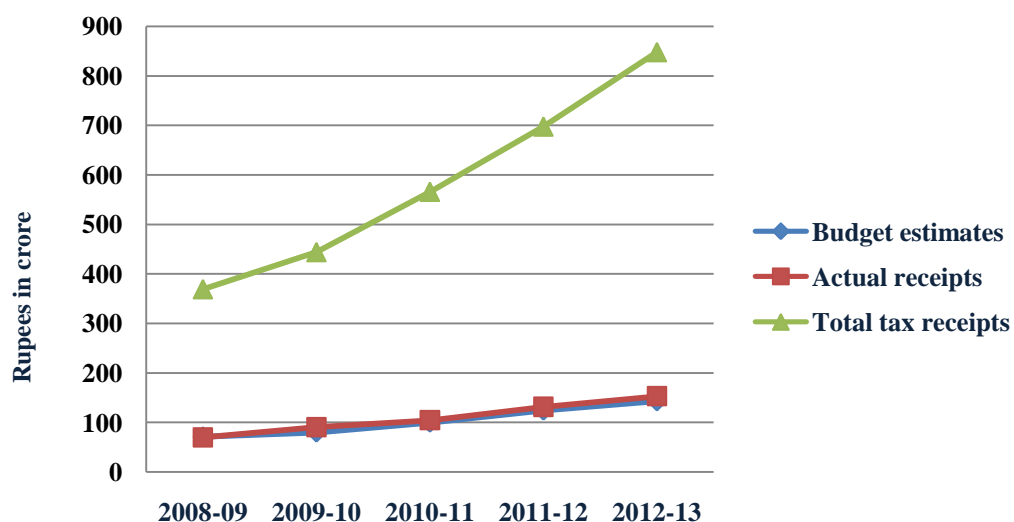
(₹ in crore)

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
2008-09	71.57	69.79	(-) 1.78	2	369.44	19
2009-10	80.15	90.29	(+) 10.14	13	444.29	20
2010-11	100.14	104.50	(+) 4.31	4	566.07	18
2011-12	124.44	131.50	(+) 7.06	6	697.54	19
2012-13	143.08	153.01	(+) 9.93	7	847.72	18

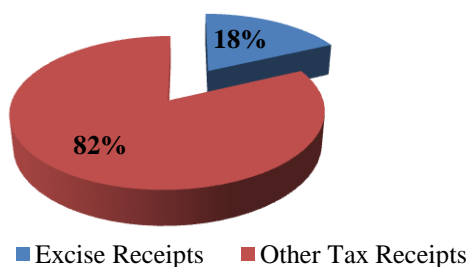
Thus, the percentage variation which was 2 per cent in 2008-09 increased to 13 per cent in 2009-10. However, it had shown correction and had gone down to 6 per cent in 2011-12 and 7 per cent in 2012-13. The variation is within limit and shows that the budget estimates were properly framed.

Excise receipts have consistently been in the range of 18-20 per cent of the total tax receipts of the State for the last five years.

A line graph of budget estimates, vis-à-vis the actual receipts and total tax receipts of the State may be seen below:



Also a pie chart showing the position of actual excise receipts *vis-à-vis* the total tax receipts during the year 2012-13 may be seen below:



### 4.3 Cost of collection

The following table shows the cost of collection of the Excise Department for the year 2012-13 and the preceding two years:

Table 2

Year	Actual revenue (₹ in crore)	Cost of collection (in crore) <sup>1</sup>	Percentage of expenditure on collection	All India average percentage of preceding years
2010-11	104.50	9.95	9.52	3.64
2011-12	131.50	10.99	8.36	3.05
2012-13	153.01	10.80	7.06	2.98

From the table, it is seen that the cost of collection (expenditure incurred on collection) of the Excise Department during the year and the preceding two years is way above the all India average cost of collection. No reason for the high cost of collection was furnished (December 2013).

***The Department needs to take urgent measures to bring down the cost of collection at least to the level of all India average.***

<sup>1</sup> Departmental figures



#### 4.4 Impact of audit reports

##### 4.4.1 Revenue impact

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation *etc.*, with revenue implication of ₹ 78.83 crore in 23 paragraphs. Of these, the Department/Government had accepted audit observations in seven paragraphs involving ₹ 69.88 crore and had since recovered ₹ 0.55 crore. The details are shown in the following table:

Table 3

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2008-09	1	68.66	1	68.59	1	0.16
2009-10	8	4.82	2	0.39	2	0.12
2010-11	4	0.99	-	-	-	-
2011-12	4	0.90	4	0.90	2	0.27
2012-13	6	3.46	-	-	-	-
<b>Total</b>	<b>23</b>	<b>78.83</b>	<b>7</b>	<b>69.88</b>	<b>5</b>	<b>0.55</b>

Thus, against the accepted cases involving ₹ 69.88 crore, the Department/Government has recovered an amount of ₹ 0.55 crore which is 0.79 per cent of accepted amount.

*The Department needs to revamp its revenue recovery mechanism to ensure that they could at least recover the amount involved in the accepted cases.*

#### 4.5 Results of Audit

Test-check of the assessment cases and other records of seven units relating to the Excise Department during the year 2012-13 revealed non-realisation of duties, fees *etc.*, amounting to ₹ 4.83 crore in 23 cases, which can be categorised as under:

Table 4

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Short/Non-realisation of fees/duties etc.	19	3.31
2.	Loss of revenue	2	1.52
3.	Other irregularities	2	-- <sup>2</sup>
	<b>Total</b>	<b>23</b>	<b>4.83</b>

During the year, the Department failed to respond to any of the irregularities brought to their notice.

A few illustrative audit observations involving ₹ 3.46 crore are mentioned in the paragraphs 4.6 to 4.11.

<sup>2</sup> Non money value paragraphs

**4.6 Evasion of excise duty – SE<sup>3</sup>, Nongpoh**

**Three bottling plants concealed 117151 BL of ENA and evaded excise duty payment of ₹ 1.51 crore.**

In a bottling plant, Extra Neutral Alcohol (ENA) is reduced to 75 per cent proof by adding water. Colour and flavour is then added to the product to get the liquor. The standard norm<sup>4</sup> of conversion of ENA per case of liquor is as under:

**Table 5**

Size (in millilitres)	Requirement of ENA in Bulk Litres (BL)
180 ml	3.84 (BL)
375 ml	4.00 (BL)
750 ml	

In Meghalaya excise duty on General Brand of liquor is ₹ 514 per case of 12 bottles of 750 ml or equivalent quantity.

Three bottling plants<sup>5</sup> received 46,49,221 BL of ENA from outside the State between April 2011 and March 2012. The bottling plants utilised<sup>6</sup> 46,77,051 BL of ENA for production of 7,44,452 cases of liquor containing 750 ml/375 ml. and 4,12,003 cases of liquor containing 180 ml bottles during the aforesaid period. As per standard norms, 45,59,900 BL of liquor instead of 46,77,051 BL was required to produce the above quantity of liquor. Thus, the bottling plants concealed 1,17,151 BL of ENA from which 29,288 cases of liquor of 375 ml/750 ml bottles<sup>7</sup> can be manufactured. Thus, failure of the SE<sup>8</sup> to properly monitor the functioning of the bottling plants led to evasion of excise duty of ₹ 1.51 crore.

The case was reported to the ERTS Department, GOM in November 2012; reply was awaited (December 2013).

**4.7 Short-realisation of import pass fee – ACE<sup>9</sup>, Shillong and SEs, Khliehriat and Tura**

**Violation of a Government order led to short realisation of import pass fee of ₹ 24.01 lakh.**

Rule 370 of the Meghalaya Excise (Amendment) Rules, 1995 provides for imposition of import pass fee at prescribed rate<sup>10</sup> per BL. However, on 16

<sup>3</sup> Superintendent of Excise

<sup>4</sup> Based on information provided by three bottling plants in the State in response to an Audit query.

<sup>5</sup> (i) M/s Milestone Beverages (ii) M/s Marwet Bottling Plant (iii) M/s North Eastern Bottling

<sup>6</sup> ENA utilised = O/s + receipt – C/s  
= 281638 BL + 4649221 BL – 253808 BL = 4677051 BL

<sup>7</sup> Loss worked out for 375 ml/750 ml bottles only as they have the same excise duty.

<sup>8</sup> Shri W.B. Syiem held the charge of the SE during the period.

<sup>9</sup> Assistant Commissioner of Excise.

March 2007, the ERTS Department, GOM notified imposition of import pass fee on 'per case' basis instead of 'per BL' basis as under:

- (i) ₹ 54 per case of India Made Foreign Liquor (IMFL) bottled within the State.
- (ii) ₹ 108 per case of IMFL brought from outside the State.

Scrutiny of records revealed that the ACE, Shillong and the SEs, Khliehriat and Tura ignored the aforesaid Government notification and realised import pass fee on BL basis instead of per case basis. For cases containing 750 ml and 375 ml bottles there was no short realisation<sup>11</sup> as each case of IMFL contained 9 BL. But in respect of cases containing 180 ml bottles, each case contains 8.64 BL. As such, levy of import pass fee on per BL basis resulted in short realisation of import pass fee on 0.36 BL amounting to ₹ 2.16 per case of 180 ml bottles bottled within the State and ₹ 4.32 per case brought outside the State. Between April 2009 and March 2013, fourteen bonded warehouses imported 13,55,478 cases of IMFL bottled within the State and 6,16,734 cases of IMFL bottled outside the State on which ₹ 13.98 crore was actually leviable in the wake of the Government notification of 2007. But violation of the notification by the ACE<sup>12</sup> and the SEs<sup>13</sup> led to realisation of ₹ 13.74 crore as import pass fee thereby resulting in short realisation of import pass fee ₹ 24.01 lakh.

The cases were reported to the ERTS Department, GOM between January and May 2013; reply was awaited (December 2013).

#### **4.8 Short-realisation of licence fee – CE, Meghalaya**

**There was short-realisation of licence fees amounting to ₹ 12.70 lakh from 4 bottling plants and 12 bonded warehouses**

Rule 243, 244 and 252 of the Meghalaya Excise Rules provides for payment of annual licence fee for bottling plants and bonded warehouses in advance at the rates prescribed from time to time for renewal of licences. The validity period of licences is from April of a year to March of the next year. The bottling plants are required to renew their licences on advance payment of bottling fee, compounding and blending fee and bonded warehouse fee. The ERTS Department, GOM with effect from 15

<sup>10</sup> ₹ 6 per case for IMFL bottled within the State and ₹ 12 per case for IMFL bottled outside the State.

<sup>11</sup> 1 case of 750 ml bottles = 12 X 750 ml = 9000 ml = 9 BL. Import pass fee payable is ₹54/₹108 per case. Import pass fee collected is ₹6 X 9/₹12 X 9 = ₹54/₹108. Similarly for case containing 375 ml bottles

<sup>12</sup> Shri R.K. Rai and Shri W.B. Syiem held the charge of the ACE during the period

<sup>13</sup> Shri R.K. Rabha held the charge of SE, Khliehriat and Shri A.G. Marak held the charge of SE, Tura during the period.

June 2012 revised the annual fee for renewal of licence of bottling plants<sup>14</sup> and bonded warehouses as under:

**Table 6**

Sl. No.	Type of fee	Existing (₹)	Revised (₹)
I	Bottling plant fee	130000	170000
II	Compounding and blending fee	130000	170000
III	Bonded warehouse fee	150000	200000
<b>Total</b>		<b>410000</b>	<b>540000</b>

Out of seven bottling plants in the State, it was noticed that four bottling plants<sup>15</sup> paid annual fee for renewal of licences for the year 2012-13 at the existing rate of ₹ 4.10 lakh instead of ₹ 5.40 lakh at the revised rate. Further, one bottling plant<sup>16</sup> paid ₹ 0.20 lakh less than even the existing rate. Similarly, out of 34 bonded warehouses in the State, 12 bonded warehouses paid the licence fee at the existing rate of ₹ 1.50 lakh instead of ₹ 2 lakh at the revised rate for the year 2012-13. Despite the bottling plants and the bonded warehouses not paying the revised fees as fixed by the GOM, no action was taken by the CE<sup>17</sup> to realise the balance amount thereby resulting in short realisation of renewal fee of ₹ 12.70 lakh.

The case was reported to ERTS Department, GOM in May 2013; reply was awaited (December 2013).

#### **4.9 Non-renewal of brand names – CE, Meghalaya**

**Twelve distilleries failed to register the brand names of 46 brands leading to non-realisation of revenue of ₹ 64.70 lakh.**

As per Rule 363 (1) of the Meghalaya Excise Rules, no person can sell IMFL, beer and Bottled-in-Origin products in the State unless the brand name and the label of that product are registered with the CE. The registration is valid upto 31 March of the next year after which it may be renewed on payment of prescribed fees. The ERTS Department, GOM on 15 June 2012 notified revised fees for registration of IMFL brands from ₹ 45,000 to ₹ 60,000 and beer from ₹ 22,000 to ₹ 35,000.

Audit observed that the registration of 46 brands of IMFL and beer manufactured by 12 distilleries<sup>18</sup> in the State were not renewed for the period from 2012-13 to 2013-14 although the distilleries were required to

<sup>14</sup> The bottling plants have to pay all the three types of fees

<sup>15</sup> M/s North East Bottling Plant, M/s milestone Beverages, M/s MDH Beverages, M/s Marwett Bottling Plant

<sup>16</sup> M/s CMJ Brewery

<sup>17</sup> Smti R.D. Marak held the charge of the CE, Meghalaya during the period.

<sup>18</sup> (1) Radiant Manufacturer (2) Carlsberg India Ltd., Rajasthan (3) Carlsberg India Ltd., New Delhi (4) Mohan Meakins Ltd., Shillong (5) United Spirit, Guwahati (6) Bean Global Spirit and Wine (7) Jagatjit Industries (8) Diageo India Ltd. (9) John Distilleries (10) United Brewery, Bangalore (11) Nashik Vintners, Mumbai (12) Khoday Industries.

apply for re-registration of the brand names before the last day of the preceding year. The CE also neither issued demand notice to the distilleries nor cancelled the brand names in order to prevent their import and sale within the State. Thus, lack of timely action by the CE resulted in non-realisation of revenue of ₹ 64.70 lakh as registration fees. Besides, there is a risk of unregistered products being sold in the State in violation of the provisions of the Excise rules.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013).

#### **4.10 Non-realisation of security deposit – CE, Meghalaya**

##### **Ten companies failed to pay security deposit amounting to ₹ 14.50 lakh.**

Under Rule 246 of the Meghalaya Excise Rules, a security in the form of ‘Call Deposit’ valid for 5 years (to be pledged in favour of the CE, Meghalaya) was to be furnished by all companies manufacturing IMFL, wine and beer as a guarantee for due observance of the terms and conditions of the licence and prompt payment of licence fees. The ERTS Department, GOM on 3 July 2009 in exercise of the powers conferred under the rule *ibid* fixed the security deposit for companies as under:

Table 7

Particulars	IMFL	Beer
Companies selling more than 50,000 cases per year	₹ 7,50,000	₹ 4,00,000
Companies selling less than 50,000 cases per year	₹ 2,50,000	₹ 2,00,000
	Wine	Bottled In Origin
Companies selling above 5,000 cases per year	₹ 2,00,000	₹ 1,00,000
Companies selling below 5,000 cases per year	₹ 1,00,000	₹ 50,000

Three companies<sup>19</sup> manufacturing beer, six companies<sup>20</sup> manufacturing wine and one company<sup>21</sup> manufacturing IMFL had not paid the security deposit amounting to ₹ 14.50 lakh<sup>22</sup>. The CE however, did not issue any demand notice to these defaulters for payment of security deposit which led to non-realisation of security deposit and was fraught with the risk of

<sup>19</sup> (1) Privilege Industries (2) CMJ Breweries (3) Crown Beers India (P) Ltd.

<sup>20</sup> (1) John Distillers Pvt. Ltd. (2) Sonary's Co-Brand Pvt. Ltd. (3) Vallee De Vin Pvt. Ltd. (4) Bluestar Agro and Winery (India) Pvt. Ltd. (5) Associate Wines Pvt. Ltd. (6) Terrior India Winery Pvt. Ltd.

<sup>21</sup> Sikkim Distilleries

<sup>22</sup> 3 beer companies X ₹ 200000 + 6 wine companies X ₹ 100000 + 1 IMFL company X ₹ 250000 = ₹ 1450000

In the absence of information pertaining to the number of cases sold, minimum fixed rate was taken.

loss of revenue in case of default in future payment of licence fee or violation of the other provisions of the Excise Act by any of these companies.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013).

#### **4.11 Irregular cancellation of IMFL retail licences**

**Seventeen licences were irregularly cancelled by the ERTS Department without realisation of the arrear licence fees resulting in loss of revenue amounting to ₹ 78.44 lakh.**

The Meghalaya Excise Act and Rules made there under stipulate that:

- all foreign liquor licences shall be renewed annually by the Commissioner of Excise on payment of prescribed renewal fee in advance. [Rule 273 ]
- if any fee or duty payable by the holder has not been paid, the licence granted may be cancelled. [Section 29 ]
- arrears of revenue may be recovered from defaulters from their security, if any or by distress and sale of their movable property or as arrears of land revenue. [Section 35 ]

Eleven retail licensees<sup>23</sup> in West Khasi Hills and six<sup>24</sup> in East Jaintia Hills districts did not renew their licences for different periods between 1990-91 and 2011-12 and were therefore liable to pay renewal fee of ₹ 78.44 lakh. The SE, West Khasi Hills on June 2010 forwarded the list of 11 defaulters to the CE for cancellation with effect from the date of default in payment of licence fees while the SE, Khliehriat (East Jaintia Hills) neither forwarded the list of defaulting licencees to the CE for cancellation nor made any effort to recover the arrear dues by selling the movable properties of the defaulters and left the cases unattended. In respect of West Khasi Hills, the licences were irregularly cancelled by the ERTS Department on 1 December 2011 with retrospective effect, thereby exempting the defaulters from payment of arrear dues. However, in case of East Jaintia Hills, the Department while cancelling the licences on 26 March 2012 (based on the information it obtained from the Deputy Commissioner of the district) directed the CE to fix responsibility on the concerned officer(s) for allowing the retail shops to run without payment of licence fee and also realise the licence fees as arrears of land revenue. Thus, the action of the Department in these cases with regard to the

<sup>23</sup> (i) M. Thongni (ii) G. Hashah (iii) K. Rongrin (iv) R.R. Nongsiej (v) Pherod Lyngdoh Mawlong (vi) D. Riangshiang (vii) Pynshait Sumer (viii) A. Puwein (ix) J. Mukhim (x) Banisha Sten (xi) Silda Rashir.

<sup>24</sup> (i) Rally Tariang (ii) Charly Langstang (iii) Philip Sympli (iv) Batskhem Dkhar (v) Vicky Slong (vi) Kyrshan Sympli.

cancellation of licences lacked consistency and was illogical as it did not take action against the defaulters of West Khasi Hills while on the other side, it penalised the defaulters of East Jaintia Hills for the same offence.

However, no action was initiated by the CE either to fix responsibility for the lapse in case of SE, Khliehriat or to realise the dues as arrears of land revenue in both the cases. Thus, the irregular action of the ERTS Department coupled by the failure of the CE<sup>25</sup> and his officers in timely cancellation of defaulting licencees resulted in loss of revenue to the tune of ₹ 78.44 lakh.

The cases were reported to the ERTS Department, GOM in January and May 2013; reply was awaited (December 2013).

<sup>25</sup> Smti R.D. Marak held the charge of the CE during the period.

## CHAPTER-V: MOTOR VEHICLE RECEIPTS

### 5.1 Tax administration

The Principal Secretary, Transport Department is the head of the Department at the Government level. At the Department level, the Commissioner of Transport (CT) is the administrative in-charge and is responsible for overseeing the functioning of various wings of the Department. The Deputy Commissioner of Transport, who is also the ex-officio Secretary, State Transport Authority (STA), assists him. At the district level, the District Transport Officer (DTO), who is also the Secretary, Regional Transport Authority (RTA) is responsible for collection of receipts under the provisions of the various acts and rules. The administration of the Department and collection of receipts are regulated by the Motor Vehicles (MV) Act, 1988 and the Assam Motor Vehicles Taxation (AMVT) Act, 1936 (as adopted by the Government of Meghalaya) and various rules made there-under. In addition, the Department has an Enforcement Branch (EB) headed by a DTO, for enforcement of the rules in force.

### 5.2 Trend of receipts

Actual receipts of the Transport Department during the years 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table and graph.

Table 1

(₹ in crore)

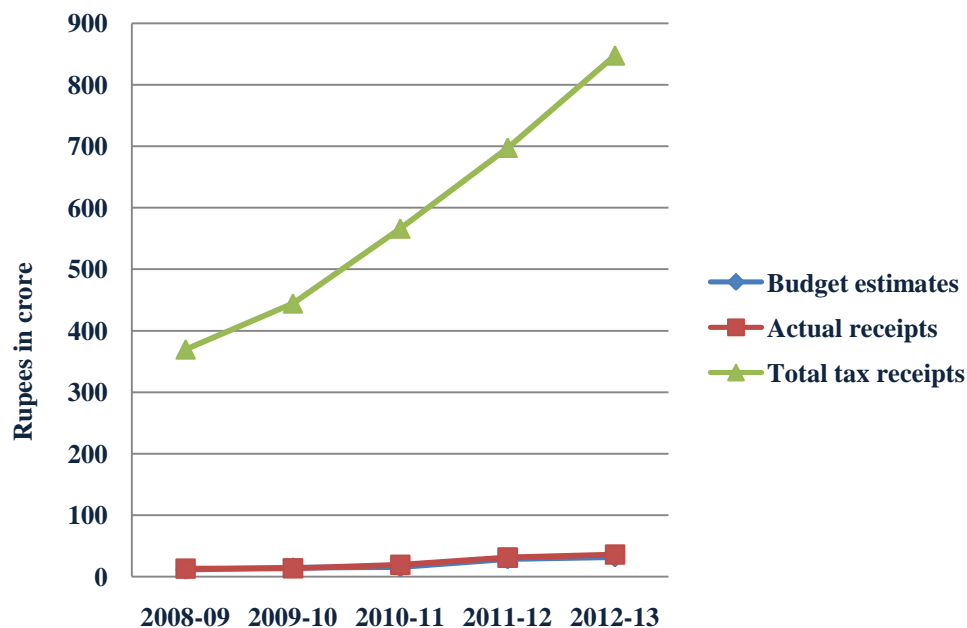
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	11.62	13.21	(+) 1.59	14	369.44	4
2009-10	14.48	13.61	(-) 0.87	6	444.29	3
2010-11	15.64	19.19	(+) 3.55	23	566.07	3
2011-12	28.59	31.12	(+) 2.53	9	697.54	4
2012-13	31.62	35.82	(+) 4.20	13	847.72	4

The percentage variation which was 14 *per cent* in 2008-09 decreased to 6 *per cent* in 2009-10 before increasing to the level of 23 *per cent* in 2010-11. After that it abruptly went down to 9 *per cent* in 2011-12 and then increased to 13 *per cent* in 2012-13.

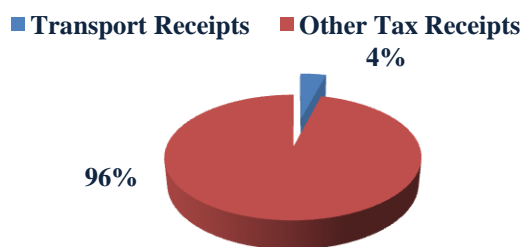
Motor vehicles receipts have consistently formed about 3-4 *per cent* of the total tax receipts of the State during the period 2008-09 to 2012-13.

A line graph of budget estimates, *vis-à-vis* the actual receipts and total tax receipts of the State may be seen below:





Also a pie chart showing the position of actual transport receipts *vis-à-vis* the total tax receipts during the year 2012-13 may be seen below:



### 5.3 Cost of collection

The cost of collection (expenditure incurred on collection) of the Transport Department during the year and the preceding two years is shown below:

Table 2 (₹ in crore)

Year	Actual revenue	Cost of collection	Percentage of expenditure on collection	All India average percentage of preceding year
2010-11	19.19	3.55 <sup>1</sup>	18.50	3.07
2011-12	31.12	5.83	18.73	3.71
2012-13	35.82	4.88	13.62	2.96

Thus, the cost of collection during all the three years remained well above the all India average percentage.

*The Department needs to take appropriate measures to bring down the cost of collection at least to the level of all India average.*

<sup>1</sup> Departmental figures

#### 5.4 Impact of audit reports

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation of taxes, fees and fines, loss of revenue *etc.*, with revenue implication of ₹ 882.94 crore in 30 paragraphs. Of these, the Department/Government had accepted audit observations in six paragraphs involving ₹ 278.24 crore. The details are shown in the following table:

Table 3

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2008-09	7	272.69	3	272.33	-	--
2009-10	8	397.97	1	0.21	-	--
2010-11	6	1.95	-	-	-	-
2011-12	4	120.19	-	-	-	-
2012-13	5	90.14	2	5.70	-	-
<b>Total</b>	<b>30</b>	<b>882.94</b>	<b>6</b>	<b>278.24</b>	<b>-</b>	<b>-</b>

However, against the accepted cases involving an amount of ₹ 278.24 crore, the Department failed to make any recovery which is a matter of concern.

*It is recommended that the department needs to revamp its revenue recovery mechanism to ensure that they could recover at least the amount involved in the accepted cases.*

#### 5.5 Results of audit

Test check of the combined registers and other records of seven units relating to the Transport Department during the year 2012-13 revealed non-realisation of taxes, fees and fines *etc.*, amounting to ₹ 31.98 crore in 43 cases, which can be categorised as under:

Table 4

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Short realisation/non-realisation of revenue	22	6.64
2.	Loss of revenue	13	3.32
3.	Other irregularities	8	22.02
<b>Total</b>		<b>43</b>	<b>31.98</b>

During the course of the year, the Department accepted one case amounting to ₹ 0.04 crore. No recovery in respect of any of the cases was intimated.

A few illustrative audit observations involving ₹ 47.24 crore are mentioned in the paragraphs 5.6 to 5.10.

**5.6 Loss of revenue due to non-renewal of licences – CT, Meghalaya**

**Non-renewal of leases of five weighbridges resulted in loss of revenue of ₹ 1.17 crore.**

In Meghalaya, private parties are allowed to operate weighbridges on behalf of the Transport Department (TD) on payment of a lumpsum annual amount to the GOM as agreed upon. Accordingly nine<sup>2</sup> private parties were granted licences to operate nine weighbridges on payment of annual lease ranging between ₹ 2.50 lakh and ₹ 75 lakh.

In a meeting held on 02 June 2010 under the chairmanship of the Chief Minister, it was decided to set up an integrated checkpost at the exit point of National Highway (NH)<sup>3</sup> 62. Consequently, all existing weighbridges on NH 62 were allowed to operate till the term of their current leases and thereafter, no further extension was to be given. Out of the nine weighbridges, only one was located on NH 62.

Though the leases of all the nine weighbridges expired on various dates between 2009-10 and 2011-12 it was seen that:

- one lessee<sup>4</sup> continued to operate the weighbridges on the strength of Gauhati High Court order although the application for renewal had been rejected by the TD;
- two<sup>5</sup> lessees did not apply for renewal;
- one incomplete application had been returned by the CT in January 2011 to the lessee<sup>6</sup> for rectification and;
- the TD declined to renew the remaining five<sup>7</sup> applications citing the decision taken in the meeting on 02 June 2010.

It was observed that none of the five weighbridges were situated on NH 62. Thus, the decision of the TD to not renew the leases of these five weighbridges in view of decision taken in the meeting of June 2010 was erroneous and caused a revenue loss of ₹ one crore<sup>8</sup> to the State exchequer as of April 2013.

Mention was made in Para 4.7 of the Audit Report for the year ended 31 March 2012 regarding loss of revenue of ₹ 1.10 crore due to non-renewal of licences.

<sup>2</sup> Details of the weighbridges in **Annexure-I**.

<sup>3</sup> NH from Dalu (South Garo Hills District in Meghalaya) to Damra (Goalpara district in Assam)

<sup>4</sup> Umling weighbridge located on NH 44, RiBhoi district.

<sup>5</sup> Shallang weighbridge located on PWD Road, West Khasi Hills district and Athiabari weighbridge on PWD Road.

<sup>6</sup> For Dobu weighbridge on NH 62, East Garo Hills district.

<sup>7</sup> Gasuapara – on PWD Road in South Garo Hills, Borsora, and Mawpun on PWD road in West Khasi Hills and Thangskai and 7<sup>th</sup> Mile on NH 40 in Jaintia Hills.

<sup>8</sup> Details in **Annexure – II**.

Despite this, the TD failed to take corrective action and renew the leases as a result of which, there was a further loss of revenue of ₹ one crore.

As of August 2013, the integrated check post on NH 62 was also yet to be set up and thus due to non-renewal of lease of the weighbridge located on NH 62, there was an additional loss of revenue of ₹ 0.17 crore.

The case was reported to the TD, GOM in June 2013; reply was awaited (December 2013).

### 5.7 Loss of revenue – DTOs, Nongpoh, Jowai, Tura and Shillong

#### Loss of revenue of ₹ 5.39 crore due to non recovery of arrears of road tax from 5442 vehicles owners.

Under Section 5 of the Assam Motor Vehicles Taxation (AMVT) Act, 1936 (as adopted by Meghalaya) and Rules made there under, every owner of a registered vehicle has to pay road tax in advance either annually before 15 April every year or quarterly in four equal instalments<sup>9</sup> in April, July, October and January. In cases where vehicle owners fail to pay tax, demand notices are to be issued promptly directing the defaulters to clear the arrear tax within a period of 15 days from the date of receipt of the said notice failing which the following actions would be initiated as per the provisions of both the Motor Vehicles (MV) Act, 1988 and the AMVT Act:

- Suspension of certificate of registration (Section 53 of the MV Act).
- Recovery of tax through the Deputy Commissioner as arrears of land revenue (Section 16 of the AMVT Act).
- Seizure and detention of vehicle until the entire tax is paid (Section 207 of the MV Act).

Audit noticed based on the combined registers produced by the DTOs that road tax amounting to ₹ 5.39 crore was due from 5442 vehicles<sup>10</sup> covering various periods between April 1989 and December 2012. Out of which, DTO, Tura did not issue demand notices to any of the vehicle owners till date (August 2013) while DTOs,

<sup>9</sup> On or before 15<sup>th</sup> of each of these four months.

<sup>10</sup>

Name of the DTO	No. of vehicles	Road tax (₹ in crore)
Shillong	4217	1.97
Tura	298	0.94
Jowai	484	2.04
Nongpoh	443	0.44
<b>Total</b>	<b>5442</b>	<b>5.39</b>

Shillong, Jowai and Nongpoh issued demand notices for ₹ 1.97 crore to only 760 out of 5,144 vehicle owners (15 *per cent*) between June 2011 and June 2012. However, 30 notices involving an amount of ₹ 10.32 lakh were returned back by the post offices as the addressees were untraceable and the notices issued to the remaining 730 vehicles for recovery of road tax of ₹ 1.87 crore did not evoke any response.

For non-payment of road tax, the DTOs neither suspended registration certificates of any vehicles, nor detained any defaulting vehicles or referred the cases to the Deputy Commissioners for recovery of road tax as arrears of land revenue. In a situation where the DTOs continued to fail to take adequate actions under the MV Act/AMVT Act, the recovery of arrear tax amounting to ₹ 5.39 crore appears to be remote thereby resulting in loss to the exchequer to that extent.

On this being pointed out (October 2012 to June 2013), the DTOs while accepting the audit observation (November 2012 to August 2013) agreed to take action by referring the cases to the Deputy Commissioner to recover the tax as arrears of land revenue. Further report was awaited (December 2013).

#### **5.8 Loss of revenue – CT, Meghalaya**

#### **Loss of revenue of ₹ 35.64 lakh and resultant non-levy of penalty of ₹ 18.13 crore due to non-coverage of vehicles for emission testing.**

In order to control air pollution due to emissions from vehicles, the State Government entrusted (February 1992) the responsibility for checking vehicular exhaust emission to the Transport Department.

As per Section 56 of the MV Act, 1988, it is mandatory for all vehicles to obtain a fitness certificate, which is to be renewed after two years, only after conducting certain tests including exhaust emission tests for obtaining a pollution control certificate. Further under Rule 116 (7) of the Central Motor Vehicle Rules, 1989 every vehicle shall carry a valid Pollution Under Control (PUC) certificate after expiry of one year from the date of first registration. The PUC certificate is valid for a period of six months. Section 190 (2) of the Act *ibid* provides that any person who drives in any public place, a motor vehicle without pollution control certificate which shall be punishable for the first offence with a fine of one thousand rupees and for any subsequent offence with a fine of two thousand rupees. Accordingly, for the purpose of checking and detecting the vehicles which are plying on the roads beyond the permissible limit of smoke emission, the Government of Meghalaya (GOM) formulated Rules to establish private Auto Emission Testing Stations (AETS). This was also to act as a preventive measure against the vehicles which were causing hazard to the public and polluting the environment. The Transport Department was to issue licences to these AETS for a

period of one year on payment of ₹ 5000 and on expiry, it was renewable<sup>11</sup> every year up to a period of five years on payment of ₹ 2500 per year. The AETS were required to issue test reports as well as PUC certificates<sup>12</sup> to the vehicles tested for smoke emission and carbon monoxide levels. For this purpose, the AETS realised testing fees<sup>13</sup> varying from ₹ 15 to ₹ 70 per vehicle depending on the type of vehicle, out of which, Government dues varied from ₹ 5 to ₹ 20 per vehicle.

Between 2004-05 and 2009-10, the TD issued 17 licences in favour of private parties covering seven districts of the State for setting up of AETS. After expiry of these licences on different periods between April 2007 and March 2011 no further renewal was granted. As such, no AETS was operating in the State for auto emission testing for periods<sup>14</sup> ranging between 25 months (Jaintia Hills District) to 72 months (West Garo Hills District).

Out of the 17 licencees<sup>15</sup>:

- Six did not apply for renewal.
- One licence was cancelled.
- Ten licencees applied for renewal but there was delay on the part of the CT in forwarding the same to TD, GOM for approval. Even the belatedly forwarded applications were pending with the TD due to non-receipt of No Objection Certificates from the District administration or non-review of performance of existing licences.

A new application was received (September 2010) for establishing an AETS at Williamnagar, West Garo Hills District and though it was found eligible (July 2012), licence was yet to be issued pending approval of the GOM (December 2013).

During the period from 2006-07 to 2011-12, the status of total number of vehicles registered under all the seven District Transport Officers (DTOs)<sup>16</sup> *vis-à-vis* vehicles tested for emission is given below:

<sup>11</sup>Submission of application one month prior to date of expiry of licence.

<sup>12</sup> For a period of six months.

<sup>13</sup> ₹ 10 to ₹ 50 and ₹ 5 to ₹ 20 towards AETS commission and Government dues respectively.

<sup>14</sup> Ranging from 30 months to 31 months in case of four licencees in East Garo Hills District, 30 months in 50 months in case of three licencees in South Garo Hills District, 31 months to 72 months in case of two licencees in West Garo Hills District, 26 months to 28 months in case of four licencees in East Khasi Hills District, 26 months to 52 months in case of two licencees in West Khasi Hills District, 25 months in case of one licencee in Jaintia Hills District and 26 months in case of one licencee in Ri-Bhoi District.

<sup>15</sup> Details in **Annexure 5.3**.

<sup>16</sup> (1). East Khasi Hills, Shillong;(2). Jaintia Hills, Jowai; (3). Bi Bhoi District, Nongpoh; (4). West Khasi Hills, Nongstoin; (5). West Garo Hills, Tura; (6). East Garo Hills, Williamnagar; (7). South Garo Hills, Bagmara.

**Table 5**

Year	Total number of registered vehicles at the beginning of the year	Total number of vehicles tested during the year	Vehicles not tested	Percentage of vehicles tested
2006-07	22317	4738	17579	21.23
2007-08	21408	6646	14762	31.04
2008-09	25250	10019	15231	39.67
2009-10	28838	9110	19728	31.59
2010-11	36177	1178	34999	3.25
2011-12	47297	0	47297	0

It can be seen that during 2006-07 the percentage of vehicles tested for emission testing was 21.23 per cent while it was 3.25 per cent in 2010-11. In 2011-12 no vehicles were tested due to discontinuance of operation of AETS in the State. As a result of non-coverage of vehicles for emission testing, there was loss of revenue amounting to ₹ 35.64 lakh to the State Government as shown below besides failure to control air pollution due to emissions from vehicles.

**Table 6**

Year	Registered vehicles (no.)	Realisable Govt. dues per annum (₹)	Govt. dues paid by AETS (₹)	Shortfall in revenue (₹)
2006-07	22317	489387	63290	426097
2007-08	21408	474832	76805	398027
2008-09	25250	564750	113045	451705
2009-10	28838	665466	118424	547042
2010-11	36177	784330	16000	768330
2011-12	47297	973220	--	973220
<b>Total</b>	<b>181287</b>	<b>3951985</b>	<b>387564</b>	<b>3564421</b>

In addition, penalty of ₹ 14.97 crore was not levied on the vehicles plying without valid PUC certificates. There was also an additional loss of ₹ 0.81 lakh due to non-renewal of the licences<sup>17</sup> of the AETS.

The case was reported to the TD, GOM in June 2013; reply was awaited (December 2013).

**5.9 Non-levy of fine for non-renewal of permits-DTOs, Shillong, Tura, Jowai, Nongpoh and STA, Meghalaya**

**Fine amounting to ₹ 31.28 lakh was not levied against 1564 vehicles owners who had not renewed their permits after expiry of validity period.**

Under Section 81 (1) and (2) of the MV Act, 1988, the validity of a commercial permit to passenger vehicles is for five years and may be renewed on an application made not less than 15 days before the date of expiry of the permit. Plying of vehicles without a valid permit attracts the provision of Section 192 A of

<sup>17</sup> The annual fees for new registration is ₹ 5000 and for renewal is ₹ 2500 per annum.

the Act, under which a minimum penalty of ₹ 2,000 shall be levied. Further, as per Section 66 of the Act *ibid*, no owner of a motor vehicle shall use his vehicle as a transport vehicle in any public place without a valid permit whether or not such vehicle is actually carrying any passenger or not.

It was noticed that 1564 vehicles<sup>18</sup> did not renew their permits for various periods between August 2003 and December 2012. For non-renewal of permits after expiry of validity period, penalty of ₹ 31.28 lakh as stipulated in Section 192A was leviable but not levied. Thus, inaction on the part of DTOs and the STA led to non-realisation of penalty of ₹ 31.28 lakh.

On this being pointed out (October 2012 to June 2013), the DTOs while accepting the observations as correct (November 2012 to August 2013), stated that penal action would be taken against defaulters who had not renewed their permits. Further reply was awaited (August 2013). No reply was received from the STA, Meghalaya (December 2013).

#### **5.10 Non-realisation of fine on excess load – CT, Meghalaya**

#### **Three TD check posts failed to detect overloading of 218752 MT of coal leading to non-realisation of fine of ₹ 21.88 crore.**

Under Section 194 (1) of the MV Act, 1988 any transport vehicle carrying load in excess of the permissible limit is punishable with a minimum fine of ₹ 2,000 plus an additional fine of ₹ 1,000 per MT of excess load together with the liability to pay charge for off-loading the excess load. In pursuance of the Supreme Court order dated 9 November 2005, the Government of Meghalaya belatedly issued a notification in July 2011 prohibiting the entry and plying of vehicles carrying coal within the state on the national and the state highways beyond 9 MT. It was the primary responsibility of the TD check posts to detect and penalize vehicles carrying coal in excess of permissible limit of 9 MT.

Information obtained from the Mining & Geology Department's check posts at Mookyndur (Jaintia Hills district), Athiabari (West Khasi Hills district) and Umling (Ri Bhoi district) revealed that 3,15,920 trucks carrying a total of 30,62,032 MT of coal passed through these check posts for the period between April 2012 and March 2013 out of which 2,18,752 MT<sup>19</sup> of coal was carried in excess of the permissible limit. Though the TD had check posts in all the above

<sup>18</sup> DTO, Shillong: 526 vehicles; DTO, Tura: 180 vehicles; DTO, Jowai: 203 vehicles, DTO, Nongpoh: 436 vehicles and STA, Meghalaya: 219 vehicles

<sup>19</sup> Total load: 3062032 MT  
Permissible load: 2843280 MT (@ 9 MT per truck)  
Excess load: 218752 MT



locations, it failed to detect the overloading as a result of which, fine amounting to ₹ 21.88 crore<sup>20</sup> could not be realised.

Since the Government notification of July 2011 read with the Supreme Court order of November 2005 unambiguously prohibits entry and plying of vehicles carrying coal in excess of 9 MT per truck, the failure of the TD check posts to detect overloading is a clear dereliction of duty for which responsibility against the concerned officials of the check posts must be fixed as it not only resulted in plying of overloaded vehicles but also caused a loss to the State exchequer.

The case was reported to the TD, GOM in June 2012; reply was awaited (December 2013).

<sup>20</sup> Since the actual number of trucks carrying excess coal is not available, fine at ₹ 2000 per truck has not been calculated. Only the additional fine at ₹ 1000 per MT of excess load has been taken into account

## CHAPTER VI: FOREST RECEIPTS

### 6.1 Tax administration

The Principal Secretary, Forest and Environment Department is the head of the Forest Department at the Government level. At the Department level, the Principal Chief Conservator of Forests (PCCF) monitors the overall implementation of forest related projects including forest receipts. The implementing authorities at the district level are the Divisional Forest Officers (DFO). All forest related activities including revenue collection are regulated by the Meghalaya Forest Regulation (Application and Amendment) Act, 1973, the Assam Settlement of Forest Coupes<sup>1</sup> and *Mahals*<sup>2</sup> by Tender System Rules, 1967 (as adopted), the Meghalaya Forest (Ejection of Unauthorised Person) Rules, the Meghalaya Tree (Preservation) Act, 1976 and the Meghalaya Removal of Timber Regulation Act, 1981 and various Rules made there-under.

### 6.2 Trend of receipts

Actual receipts from Forest Department during the years 2008-09 to 2012-13 along with the total non-tax receipts during the same period is exhibited in the following table and graph.

Table 1

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non tax receipts
2008-09	19.27	17.36	(-) 1.91	10	225.31	8
2009-10	20.35	20.03	(-) 0.32	2	275.09	7
2010-11	22.77	22.05	(-) 0.72	3	301.69	7
2011-12	25.05	26.03	(+) 0.98	4	368.24	7
2012-13	27.56	30.87	(+) 3.31	12	484.94	6

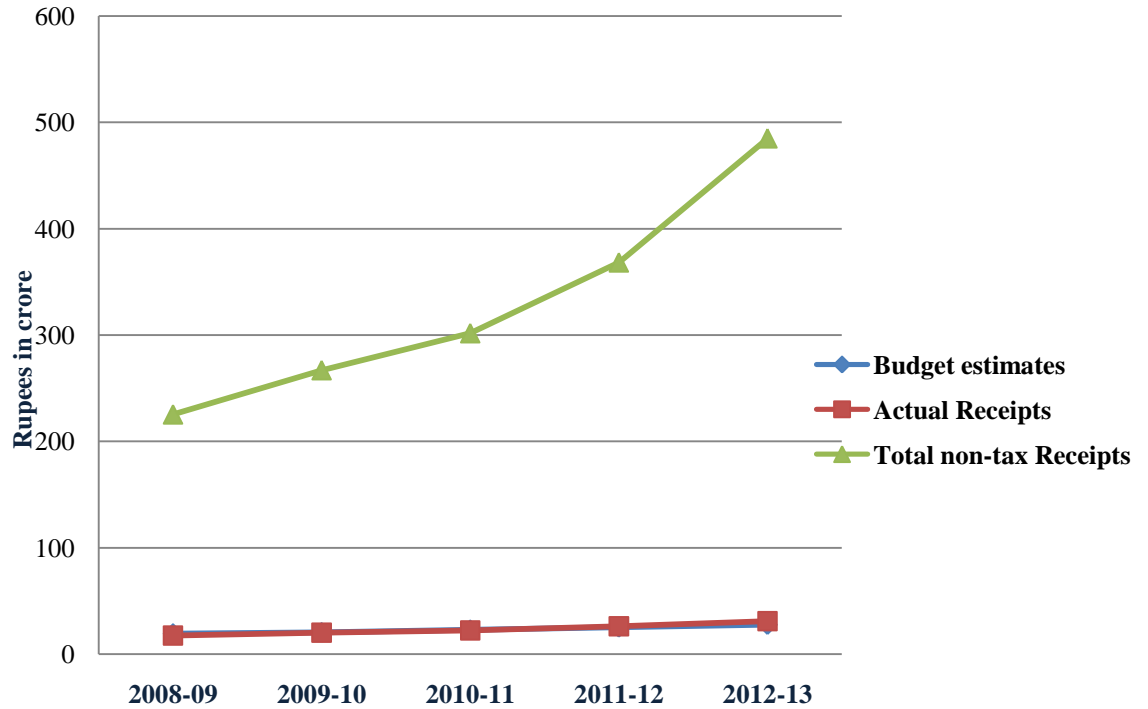
Thus, the percentage variation which was 10 *per cent* in 2008-09 came down within acceptable limits for the next three years. However, it again increased to 12 *per cent* in 2012-13 which needs to be looked into by the Department while framing future estimates.

Forest receipts formed about 6-8 *per cent* of the total non-tax receipts of the State during the period 2008-09 to 2012-13.

A line graph of budget estimates, *vis-à-vis* the actual receipts and total non-tax receipts of the State may be seen as follows:

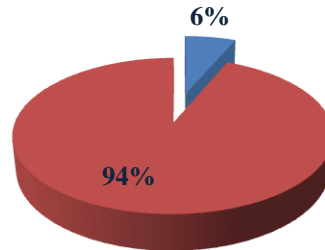
<sup>1</sup>A compact area where a number of trees are pre marked for sale by way of auction or tender on condition of their removal within a specified period.

<sup>2</sup>A well defined area where from certain types of forest produce are sold on condition of their removal within a specified period.



Also a pie chart showing the position of actual forests receipts *vis-à-vis* other non-tax receipts during the year 2012-13 may be seen below:

■ Forest Receipts ■ Other non-tax Receipts



### 6.3 Impact of audit reports

During the last five years (including the current year’s report), we have pointed out non/short levy, non/short realisation of royalty, fees *etc.*, with revenue implication of ₹ 112.01 crore in 19 paragraphs. Of these, the Department/ Government had accepted audit observations in four paragraphs involving ₹ 99.38 crore, in respect of which, no recovery has been made. The details are shown in the following table:

Table 2

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2008-09	6	3.56	2	1.88	-	-
2009-10	5	2.10	-	--	-	-
2010-11	1	97.11	1	97.11	-	-

<b>2011-12</b>	3	2.18	-	-	-	-
<b>2012-13</b>	4	7.06	1	0.39	-	-
<b>Total</b>	<b>19</b>	<b>112.01</b>	<b>4</b>	<b>99.38</b>	<b>-</b>	<b>--</b>

The fact that the Department has failed to make any recovery even in respect of accepted cases shows the need for the Department to revamp the revenue recovery mechanism to ensure that atleast the revenue involved in the accepted cases is recovered.

#### **6.4 Results of audit**

Test-check of the records of eight units relating to the Forest Department during the year 2012-13 revealed non-realisation of royalties, fees *etc.*, amounting to ₹ 14.50 crore in 64 cases which can be categorised as under:

**Table 3**

(₹ in crore)			
Sl. no.	Category	Number of cases	Amount
1.	Non/Short realisation of revenue	9	2.92
2.	Loss of revenue	11	9.01
3.	Other irregularities	44	2.57
<b>Total</b>		<b>64</b>	<b>14.50</b>

During the year 2012-13, the Department accepted 10 observations involving ₹ 2.10 crore and recovered ₹ 0.70 crore.

A few illustrative audit observations involving ₹ 7.06 crore are mentioned in the paragraphs 6.5 to 6.8.

#### **6.5 Short/Non-realisation of export fee – DFOs, Shillong and Tura**

##### **Short/non-realisation of export fee of ₹ 0.27 crore on transport of 17,367 MT of forest produce.**

The Forest Department notified in October 1999 that all trucks exporting forest produce outside the State shall be levied an export fee of ₹ 300 per truck.

**6.5.1** On scrutiny of records of DFO, Khasi Hills Territorial Division, Shillong it was observed that 15,667 trucks exported forest produce through Byrnihat forest check gate between April 2011 and March 2012. However, the check gate officials, in violation of the Department notification realised export fee at ₹ 200 per truck from 11,179 trucks and ₹ 60 per truck from 4,488 trucks instead of ₹ 300 per truck. No action was taken by the DFO to direct the check gate officials to realise the export fee at the prescribed rate or ascertain the reasons for short levy of export fee. Thus, inaction on the part of the DFO<sup>3</sup> led to short realisation of export fee of ₹ 21.95 lakh<sup>4</sup>.

<sup>3</sup> Shri G.W. Kharmujai held the charge of the DFO during the period.

<sup>4</sup> Export fee realisable = 15667 trucks X ₹ 300 = ₹ 4700100  
Export fee actually realised = (11179 trucks X ₹ 200) + (4488 trucks X ₹ 60) = ₹ 2505080

**6.5.2** On scrutiny of records of DFO, Garo Hills Territorial Division, Tura it was observed that 1700 trucks exported 8500 cubic metre of stone boulders through the Halidayganj forest check gate between January 2010 and February 2010. Despite the DFO's instructions to the beat officer<sup>5</sup> to realise export fee on the same, the beat officer failed to realise the export fee in violation of both the Department notification as well as the DFO's instructions. This resulted in non-realisation of export fee of ₹ 5.10 lakh.

The cases were reported to the Forest Department, GOM in August 2012 and February 2013; reply was awaited (December 2013).

#### **6.6 Non-realisation of royalty on charcoal – DFO, Shillong**

##### **Irregular import of 3497.47 MT of charcoal and evasion of royalty of ₹ 0.21 crore.**

As per Rule 8 of the Meghalaya Charcoal (Control of Production, Storage, Trade and Transit) Rules, 2008 industries using charcoal as raw materials shall be treated as stockists of charcoal and are required to submit quarterly returns to the DFO concerned. The DFO shall inspect at periodical intervals the full stock of charcoal as disclosed in the quarterly returns to detect illegal import of charcoal. Rule 9 of the Rules *ibid* further provides that transport of charcoal must be covered by a transit pass issued by the DFO on full payment of royalty due to the Government. If any stockist contravenes any of the aforesaid provisions, the DFO may cancel his registration. In Meghalaya royalty on charcoal is ₹ 600 per MT.

It was observed from the quarterly returns submitted by eight industries<sup>6</sup> that 22266.71 MT of charcoal was imported by these industries between April 2011 and March 2012. However, from the import permit registers maintained by the DFO, it was seen that the industries had obtained permits for import of 18769.24 MT of charcoal during the same period. The industries illegally imported 3497.47 MT without obtaining any transit pass. No action was taken by the DFO to raise demand notice for payment of the royalty or cancel the registrations of these defaulting industries despite the information being readily available with him.

Thus, failure of the DFO<sup>7</sup> to conduct regular inspections of the registered stockists led to non-realisation of royalty amounting to ₹ 20.98 lakh.

The case was reported to the Forest Department, GOM in August 2012; reply was awaited (December 2013).

Short realisation = ₹ 2195020

<sup>5</sup> Shri Q.C.B. Sangma held the charge of the beat officer, Tura during the period.

<sup>6</sup> (i) M/s Maithan Alloys, (ii) M/s Shyam Century, (iii) M/s Pioneer Carbide, (iv) M/s Khasi Alloys, (v) M/s Nalari Ferro Alloy, (vi) M/s Jai Kamakhya, (vii) M/s Bimla Ispat and (viii) M/s Satyam Alloys.

<sup>7</sup> Shri G.W. Kharmujai held the charge of the DFO, Shillong during the period.

### 6.7 Evasion of royalty by a cement company – DFO, Jowai

**A cement company concealed purchase of 10.10 lakh MT of limestone and evaded payment of royalty of ₹ 6.19 crore.**

The Mining and Geology Department, Government of Meghalaya (GOM) fixed royalty on limestone at ₹ 45 per MT upto 28 September 2010 and ₹ 63 per MT thereafter. In Meghalaya, the Forest Department collects royalty on limestone from forest areas.

A cement company<sup>8</sup> disclosed purchase of 1.97 lakh MT of limestone between 2008-09 and 2012-13 on which it paid royalty of ₹ 1.15 crore to the Forest Department. Cross-verification of this information with the records of the Superintendent of Taxes, Jowai revealed that the company actually purchased 12.07 lakh MT of limestone during the aforesaid periods. Thus, the company concealed purchase of 10.10 lakh MT and evaded payment of royalty of ₹ 6.19 crore. The evasion was possible because of the lack of co-ordination between various Government Departments.

The case was referred to the Forest Department, GOM in July 2013; reply was awaited (December 2013).

### 6.8 Short-realisation of Net Present Value – PCCF, Meghalaya

**Short-realisation of Net Present Value amounting to ₹ 0.43 crore on diversion of 118.97 hectares of forest land.**

Net Present Value (NPV) is payable in all cases of diversion of forest land for non-forest purposes. The Supreme Court in its judgement dated March 2008 revised the rate of NPV by classifying the forests into six ecological classes taking into account their value as follows:

Table 4

Eco-value	NPV (₹ in lakh per hectare)					
	Class I	Class II	Class III	Class IV	Class V	Class VI
Very dense forest	10.43	10.43	8.87	6.26	9.39	9.91
Dense forest	9.39	9.39	8.03	5.63	8.45	8.97
Open forest	7.30	7.30	6.26	4.38	6.57	6.99

Five organisations<sup>9</sup> were granted approval for diversion of 118.97 hectares of forest land on various dates between November 2008 and March 2012 on which NPV amounting to ₹ 7.82 crore<sup>10</sup> was payable. The DFO<sup>11</sup>, Khasi Hills Territorial

<sup>8</sup> M/s Meghalaya Cement Company Pvt. Ltd.

<sup>9</sup> (i) World Victory Church (ii) Sports Authority of India (iii) North Eastern Power Transmission Company Pvt. Ltd. (iv) Church of God, Upper Shillong (v) Church of God, Sadew

<sup>10</sup> Forests in Meghalaya fall under Class V category. Hence, calculated at the minimum of ₹ 6.57 lakh per hectare for Class V category.

Division, Shillong however realised the NPV amounting to ₹ 7.39 crore at various rates between ₹ 4.38 lakh per hectare and ₹ 6.24 lakh per hectare which was lesser than what was fixed by the Supreme Court resulting in short realisation of NPV of ₹ 0.43 crore.

On this being pointed out (January 2013), the Nodal Officer, State CAMPA stated that demand notices will be issued for realisation of the NPV pointed out. Recovery was awaited (December 2013).

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<sup>11</sup> Shri S. Lyngshing, Shri B.S. Kharmawphlang and Shri B.K. Lyngwa held the charge of the DFO, Shillong during the period.

## CHAPTER VII: MINING RECEIPTS

### 7.1 Tax administration

Receipts from mining constitute the highest non-tax source of revenue for the State and the second highest source of revenue overall. The Principal Secretary to the Government of Meghalaya, Mining & Geology Department is in overall charge at the Department level. The Director of Mineral Resources is the administrative head at the Directorate level. At the district level, the Divisional Mining Officers have been entrusted with collection of revenue through issue of various permits. The administration of the Department is mainly governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the Mineral Concession (MC) Rules, 1960 and the Mineral Conservation and Development Rules (MCDR), 1988. In addition, the State Government has also notified the Meghalaya Minerals Cess (MMC) Act, 1988 to mobilise additional revenue.

### 7.2 Trend of receipts

Actual receipts from Mining & Geology Department during the years 2008-09 to 2012-13 along with the non-tax receipts during the same period is exhibited in the following table and graph.

Table 1

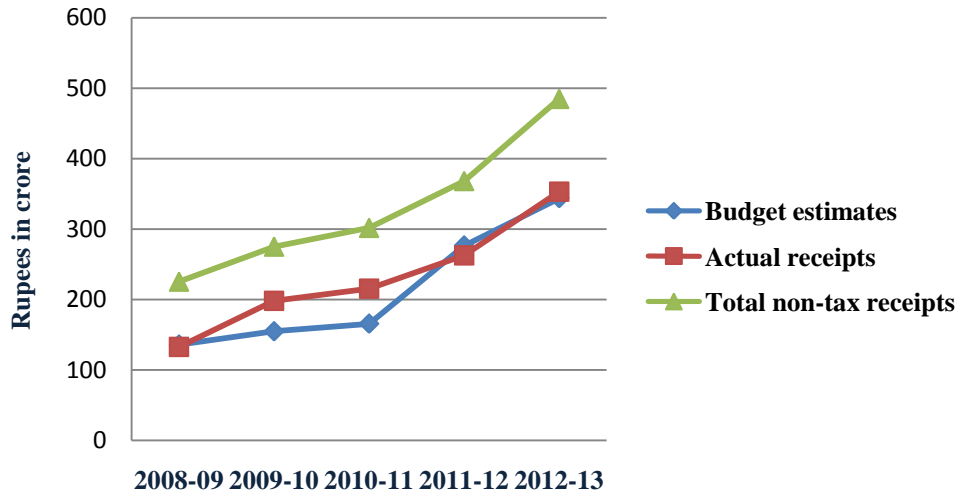
Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	(₹ in crore)	
					Total non-tax receipts of the State	Percentage of actual receipts vis-à-vis total non-tax receipts
2008-09	135.69	132.73	(-) 2.96	2	225.31	59
2009-10	154.63	198.21	(+) 43.58	28	275.09	72
2010-11	165.44	215.58	(+) 50.14	30	301.69	71
2011-12	276.42	262.58	(-) 13.84	5	368.24	71
2012-13	343.62	353.14	(+) 9.52	3	484.94	73

Although there was a wide variation between budget estimates and actual collection in the years 2009-10 and 2010-11, in the other three years including the current year, the percentage of variation is within acceptable limits.

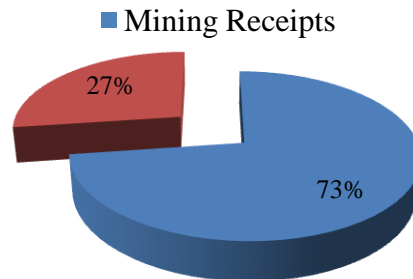
Mines and minerals receipts formed about 59-73 per cent of the total non-tax receipts of the State during the last five years.

A line graph of budget estimates, actual receipts and total non-tax receipts may be seen below:





Also a pie chart showing the position of actual mining receipts *vis-à-vis* the other non-tax receipts of the State during the 2012-13 may be seen below:



### 7.3 Impact of audit reports

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation *etc.*, with revenue implication of ₹ 959.26 crore in 28 paragraphs. Of these, the Department / Government had accepted audit observations in 9 paragraphs involving ₹ 725.71 crore and had since recovered ₹ 5.57 crore. The details are shown in the following table:

Table 2

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No	Amount	No	Amount	No	Amount
2008-09	5	41.12	-	-	-	--
2009-10	10	151.42	1	0.46	-	--
2010-11	8	73.91	7	52.65	1	5.57
2011-12	4	20.21	-	-	-	-
2012-13	1	672.60	1	672.60	-	-
<b>Total</b>	<b>28</b>	<b>959.26</b>	<b>9</b>	<b>725.71</b>	<b>1</b>	<b>5.57</b>

Thus, against the accepted cases involving ₹ 725.71 crore, the percentage of recovery by Department/ Government is 0.77 per cent.

*It is recommended that the Department revamp its revenue recovery mechanism to ensure that they could recover atleast the amount involved in the accepted cases.*

#### **7.4 Results of audit**

Test check of the records of three units of the Mining & Geology Department during the year 2012-13 revealed non-realisation of duties, royalties *etc.*, amounting to ₹ 77.99 crore in 14 cases which can be categorised as under:

**Table 3**

			(₹ in crore)
Sl. No.	Category	Number of cases	Amount
1.	Non/Short realisation of revenue	7	15.10
2.	Loss of revenue	4	62.13
3.	Other irregularities	3	0.76
<b>Total</b>		<b>14</b>	<b>77.99</b>

During the year, the Department accepted audit observations in three cases involving money value of ₹ 23.45 crore. No recovery was intimated.

A Performance Audit on “**Controls and System for mining in Meghalaya**” involving an amount of ₹ 672.60 crore is mentioned in paragraph 7.5.

## 7.5 PERFORMANCE AUDIT ON “CONTROLS AND SYSTEM FOR MINING IN MEGHALAYA

### Highlights

**The Performance Audit on “Controls and System for mining in Meghalaya” revealed the following irregularities:**

➤ The Department failed to cancel the mining leases and levy penalty on 10 lease holders for carrying out mining activities without obtaining clearance from MoEF in gross violation of the FC Act as well as the MCDR.

(Para 7.5.9)

➤ Failure in setting up of a mechanism to determine the limestone extracted from non-forest areas resulted in non-collection of royalty amounting to ₹ 3.23 crore on 5.89 lakh MT of limestone.

(Para 7.5.11)

➤ The DMR failed to take action against 138 coal exporters who had exported coal to Bangladesh without payment of royalty through Baghmara, Gasuapara and Dalu resulting in non-realisation of revenue amounting to ₹ 3.13 crore.

(Paras 7.5.12.1 & 7.5.12.2)

➤ There was short-realisation of revenue of ₹ 81.40 crore by five check gates between 2008-09 and 2012-13 due to failure of the DMR to periodically assess the performance of the check gates or scrutinise the returns submitted by them.

(Para 7.5.14.1)

➤ Due to absence of check gates at Shella Bazar and Bholaganj, 103.57 lakh MT of limestone was exported to Bangladesh between 2008-09 and 2012-13 without payment of cess amounting to ₹ 17.29 crore.

(Para 7.5.14.2)

➤ Failure of the DMR to promptly act upon the complaints made by the check gate officials of Dawki and Borsora and provide adequate security to them resulted in illegal export of coal without payment of royalty amounting to ₹ 130.74 crore.

(Para 7.5.14.2)

➤ Three DMR check gates under-reported movement of 8.78 lakh MT of coal to Bangladesh and failed to realise royalty amounting to ₹ 30.77 crore on which penalty amounting to ₹ 7.69 crore was also realisable.

(Para 7.5.15)

➤ Five lease holders produced 25.36 lakh MT of limestone (having a royalty value of ₹ 15.98 crore) between June 2010 and December 2012 against which, they deposited royalty amounting to only ₹ 0.99 crore thereby resulting in short-realisation of Government revenue amounting to ₹ 14.99 crore.

(Para 7.5.19.1)

➤ Between 2008-09 and 2012-13 an amount of ₹ 12.20 crore was shown as expended by the DMR on research, survey and mapping *etc.*, but no reports of the surveys or investigations or mappings carried out could be furnished to justify the expenditure.

(Para 7.5.21)

➤ Despite an investigation by the Meghalaya State Pollution Control Board (MSPCB) in November 2011 revealing that the entire stretch of seven sampling locations of Lukha river was severely polluted due to Acid Mine

Drainage (AMD), no efforts have been made by the Government either to implement the recommendations of MSPCB or take effective steps to control AMD.

(Para 7.5.23.1)

### **7.5.1 Introduction**

Meghalaya is endowed with sizeable deposits of valuable minerals like coal, limestone, uranium, granite and clay. Minerals being valuable resource, the extraction needs to be maximised through scientific methods of mining with aim to ensure extraction and utilisation of minerals. Besides, most of the mineral reserves are in areas which are under forest cover and hence, mining in the State has environmental implications. In Meghalaya, individual and local communities have ownership over the land and the minerals and barring a few reserve forest areas, the State Government has no ownership over the minerals. The activities of the Mining & Geology (M&G) Department, Government of Meghalaya (GOM) are limited to collection of royalty on the minerals exported outside the State besides geological investigation /exploration of minerals. The Mines and Minerals (Development and Regulation) Act<sup>1</sup>, 1957 lays down the legal framework for regulation of mines and development of minerals. The Mineral Concession Rules, 1960 and the Mineral Conservation and Development Rules, 1988 were accordingly framed under the MMDR Act framed for conservation and systematic development of minerals and for regulating grant of permits, licences and leases. The GOM has introduced the Meghalaya Mineral Cess Act, 1988 to mobilise additional revenue. Further with a view to facilitating systematic, scientific and planned utilization of mineral resources and to streamline mineral based development of the State, the Meghalaya Mines and Mineral Policy, 2012 has also been notified with effect from 5 November 2012.

### **7.5.2 Organisational setup**

The Principal Secretary, M&G Department is the overall Head of the Department and monitors the mining in the State by grant of prospecting/mining licences. He is also responsible for framing of the regulatory framework relating to mining in the State. At the Directorate level, the Director of Mineral Resources (DMR) is responsible for implementation of the plans and policies formulated by the GOM. He is also responsible for revenue collection on minerals. For this he is assisted by two Divisional Mining Officers (DMO) – one each at Jowai and Williamnagar and a Mining Officer (MO) at the Directorate. In addition, the Directorate also has a Geology Wing for carrying out geological and geochemical surveys, mapping and drilling of samples for estimating and proving reserves and carrying out chemical analysis of minerals.

<sup>1</sup> A Central Act.

### 7.5.3 Audit objectives

The Performance Audit was conducted with a view to assessing:

- Whether the Department followed sound budgeting and financial practices?
- Whether there was any system deficiency involving assessment, realisation of revenue, and other activities leading to leakage of revenue?
- Whether the internal control system and enforcement measures were in place and were effective in preventing leakages of revenue?
- Whether there was compliance with the Acts and Rules and whether there was any leakage of revenue due to non-compliance with the provisions of the Acts and Rules?
- Whether there was damage to the environment due to non-conformity to the provisions of the Acts and Rules?

### 7.5.4 Audit Scope

The Performance Audit (PA) covered the period April 2008 to March 2013 and was conducted between January 2013 and June 2013. The office of the DMR and its two divisions at Jowai and Williamnagar including all the sixteen<sup>2</sup> checkgates were covered in the PA. In addition, records in the M&G Department were also seen during the course of the PA.

### 7.5.5 Audit criteria

The following Acts/Rules/Regulations were followed by audit for carrying out the PA:

- Budget manual of the Government of Assam (as adopted by Meghalaya)
- Mines and Minerals (Development and Regulation) (MMDR) Act, 1957
- Mines Act, 1952
- Mineral Concession Rules (MCR), 1960
- Mineral Conservation And Development Rules (MCDR), 1988
- Coal Mines Regulations, 1957
- Meghalaya Mineral Cess Act, 1988
- Forest Conservation (FC) Act, 1980
- Assam Forest Regulation, 1891 (as adapted by Meghalaya)
- Environment (Protection) Act, 1986
- National Mineral Policy (NMP) 1993 and 2008
- Meghalaya Mineral Policy (MMP) 2012

### 7.5.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation extended by the M&G Department, GOM in successful conduct and

<sup>2</sup> (i) Mookyndur (ii) Dawki (iii) Umkiang (iv) Garampani (v) Umling (vi) Athiabari (vii) Borsora (viii) Cherragoan (ix) Dainadubi (x) Ghasuapara (xi) Dalugre (xii) Masangpani (xiii) Balachanda (xiv) Boldoka (xv) Dadengre and a temporary check gate set up at Amlarem on 16 January 2013.

Out of these, seven check gates viz., (i) Mookyndur (ii) Dawki (iii) Umkiang (iv) Umling (v) Athiabari (vi) Dainadubi and (vii) Amlarem were physically inspected by Audit and the records of all others were seen in the office of the DMR.

completion of the PA. An Entry Conference<sup>3</sup> was held on 21 January 2013 in which the scope of audit and audit objectives were outlined. The draft PA report was forwarded to the Department in October 2013 following which an Exit Conference<sup>4</sup> was held on 19 November 2013 in which the audit findings were discussed. The response of the Department to the audit findings and the feedback provided during various stages of the PA have been suitably incorporated in the PA.

### ***Audit findings***

The PA brought out a number of system and compliance deficiencies. The audit findings are pointed out in the ensuing paragraphs.

### ***Audit objective: Whether the Department followed sound budgeting and financial practices?***

## ***7.5.7 Trend of Revenue and financial analysis***

### ***7.5.7.1 Budget estimates vis-à-vis actual***

As per Chapter IV of the Budget Manual, in estimating the fixed revenue, 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. Any difference between the demand and expected realisations should be fully explained. In the case of fluctuating revenue, the estimate should be based upon a comparison of the last three years receipts.

The revenue earned by the M&G Department is in the form of royalty on coal and limestone and cess on limestone<sup>5</sup>. Actual receipts by the M&G Department during the years 2008-09 to 2012-13 are shown below:

**Table 1**

(₹ in crore)

Year	Budget estimate		Actual Amount realised	Percentage of increase over the previous year
	Proposed by DMR	Approved by Finance		
2008-2009	111.37	135.69	132.73	7
2009-2010	126.50	154.63	198.21	49
2010-2011	173.77	165.45	215.58	9
2011-2012	209.12	276.42	262.58	22
2012-2013	239.62	343.62	353.14	34

(Source: Finance Accounts)

From the table it is seen that:

- Although the DMR was the implementing agency in so far as collection of revenue was concerned, it did a very poor job of preparing the budget estimates given the fact that estimates proposed by the DMR in each of the five years were less than the actual realisation of the previous year. In this

<sup>3</sup> Attended by the DMR and his subordinate staff

<sup>4</sup> Attended by the Deputy Secretary, M&G Department, the DMR and the Under Secretary, Finance Department.

<sup>5</sup> Cess on coal was introduced in January 2009 and subsequently withdrawn in August 2009.

regard, the budget estimates proposed by the Finance Department were more realistic.

➤ However, no criteria for fixing the revenue targets were available with the Finance Department. The reason for the Finance Department's estimates deviating from the DMR's estimates were sought (February 2013) but the same was not made available to audit (July 2013).

#### 7.5.7.2 Position of arrears

The M&G Department has issued mining leases for extraction of limestone to 16 applicants<sup>6</sup>. As of July 2013, the Department has ₹ 25.50 crore in arrears from seven out of 16 lessees as shown below:

Table 2

(₹ in crore)

Name of the lease holder	Period of default <sup>7</sup>	Amount in arrears	Interest
M/s Adhunik Cement Ltd	December 2011 to December 2012	11.36	2.13
M/s JUD Cement Ltd.	December 2010 to December 2012	5.74	3.13
Meghalaya Cement Ltd.	June 2012 to December 2012	2.49	0.33
M/s Hills Cement Ltd.	December 2011 to December 2012	0.12	0.03
Meghalaya & Mines Pvt. Ltd.	December 2011 to December 2012	2.09	0.42
Komorrah Limestone Mining Co.	Upto June 2012	1.6	0.40
Mawmluh Cherra Cement Ltd.	Upto June 2012	2.1	0.56
<b>Total</b>		<b>25.5</b>	<b>7.0</b>

Reasons for non realisation of arrear revenue were called for (February 2013); reply was awaited (September 2013).

#### 7.5.7.3 Mismatch between production and revenue

The revenue earned from mining receipts has shown an increasing trend but the production of minerals *vis-à-vis* the revenue has been largely disproportionate.

A table showing the production of coal and limestone during the five years covered in PA is as follows:

<sup>6</sup> Mawmluh Cherra Cement Ltd., Komorrah Limestone Mining Co., Anderson Mineral Pvt. Ltd., Lafarge Umiyam Mining Pvt. Ltd., M/s K.Singh wann & Son, Meghalaya Minerals & Mines Pvt. Ltd., Cement Manufacturing Co. Ltd. (with 3 lease holdings), Meghalaya Cement Ltd. (with 2 lease holdings), M/s Adhunik Cement Ltd. (with 3 lease holdings), M/s JUD Cement Ltd. and M/s Hills Cement Ltd.

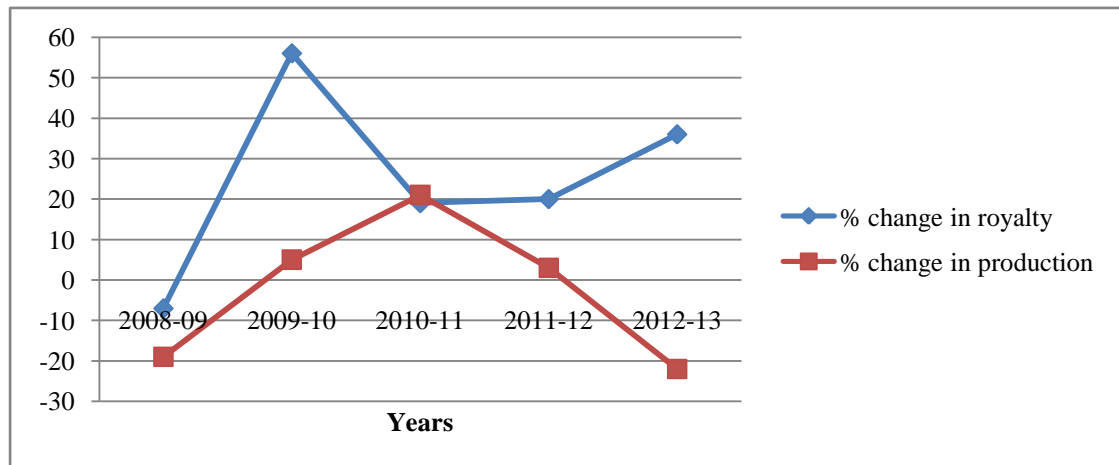
<sup>7</sup> For Komorrah Limestone Mining Co. and Mawmluh Cherra Cement Ltd., date since when arrears have accrued and position up to December 2012 not available. Information prior to December 2012 (in the first five cases) and after June 2012 (in the last two cases) was not furnished to audit.

Table 3

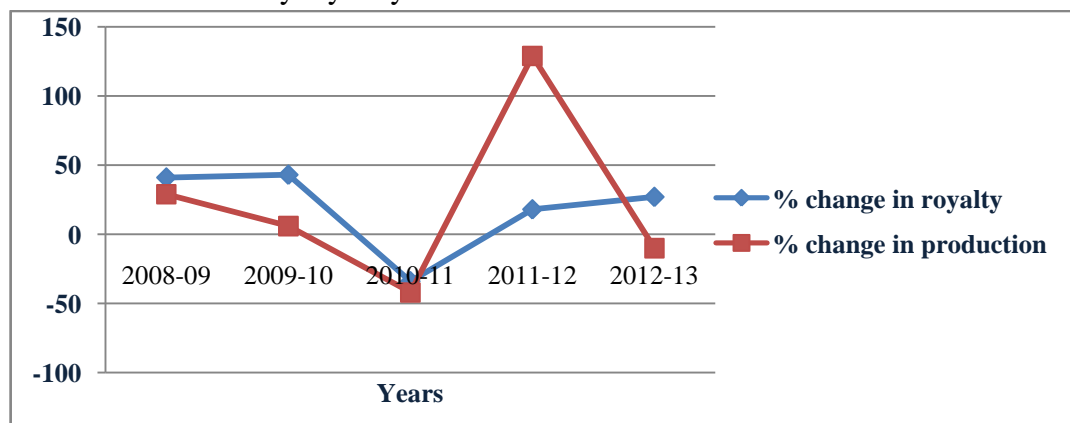
Year	Royalty on coal (in ₹)	Production of coal (in MT)	% change in royalty over previous year	% change in production over previous year	Royalty on limestone (in ₹)	Production of limestone (in MT)	% change in royalty over previous year	% change in production over previous year
2008-09	1063723999	5488648	-7	-19	138482844	2894888	41	29
2009-10	1654886879	5767017	56	5	198107266	3078446	43	6
2010-11	1976619827	6974172	19	21	131723793	1793927	-34	-42
2011-12	2378754133	7205938	20	3	155277224	4109110	18	129
2012-13	3238763918	5648921	36	-22	197744773	3689370	27	-10

(Source: DMR)

The royalty earned from coal has increased by 204 *per cent* in 2012-13 over 2008-09 with an increasing trend throughout whereas the production of coal has increased by only three *per cent* in 2012-13 over 2008-09 showing a skewed growth chart with abnormal increase and decrease in production throughout. A line graph showing the percentage change in production of coal and royalty may be seen below:



The royalty earned from limestone has increased by 43 *per cent* in 2012-13 over 2008-09 whereas the production of limestone has increased by 27 *per cent* in 2012-13 over 2008-09 with both royalty and production showing a skewed growth chart with abnormal increase and decrease in production throughout. A line graph showing the percentage change in production of limestone and royalty may be seen below:





While the continuous growth in revenue from coal can be attributed to the increase in the rate of royalty of coal twice in the last five years as a result of which, the production of coal has shown a disproportionate growth *vis-à-vis* the revenue, the fall in revenue of limestone (or the production of limestone) can hardly be justified since all the royalty collected on limestone is from mining lease holders who have to ensure extraction/production of limestone as per approved mining plans.

No efforts were made by the M&G Department to find out why the production of limestone decreased between 2009-10 and 2010-11 as a result of which there was proportionate non-realisation of revenue on the short-produced limestone during that period;

***Audit Objective: Whether there was any system deficiency involving assessment, realisation of revenue and other activities leading to leakage of revenue?***

#### ***7.5.8 Non-adherence to the provisions of the MMDR Act***

As per Section 4(1) of the MMDR Act, 1957 no person shall undertake mining operations in any area except in accordance with the terms of a mining lease. Chapter V<sup>8</sup> of the MCR, 1960 *inter alia* stipulates that no mining lease shall be granted in respect of any mineral specified in the First Schedule to the Act *ibid* without the previous approval of the Government of India. Coal is listed in the First Schedule of the MMDR Act. The mining activities in the State of Meghalaya are primarily concentrated on coal and limestone which are the major minerals in the State. As already pointed out, the activities of the M&G Department, GOM are limited to collection of royalty on export of coal and limestone outside the State. This practice is being followed on the basis of a letter from the then Union Minister of Energy<sup>9</sup> in July 1987 stating that the Government of India had no desire or intention of disturbing the customary tribal rights.

During the visit of Member<sup>10</sup>, National Commission for Protection of Child Rights to Meghalaya in May 2012, it was brought to his notice that the GOM was unable to intervene in areas which come under the Sixth Schedule appended to the Constitution of India. The Commission after examining the reply of the GOM stated (July 2012) that all Central Acts apply to all Sixth Schedule areas of the State unless there was a presidential notification to that effect.

➤ As on July 2013, the M&G Department has granted mining leases only in respect of limestone. In respect of coal mining, not a single<sup>11</sup> mining lease

<sup>8</sup> Chapter V of the MCR, 1960 stipulates the conditions for grant of mining lease in respect of land in which minerals vest in a person other than the Government.

<sup>9</sup> In a demi-official letter by Shri Vasant Sathe to the Chief Minister of Meghalaya.

<sup>10</sup> Dr. Yogesh Dube.

<sup>11</sup> One mining lease for coal was granted to the Coal India Limited (since expired and not renewed).

has ever been applied for nor granted by the M&G Department. Thus, coal mining in the State is in violation of the MMDR Act. However, no action had been taken by the M&G Department to ascertain the number of miners in the State or to force them to obtain a mining lease as required under the MMDR act and the Rules made there under.

Audit requested the DMR (February 2013) to submit a list of all the mines in the State but the DMR failed to furnish the requisite information. However, from the records made available to Audit, it was seen that the DMR has compiled a list<sup>12</sup> of 34 coal mines in East Jaintia Hills and 10 coal mines in South Garo Hills. Thus, there are at least 44 coal mines in the State which are operating without obtaining mining leases from the State Government and the prior permission of the GOI.

This matter was brought to the notice of the Principal Secretary, M&G Department as well as the Ministry of Coal, GOI (August 2013) and clarification was sought as to whether there existed any notification by virtue of which the coal miners in the State are exempted from the provisions of the MMDR Act and the Rules made there under. In response, the Coal Controller, Ministry of Coal, GOI stated (September 2013) that the Ministry was unaware of any order or notification granting exemption to coal mining in Meghalaya. Reply of the State Government was awaited (September 2013).

It may be mentioned here that the Meghalaya Minerals Policy, 2012 (notified on 5 November 2012) has introduced various measures to regulate mining in the State, one of which is to ensure that all the miners in the State obtain mining leases. However, even after a lapse of eleven months from the date of notification not a single coal miner has obtained mining lease till date (September 2013).

➤ The M&G Department has granted mining leases to 16 applicants for limestone mining between November 1961 and December 2010 for periods ranging between 20 and 30 years. It was seen from information furnished by the DMR that the total production of limestone between 2008-09 and 2012-13 was 1.99 crore MT out of which, 1.56 crore MT of limestone was extracted by these 16 mining lease holders. Thus, 43 lakh MT was unauthorisedly extracted by miners without obtaining mining lease and was in violation of the MMDR Act.

***Recommendation No. 1:*** *The M&G Department should take necessary measures to regulate mining in the State in accordance with the provisions of the MMDR Act and Rules there-under.*

#### ***7.5.9 Operation of mines without forest clearance***

Section 2 read with Section 6 (1.6) (i) of the FC Act, 1980 restricts use of forest land or any portion of the land for any non-forestry purpose and non-

<sup>12</sup> The list was prepared for submission to the Director General of Mines Safety, GOI and is not exhaustive.

forest activities such as mining operation in forest area cannot be undertaken without prior approval of the Central Government even in case of renewal of mining lease. The MCDR, 1988 was accordingly framed to impose certain restrictions on mining. Rule 9 of the MCDR states that no person shall commence mining operations in any area except in accordance with a Mining Plan (MP) approved by the Controller of Mines subject to such conditions as he may impose.

The Controller of Mines, GOI while approving the MPs submitted by the lessees, approved the MPs *subject to the condition that the provisions of the FC Act, 1980 were followed.*

Out of 16 mining leases<sup>13</sup> granted for carrying out mining of limestone in the State, only one lease holder *i.e.*, M/s Lafarge Umiam Mining Pvt. Ltd. has obtained clearance from the Ministry of Environment and Forests (MoEF), GOI. None of the remaining lease holders have obtained clearance from the MoEF as stipulated in the condition set by the Controller of Mines while approving the mining plan. In fact, the Forest Department, GOM has no idea as to whether the mining lease areas for which it has issued forest clearance fall within forest area. However, when a High Level Committee<sup>14</sup> made an assessment of the forest areas in which mining leases had been granted to eight leases (out of 16 leases) in respect of four lease holders (out of 11 lease holders), it was found that out of 42.87 hectares of leased area, 38.11 hectares fall within forest areas. Rule 58 of the MCDR further stipulates that whoever contravenes any of the provisions of the MCDR shall be punishable with imprisonment up to 2 years or with a fine up to ₹ 50,000 or with both. In case of continued offence, additional fine up to ₹ 5,000 per day for every day of such continued offence is leviable.

However, the M&G Department failed to cancel the mining leases and to levy penalty on these errant companies for carrying out mining activities without obtaining clearance from MoEF in gross violation of the FC Act as well as the MCDR.

***Recommendation No. 2:*** *The M&G Department should fix responsibility on the officers responsible for allowing the mining lease holders to carry on mining activities in forest areas in gross violation of the Acts and Rules. In addition, the Department should also cancel the mining leases of these lease holders so as to prevent them from carrying out any further mining activities in the forest area. Position of the remaining seven leases should also immediately be assessed for forest clearance.*

<sup>13</sup> (1) M/s MCCL (2) M/s Komorrah Limestone Mining Pvt. Ltd. (3) M/s K.S. Wann (4) M/s Anderson Mineral Pvt. Ltd. (5) M/s Lafarge Umiam Mining Pvt. Ltd. (6) M/s CMCL ((3 leases) (7) M/s Meghalaya Cements Ltd. (2 leases) (8) M/s Adhunik Cements Ltd. (3 leases) (9) M/s Meghalaya Mines & Minerals Pvt. Ltd. (10) M/s JUD Cements (11) M/s Hill Cements Company Limited

<sup>14</sup> Comprising of one Additional Principal Chief Conservator of Forests, MoEF, GOI and one Conservator of Forests from the GOM.

**7.5.10 Delay in revision/non-revision of rate of royalty of major minerals**

Article 280 of the Constitution of India provides for setting up of a Finance Commission (FC) every five years. The FC *inter alia* makes recommendations for augmenting the Consolidated Fund of a State. The Eleventh Finance Commission (EFC) in its Report in June 2005 had recommended that the rates of royalty on minerals be revised every three years by the GOI. In case the process of revision was not completed by the due date, the States should be entitled to compensation.

The State of Meghalaya is endowed with rich mineral deposits, particularly coal and limestone. The royalty collected from these two minerals constitutes 95.81 *per cent* of the total revenue collected by the Department during the last five years (2008-2013). As such timely revision of royalty of minerals assumes significance for a state like Meghalaya.

**7.5.10.1** The rate for royalty on coal was revised by the Ministry of Coal, GOI, through a notification dated 01 August 2007. Based on the EFC recommendation, the next revision was due on 01 August 2010. The GOI however, revised<sup>15</sup> the royalty of coal on 10 May 2012 *i.e.*, after a delay of over 21 months from the expiry of three years since the last revision. Despite the delay, no action was taken by the GOM to request the GOI to consider a revision in the rate of royalty on coal. Between 01 August 2010 and 31 March 2012, the DMR collected royalty on 122.90 lakh MT of coal at the pre-revised rate of ₹ 290 per MT. Based on the revised rate of coal at 14 *per cent* on ad-valorem and calculated at the earlier fixed price of ₹ 3044 per MT, the revised royalty works out to ₹ 426 per MT. Had the revised rate been implemented on time, the GOM would have earned additional revenue of ₹ 167.14 crore<sup>16</sup>. But the GOM did not seek compensation from the GOI for the delay in implementation of revised rate of royalty and was thus deprived of additional revenue to the extent of ₹ 167.14 crore.

**7.5.10.2** The rate for royalty on limestone was last revised by the Ministry of Mines, GOI, through a notification dated 13 August 2009. Based on the EFC recommendation, the next revision was due on 13 August 2012. The GOI however, has not revised the royalty of limestone till date (July 2013) even after a delay of over 11 months from the expiry of three years since the last revision. Despite the delay, no action was taken by the GOM to request the GOI to consider a revision in the rate of royalty on limestone. Between 01 September 2012 and 31 March 2013, the DMR collected royalty on 20.83 lakh MT of limestone at the pre-revised rate. Had the revised rate been implemented, the GOM would have earned additional revenue. But the GOM did not request the GOI for revision in the rate of royalty on limestone and was thus deprived of additional revenue to that extent.

<sup>15</sup> 14 *per cent* of the ad-valorem rate of coal.

<sup>16</sup> Additional revenue = ₹ 426 – ₹ 290 = ₹ 136 X 122.90 lakh MT = ₹ 167.14 crore

**Recommendation No. 3:** *The GOM should take up the matter with the GOI for suitable compensation for the delay in revision / non-revision of royalty on coal and limestone respectively.*

**7.5.11 Loss of revenue due to non-collection of royalty on limestone**

Under Section 3 of the Assam Forest Regulations, 1891 (as adopted by Meghalaya), the Forest Department collects royalty on minor minerals. In Meghalaya, royalty on limestone is collected by both Forest Department as well as the M&G Department. The Forest Department collects royalty on limestone from forest areas whereas the M&G Department collects royalty on limestone from the non-forest areas. Rule 9 (2) of the MMDR further stipulates that no mineral can be removed without payment of royalty. The rate of royalty on limestone was fixed by the GOM at ₹ 45 per MT up to 27 September 2010 and ₹ 63 per MT thereafter. In addition cess at ₹ 5 per MT was also leviable on limestone up to 5 January 2009 and ₹ 20 per MT thereafter.

During the course of PA it was noticed that the M&G Department collects royalty on limestone only from the mining lease areas. In respect of all other limestone extracted, the Forest Department collects royalty and the M&G Department collects cess and issues Mineral Cess *Challans* (MCC) for transport of limestone outside the State. However, The M&G Department has neither made any effort to determine the quantity of limestone extracted from non-forest areas nor set up a mechanism to collect royalty on limestone from non-forest areas in gross violation of the MMDR Act and the Rules made there under. Between 2008-09 and 2012-13, 42.71 lakh MT of limestone was despatched outside the State out of which, the Forest Department collected royalty amounting to ₹ 19.48 crore on 36.82 lakh MT of limestone. Thus, by non-setting up of a mechanism to determine the limestone extracted from non-forest areas, the M&G Department failed to collect royalty amounting to ₹ 3.23 crore on 5.89 lakh MT of limestone. It may be further mentioned that limestone as listed as a Second Schedule mineral in the MMDR, a Central Act and the rates of royalty are fixed by the GOI. Further, the Forest Department itself has accepted<sup>17</sup> that limestone is not a minor mineral and that the royalty on limestone is realised under the provisions of the MMDR. Thus, the very act of the GOM in allowing royalty on limestone to be collected by both the M&G Department as well as the Forest Department itself is erroneous and because of the involvement of two Departments, the GOM has been deprived of revenue amounting to ₹ 3.23 crore in the last five years. The matter was referred to the M&G Department, GOM; reply was awaited (December 2013).

**Recommendation No. 4:** *The State Government should entrust collection of royalty on limestone exclusively to the M&G Department so as to prevent recurring loss of revenue.*

<sup>17</sup> In a letter by the Conservator of Forests dated 15 September 1995.

**7.5.12 Irregular system of issue of NOCs and lack of controls thereon**

The DMR issues Mineral Transport *Challans* (MTCs) on advance payment of royalty for transport of coal outside the State either in the course of inter-State trade or export outside the country. However, in case of export, the DMR also issues No Objection Certificates (NOC) as an alternative to MTCs. These NOCs allow coal exporters to export varied quantities<sup>18</sup> of coal.

It was seen that there was neither any proper laid down procedure for issue of NOCs nor could the Department explain the rationale behind issuing NOCs as an alternative to MTCs. During the course of PA, following differences were noticed between the MTCs and the NOCs.

**Table 4**

<b>System</b>	<b>In case of MTCs</b>	<b>In case of NOCs</b>	<b>Audit observation</b>
Printing	Printing is done by the Government press and issued to DMR as and when it issues indent.	A typed NOC is printed on a plain paper in the DMR itself as and when exporters apply for NOC.	There is no regulation of the security aspect as regards the printing and custody of the NOC is concerned.
Security	All the MTCs come in bound books of 100 MTCs each. Each book is machine serial numbered and so is the MTC sheet itself. All books come in series of 2000 numbers	There is no series number in case of NOCs.	There is ample chance of manipulation of NOCs. In the absence of unique serial numbers, the NOCs are prone to duplication and forgery.
Control in check gate	The MTCs have to be shown in the check gates. For transport of coal in excess of that shown in the MTCs or for transport of coal without MTCs, the check gates collect royalty and penalty.	The NOCs have to be shown in the check gates. For transport of coal in excess of that shown in the NOCs or for transport of coal without NOCs, the check gates are not authorised to collect royalty and penalty. The concerned DMO forwards the list of defaulters to the DMR for issue of demand notices.	The check gates have no control over the transport of coal by exporters since they are not authorised to collect royalty and penalty. The red-tapism involved in the whole process has led to non-realisation of revenue in several cases as will be pointed out below.

As can be seen from the above, the NOCs suffer from many inherent flaws and their use can hardly be justified.

The losses detected by Audit due to issue of NOCs are mentioned below.

**7.5.12.1 Non-initiation of action by the DMR**

It was seen that between July 2012 and February 2013 the DMO, Williamnagar forwarded to the DMR a list of 94 coal exporters (**Annexure III**) who had exported 22605.60 MT of coal without payment of royalty through the Land Customs Stations at Baghmara, Gasuapara and Dalu. The

<sup>18</sup> The samples checked by audit had quantities ranging anywhere between 100 MT and 200 MT.

DMO while forwarding the names requested the DMR to issue demand notices to these defaulters. The DMR has however failed to initiate appropriate action and issue demand notices to recover the outstanding royalty and penalty till date (July 2013). Thus, non-initiation of action by the DMR resulted in non-realisation of revenue to the tune of ₹ 1.87 crore<sup>19</sup>.

#### **7.5.12.2 Issue of defective demand notices**

In lieu of MTCs, the DMR issues NOCs for exporting fixed quantities of coal to Bangladesh on advance payment of royalty. As already pointed out<sup>20</sup>, the check gates are not authorised to levy additional royalty and penalty on excess load of coal transported over that authorised in the NOCs. The DMO, Williamnagar merely co-ordinates with the Land Customs Stations of the Central Customs Department at Gasuapara, Dalu and Baghmara and in all such cases where excess load of coal is detected, the DMO intimates the DMR who in turn issues demand notices to the defaulters for payment of royalty and penalty.

It was seen that based on the DMO's reports, the DMR between September 2012 and January 2013 had issued 157 demand notices to 114 exporters involving royalty of ₹ 2.97 crore. The DMO, however returned 47 defective<sup>21</sup> demand notices to the DMR (February 2013) involving royalty of ₹ 1.26 crore in respect of 44 exporters. Till date (September 2013) no efforts have been made by the DMR to rectify the defects pointed out by the DMO and issue fresh demand notices to the defaulters as a result of which, ₹ 1.26 crore remains unrealised. In respect of those demand notices involving an amount of ₹ 1.71 crore which were correct in all respects, no recovery has also been made till date (September 2013).

In the above cases, the total loss of revenue due to the incorrect practice adopted by the DMR of not delegating authority to the checkgates to collect additional royalty and penalty for unauthorised export of coal on the strength of NOCs works out to ₹ 4.84 crore.

**Recommendation No. 5:** *The M&G Department should immediately do away with the system of issue of NOCs in lieu of MTCs. It should also immediately direct the DMR to not only issue demand notices to all the defaulters at the earliest but also realise the arrear revenue in case of demand notices already issued.*

#### **7.5.13 Loss of revenue due to non-registration of mineral dealers**

It was seen that the DMR issued 302 demand notices for non-payment of royalty involving revenue of ₹ 8.16 crore between 2008-09 and 2012-13. Out of which, seven demand notices involving revenue of ₹ 10.80 lakh were sent back by the Postal Department citing incomplete postal addresses.

<sup>19</sup> Calculation shown in Annexure-III.

<sup>20</sup> Table No. 4 of Para No. 7.5.12.

<sup>21</sup> Incorrect names of dealers, quantity transported etc.

However, till date (July 2013) the DMR has not been able to re-send the demand notices as it does not have the complete postal addresses of these defaulters. This is due to the fact that there is no system for registration of dealers in the M&G Department as is done in the case of Taxation Department.

In case of the M&G Department it was seen that every person who wishes to transport coal outside the State can apply for MTCs by simply making an application to the DMR. The application is to be accompanied by

- A *challan* showing the payment of advance royalty;
- Professional tax clearance certificate issued by the District Councils;
- Residential certificate issued by the traditional village head of the locality.

The existing procedure however does not provide for a proper address or identification of a dealer. Thus, the DMR is in no position to recover any dues from the defaulters due to the absence of a proper registration mechanism as a result of which there was loss of revenue to the tune of ₹ 10.80 lakh.

**Recommendation No. 6:** *The M&G Department should immediately put in place a system for identification and registration of all mineral dealers in the State.*

*Audit objective: Whether the internal control system and enforcement measures were in place and were effective in preventing leakages of revenue?*

#### **7.5.14 Internal controls**

Internal controls are safeguards that are put in place by the management of an organisation to provide assurance that its operations are proceeding as planned. Internal controls help in strengthening the public accountability of an organisation and maintaining standards of probity, prudence and ethics.

Internal controls consist of five<sup>22</sup> interrelated components, viz.,

- Control environment
- Risk environment
- Control activities
- Information and communication
- Monitoring

The fact that mining contributes the second highest source of revenue to the State exchequer calls for effective internal controls over the operations of the M&G Department.

<sup>22</sup> Based on guidelines issued by the International Organisation of Supreme Audit Institutions.



#### **7.5.14.1 Control environment**

Control environment means the overall attitude, awareness and actions of the management to enforce or strengthen the internal controls in the functioning of the entity as a whole.

The lacunae noticed in the functioning of the M&G Department due to weak management controls over the field offices are discussed below.

##### **➤ Short-realisation of revenue by the check gates**

The DMR has not prescribed any periodic reports and returns for submission by the field offices and the check gates. However, the check gates submit the following information monthly to the DMR:

- Census of coal and limestone laden trucks passing through the check gates;
- Monthly collection of royalty on excess load of coal and limestone;

The field offices also submit information to the DMR pertaining to monthly collection of royalty.

However, there is no system of periodic assessment of reports and returns submitted by the field offices or by the DMR or senior officers. The dealing assistants in the Directorate are in overall charge of compilation of the various kinds of data with no supervision by the senior officers.

Between 2008-09 and 2012-13, it was seen that 17.89 lakh MT of excess quantity of coal and 9.11 lakh MT of excess quantity of limestone passed through five checkgates<sup>23</sup> on which royalty along with penalty and cess amounting to ₹ 92.35 crore was realisable against which, the actual royalty collected by the check gates was ₹ 10.95 crore. Thus, there was short realisation of revenue of ₹ 81.40 crore due to failure of the DMR to periodically assess the performance of the check gates or scrutinise the returns submitted by them.

#### **7.5.14.2 Risk assessment and control activities**

Risk assessment is the process of identifying and analysing relevant risks to the achievement of the entity's objectives and determining the appropriate response. Risk assessment as a component of internal control plays a key role in the selection of the appropriate control activities to undertake. It is only when key risks are identified that the management can allocate resources and responsibility to those areas for minimising the risks.

Control activities are the policies and procedures established and executed to address risks and to achieve the entity's objectives.

The lacunae noticed in the functioning of the Department due to absence of risk assessment and control activities are discussed below.

<sup>23</sup> Mookyndur, Umling, Gasuapara, Umkiang and Dawki

➤ ***Loss of revenue due to non-establishment of check gates***

Under Section 23C of the MMDR, the State Government has the power to establish check gates to prevent illegal transportation of minerals. Check gates are required to be set up at strategic locations across the State to ensure that no minerals are exported without payment of royalty and cess.

The Customs Department, GOI has established check gates in the form of Land Custom Stations (LCS) at eight<sup>24</sup> locations along the Indo-Bangla border out of which, four<sup>25</sup> are major check gates in terms of export of minerals. Of these four locations, the M&G Department has not established check gates at Shella Bazar and Bholaganj.

Between 2008-09 and 2012-13, 103.57 lakh MT of limestone was exported to Bangladesh through these two LCS. Based on the records of the DMR, it was seen that no Mineral Cess *Challans* had been issued for export of limestone through these two locations during the aforesaid period. Thus, for absence of check gates at two strategic locations, cess amounting to ₹ 17.29 crore<sup>26</sup> could not be realised.

It is worth mentioning here that the loss of revenue on account of absence of check gates at these two locations has featured in the Audit Reports of the Government of Meghalaya in three<sup>27</sup> different years. In its reply (April 2013) to the House during a session of the State Legislative Assembly to a question based on an Audit observation<sup>28</sup> the M&G Department while accepting the observation stated that it was taking initiative to set up check gates in all important trade routes. The same reply was furnished to Audit in August 2011. Thus, the position of the M&G Department has remained unchanged for more than 20 months between these two replies. In fact, no action has been taken so far by the M&G Department to even prepare a proposal for setting up of a check gate (July 2013) which is indicative of the fact that the Department is not serious about preventing the recurring loss of revenue to the state exchequer.

➤ ***Improper functioning of check gates***

During the course of PA, Audit visited seven<sup>29</sup> check gates to ascertain the working conditions of these check gates and their efficiency in preventing leakage of revenue. The findings are discussed below:

<sup>24</sup> (i) Dawki (ii) Borsora (iii) Shella Bazar (iv) Bholaganj (v) Gasuapara (vi) Dalu (vii) Baghmara (viii) Mahendraganj

<sup>25</sup> (i) Dawki (ii) Borsora (iii) Bholaganj (iv) Shella Bazar

<sup>26</sup> Out of these, non-realisation of cess amounting to ₹ 10.26 crore for the period from 01 April 2008 to 30 September 2010 has already been featured in the Audit Reports (AR) for the years ended 31 March 2009 and 31 March 2010. Cess not realised at ₹ 5 per MT on 22.84 lakh MT and at ₹ 20 per MT on 80.73 lakh MT.

<sup>27</sup> Para 6.13 of the AR 2007-08, Para 7.6 of the AR 2008-09, Para 7.6.2 of the AR 2010-11.

<sup>28</sup> Para 7.6.2 featured in the Audit Report for the year ended 31 March 2011.

<sup>29</sup> Already pointed out in Para 7.5.4

**Inconsistencies in manpower allotment in the check gates**

Check gates are a control mechanism to minimise the risk of unauthorised transport of minerals without payment of royalty and resultant loss of revenue. Hence, check gates need to have optimum allotment of manpower for efficient and effective performance. The manpower position of the M&G Department check gates may be seen below:

**Table 5**

Sl. No.	Name of the check gate	No. of trucks passing through the check gate (last five years)	Royalty earned (₹ in crore)	No. of personnel posted <sup>30</sup>			Total	No. of casual staff	Royalty earned per truck (in ₹)
				MRI/AMRI	Check guards	Others			
1.	Dainadubi	504022	142.27	03	05	00	08	06	2823
2.	Umkiang	222208	11.60	03	03	01	07	08	522
3.	Umling	368816	9.54	04	05	01	10	09	259
4.	Athiabari	75748	8.44	02	05	00	07	0	1115
5.	Dawki	159253	4.29	02	02	01	05	07	270
6.	Borsora	128428	1.51	01	01	00	02	07	118
7.	Cherragaon	54043	0.27						49
8.	Dadengre	1146	0.17	02	01	00	03	01	1524
9.	Daluagre	20283	0.96					01	473
10.	Balachanda	305	0.05					01	1758
11.	Boldoka	290	0.05					01	1747
12.	Masangpani	96	0.01					01	1422
13.	Gasuapara	39881	0.65	02	02	00	04	02	162
14.	Mookyndur	1344081	0.41	03	06	01	10	06	3
15.	Garampani	851	0	01	01	01	03	02	0
Total		<b>2919451</b>	<b>180.22</b>	<b>23</b>	<b>31</b>	<b>5</b>	<b>59</b>	<b>52</b>	

(Source: DMR)

Based on the above table it may be seen that:

- Borsora and Cherragaon which are located at a distance of 15 kms from each other are manned by the same staff although the average number of trucks passing monthly through these check gates was 2140 and 901 respectively. Similarly five check gates viz., Dadengre, Daluagre, Balachanda, Boldoka and Masangpani are manned by the same staff (three) although all these check gates are located on different trade routes and are geographically separated from each other.
- Garampani check gate having collected no revenue in the last five years had two casual staff posted. Similarly Borsora check gate had seven casual labourers but failed to collect any revenue in the last one year due to security threats. Since the presence of seven extra staff did nothing to alleviate such threats, the rationale behind posting casual workers in check gates could not be justified. A total of 52 casual employees have been posted in the 15 check gates which is 46 per cent of the total staff strength in the check gates.

A further analysis of the regular staff posted at various check gates revealed the following:

<sup>30</sup> As on June 2012 (MRI stands for Mines Royalty Inspector and AMRI stands for Assistant Mines Royalty Inspector).

Table 6

Name of the check gate	Number of staff posted for				
	< 1 year	≥ 1 years < 3 years	≥ 3 years and < 5 years	≥ 5 years and < 10 years	≥ 10 years
Mookyndur	2	3	1	1	3
Umling	2	2	1	5	0
Umkiang	2	1	0	2	2
Dawki	0	1	2	1	1
Garampani	0	2	0	1	0
Athiabari	0	4	1	2	0
Borsora	3	0	0	0	0
Cherragoan					
Dainadubi	0	2	0	1	5
Ghasuapara	0	0	0	1	3
Dalwagre	0	0	0	2	1
Masangpani					
Balachanda					
Boldoka					
Dadengre					
Total	8	15	5	16	15

It was seen that there was no policy of staff rotation in check gates. In 10 check gates, 15 officials (out of 37 staff posted) have been working continuously for over 10 years. Overall, 31 officials (out of 56) have been serving in the same check gates for over five years. Posting of an official in the same check gate over a long period of time is fraught with the risk of such officials developing vested interests in the affairs of the check gates.

#### *Lack of security in check gates*

- The M&G Department has a check gate at Dawki in Jaintia Hills district on the Indo-Bangla border. The revenue realised by the Dawki check gate on excess load<sup>31</sup> of coal between 2008-09 and 2012-13 is as follows:

Table 7

Year	Number of coal trucks	Revenue realised (in ₹)
2008-09	16912	9553855
2009-10	18467	11842121
2010-11	35791	6078324
2011-12	30327	211761
2012-13	8728	2462270

(Source: Check gate figures)

During 2011-12, the revenue collection on excess load fell by 96.51 per cent over the previous year. Examination of records in the check gate revealed that the downfall in royalty collection was due to the non-cooperation by the transporters carrying excess coal which made it difficult for the check gate officials to enforce payment of royalty. This was communicated to the DMR by the check gate officials through a series of letters between January 2012 and December 2012 but the DMR failed to take any action. The DMO, Jowai however visited the

<sup>31</sup> On coal, both royalty and penalty (at 25 per cent of the royalty) on the excess load is realised. On limestone, cess on the excess load is realised.

check gate on 20 December 2012 after a gap of 11 months and in his report to the DMR corroborated the earlier complaints made by the check gate officials. Based on the DMO's report, the Department finally decided to set up a temporary check gate at Amlarem<sup>32</sup> on 16 January 2013 with adequate police and magisterial support.

It was seen that immediately after setting up of the check gate, 1994 coal trucks passed through the check gate (between 28 January 2013 and 28 February 2013), out of which, only 17 produced MTCs at the check gate and in respect of the remaining 1977 trucks, royalty and penalty amounting to 1.73 crore was realised at the check gate. Prior to setting up of the check gate at Amlarem, 16569 trucks carrying 1.42 lakh MT of coal (involving royalty of ₹ 4.11 crore) passed through the Dawki check gate without MTCs between January 2012 and December 2012 against which, only ₹ 0.16 crore was realised. Thus, failure of the DMR to promptly act upon the complaints made by the check gate officials and delay in setting up of a check gate at Amlarem resulted in illegal export of coal without payment of royalty amounting to ₹ 3.95 crore on which penalty of ₹ 0.99 crore was realisable.

- The M&G Department also has a check gate at Borsora in West Khasi Hills district on the Indo-Bangla border. The total revenue collected by Borsora check gate on excess load of coal between 2008-09 and 2012-13 was ₹ 1.51 crore.

From the royalty collection registers in the DMR, it was seen that 1.83 lakh MTCs had been issued for export of 12.82 lakh MT of coal. However, during the same period, 38.92 lakh MT of coal was exported through the Borsora LCS of the Customs Department, GOI. The year wise details are shown below:

**Table 8**

Year	No. of MTCs issued	Quantity <sup>33</sup> (in MT)	Quantity as reported by the Customs Department
2008-09	109042	763294	679680
2009-10	31741	222187	659227
2010-11	29461	206227	733621
2011-12	4457	31199	912151
2012-13	8385	58695	907505
<b>Total</b>	<b>183086</b>	<b>1281602</b>	<b>3892184</b>

Thus, 26.10 lakh MT of coal passed through the Borsora check gate without obtaining MTCs and were liable to pay royalty of ₹ 102.64 crore and penalty of ₹ 25.66 crore against which, the check gate officials realised only ₹ 1.51 crore thereby resulting in leakage of revenue of ₹ 126.79 crore for the aforesaid period.

<sup>32</sup> On the highway connecting Jaintia Hills with Bangladesh before reaching Dawki.

<sup>33</sup> Maximum permissible load through Borsora is 7 MT. Hence calculated at 7 MT per MTC.

It was seen that the check gate officials at Borsora had reported security problems to the DMR on atleast four occasions between October 2010 and December 2010 which resulted in non-realisation of revenue on unauthorised transport of coal without MTCs. The matter was also reported in the Comptroller and Auditor General's Audit Report for the year ended 31 March 2012 (*Para 8.6.1*). However, the DMR despite having full knowledge of the matter, failed to take deterrent measures to stop such recurring incidents which is resulting in huge loss of Government revenue.

Audit further observed that although the DMR check gate completely abdicated its duties due to security concerns, the situation was pretty much normal in case of LCS. This was due to the fact that no coal truck can pass the border unless it gets a customs clearance from the LCS. The State Government could have easily addressed this issue by taking up the matter with the GOI in order to make it mandatory that no coal trucks can pass the border check post unless they produce MTCs but it failed to do so thereby resulting in huge loss of revenue.

**Recommendation No. 7:** *The State Government should take up the matter with the GOI in order to make it mandatory for all coal trucks to produce MTCs at all the border check posts failing which, they cannot cross the border. Adequate security should also be provided at the check gates.*

➤ **Vigilance squad**

The M&G Department in August 2002 directed the DMR to constitute a vigilance squad and the same was subsequently constituted in October 2002 comprising of the DMR, the Joint Director and the Financial Adviser, M&G Department. The vigilance squad was constituted to conduct surprise inspection of check gates.

Despite lapse of more than a decade since its inception, the vigilance squad has failed to conduct inspection of even a single check gate. In fact, the present FA does not even have an inkling of what is the role of a vigilance squad and he even does not know that he himself is one of the members of the squad<sup>34</sup>.

Although the M&G Department created a vigilance squad, it did not lay down any guidelines as to how the vigilance squad was to function. Moreover, the logic behind creating a vigilance squad comprising of the top functionaries of the Department was in itself not justified as the members could not have performed their duties effectively over and above their regular assigned duties. Thus, the vigilance squad was merely constituted on paper and failed to serve as a proper check to minimum risks in check gates and prevent revenue losses.

<sup>34</sup> Based on a meeting held with the FA (Shri E.Ch.Momin) on 23.09.2013.

➤ **Improper maintenance and lack of control on stock keeping and issue of MTC Books**

From a detailed examination of the stock register of MTC books for the period from 2008-09 to 2012-13, it was observed that 404 numbers of MTC books from different series have not been issued for use. These MTC books are unaccounted for and their balance could neither be accounted for by the DMR nor physically verified in the office of the DMR by Audit.

Each MTC book (previously called CTC<sup>35</sup> book) contains 100 sheets in triplicate and one sheet authorises movement of 9 MT<sup>36</sup> of coal on advance payment of royalty. There are 2000 MTC books in each series. Total quantity of coal and amount of royalty that could have been collected through the missing/unaccounted MTC books is worked out below.

**Table 9**

Period	No. of Books	Total No. of Challans	Quantity of Coal (in MT)	Rate of Royalty (In ₹)	Total Royalty (In ₹)
1 April 2008 to 26 August 2009	203	20300	304500 (@ 15 MT per Challan)	165	50242500
27 September 2009 to 3 April 2011	Receipt and Issue of MTC could not be scrutinised due to non-production of concerned 'Stock Register' for the relevant period				
4 April 2011 to 21 June 2012	194	19400	174600 (@ 9 MT per challan)	290	50634000
22 June 2012 to 31 March 2013	7	700	6300 (@ 9 MT per challans)	675	4252500
<b>Total</b>	<b>404</b>	<b>40400</b>	<b>485400</b>		<b>105129000</b>

The list of unaccounted MTC books is listed in **Annexure III**.

It is to be mentioned here that the 'Stock Register' of MTC books for the period September 2009 to March 2011 was not made available to Audit despite several reminders. Hence irregularity in issue of MTC books, if any during the concerned period, could not be detected during the course of Performance Audit.

Thus, the possibility of misuse of the missing/unaccounted MTC books resulting in defalcation/misappropriation of government money amounting to ₹ 10.51 crore cannot be ruled out.

**Recommendation No. 8:** *The M&G Department should overhaul the functioning of check gates. The security of the check gates, especially at Borsora and Dawki need to be strengthened and the vigilance squad should be instructed to conduct inspections on a regular basis. The control mechanism for issue of MTC books has to be strengthened and the DMR should immediately take stock of all the MTC books to prevent their misuse.*

<sup>35</sup> Coal Transport Challan

<sup>36</sup> Up to 16 September 2010, each receipt was to be issued for transport of 15 MT of coal and 9 MT thereafter.

### 7.5.14.3 Information and communication

Information and communication are essential for realisation of all the internal control objectives. An efficient organisation is one which has developed an efficient and relevant information database which is appropriate, timely, current, accurate and accessible. It is only when relevant information pertaining to an organisation is available can the efficiency and effectiveness of the organisation's operations be evaluated.

During PA the following deficiencies were noticed due to absence of a proper information and communication mechanism.

➤ ***Difference between information provided by the DMR and the field offices***

It was seen that there was wide variation between the royalty collected by checkgates in Jaintia Hills as per DMR records and that submitted by the DMO, Jowai and the check gates<sup>37</sup> during 2008-09 to 2012-13 as per table shown below:

**Table 10**

Year	Royalty collected from check gates (₹ in crore)		
	As per DMR	As per DMO, Jowai	As per the check gates
2008-09	1.58	1.62	2.13
2009-10	3.27	2.76	3.32
2010-11	2.62	3.15	2.62
2011-12	2.51	2.47	2.51
2012-13	6.31	5.79	6.31
<b>Total</b>	<b>16.29</b>	<b>15.79</b>	<b>16.89</b>

It was seen that in almost all the cases, there was a difference in the royalty collected as reported by the DMR, the DMO and the check gates. The variation proves the fact that there was no control of the DMR over the field offices and that no efforts were made by the DMR to reconcile the reports submitted by the field offices/check gates with those actually maintained by these offices. The difference between the DMR figures and the check gates' figures indicates a possibility of under reporting/short deposit of Government money actually collected by the check gates.

➤ ***Absence of vital information***

The DMR does not maintain data which is crucial to efficiently monitor the functioning of its field offices and check gates such as monthly census of trucks carrying coal and limestone, excess load reported by the check gates, royalty realised by check gates, monthly issue of mineral transport challans etc. As a result, several deficiencies were noticed such as short realisation of revenue by check gates and shortage in MTCs (refer to Para 7.5.12.1).

<sup>37</sup> Check gates under DMO, Jowai viz., Mookyndur, Dawki and Amlarem.



➤ **Likely misuse of MTCs**

The DMR has no mechanism to monitor the issue of MTCs and MCCs which are proof of payment of Government moneys. There is no security mechanism to check the issue of MTCs nor has any security feature been introduced in the MTCs to prevent their duplication.

It was seen that the DMO, Williamnagar detected six fake MTCs at Dainadubi check gate in April 2010 and reported the same to the DMR (June 2010). Audit checked the original MTC with the fake one and found no distinguishing features in the original MTC whatsoever. No action was however, taken by the DMR to take up the matter with the M&G Department to revamp the procedure of issue of MTCs and conduct a detailed inquiry into the whole episode and the case was left unattended. It may be mentioned here that the DMO could detect the fake MTCs only on the basis of some prior information and not on *prima facie* basis.

In this connection, Audit reviewed the system in place in two other major revenue earning departments viz., Taxation Department and State Excise Department. It was seen that in case of Taxation Department, 'P' forms are issued by the Taxation authorities akin to the MTCs issued by the DMR for transport of coal. However, the entire Taxation Department is fully computerised and they have an intra net link by means of which any 'P' form utilised at the check gate can be accessed by the Taxation authorities on real time basis.

In case of State Excise Department, a system is in place for fixing holograms having multiple security features on each liquor bottle (after payment of all duties and levies) and no liquor bottle can be sold in the State without having a hologram. Thus, the possibility of evasion of revenue has been greatly minimised.

**Recommendation No. 9:** *The M&G Department should immediately take stock of the MTC books maintained at the DMR office. Action should be taken to put in place a stronger security mechanism for issue and use of MTCs to prevent their misuse. Computerisation of the Department and the net linking of field offices and check gates with the DMR should be taken up on priority basis.*

**7.5.14.4 Monitoring**

The system of internal control has to be constantly monitored by the management so as to ensure that the controls that are in place are functioning as intended. It is only through regular monitoring that deficiencies in the functioning of the organisation can be detected. Monitoring can be done both internally by the management itself and externally by auditors.

The following deficiencies were noticed in the monitoring mechanism of the M&G Department.

➤ ***Lack of response to audit***

Monitoring internal control should include policies and procedures that ensure that the findings of audit are adequately and promptly resolved through:

- evaluation of the findings and recommendations made by audit and;
- determination of proper response or actions that correct or resolve the matters pointed out by audit in their reports.

The M&G Department has no internal check over the functioning of the DMR and it is only the external audit conducted by the Comptroller & Auditor General of India that evaluates the performance of the Department and points out deficiencies to the Department for initiating proper actions to correct such deficiencies.

It was seen that between 2008-09 and 2012-13, four Inspection Reports<sup>38</sup> were issued by the Principal Accountant General (Audit) to the DMR<sup>39</sup> containing 40 observations involving money value of ₹ 513.96 crore but the DMR has failed to furnish a single reply to any of the observations made by Audit.

Similarly, a total of 27 paragraphs involving money value of ₹ 286.66 crore and two recommendations were featured in the Audit Reports for the years ended 31 March 2009, 2010, 2011 and 2012. Against which, replies were received only in respect of six paragraphs none of which could suitably resolve the deficiencies pointed out in the ARs. No action was taken on the recommendations made in the ARs.

It is because of the lack of response on the part of the M&G Department to the audit observations that persistent irregularities highlighting losses are being pointed out year after year. This, points to serious failure on the part of the Department to monitor its functioning.

***Audit objective: Whether there was compliance with the Acts and Rules and whether there was any leakage of revenue due to non-compliance with the provisions of the Acts and Rules?***

***7.5.15 Loss of revenue due to under reporting of excess load***

During the course of PA it was seen that due to non-interlinking of records between the DMR check gates, the Taxation check gates and the LCS, GOI there was under reporting of excess load of coal by four DMR check gates leading to loss of revenue as shown below:

<sup>38</sup> Inspection Reports (IR) are findings pointed out in course of normal audit and are not to be confused with the Audit Reports (AR) which contain the most important findings of all the auditee units over the period of a year. It is only when the deficiencies pointed out in the IRs are not resolved that they are featured in the ARs.

<sup>39</sup> Only IRs issued to the DMR have been considered. IRs issued to the DMOs have been left out.

➤ **DMR check gate and Taxation check gate**

It was seen that the DMR check gate at Dainadubi reported excess load of 30.31 lakh MT of coal between April 2008 and March 2013 whereas during the same period, 37.01 lakh MT of excess load of coal was reported by the Taxation check gate at Dainadubi. Thus, the DMR check gate under reported movement of 6.70 lakh MT of coal and failed to realise royalty amounting to ₹ 19.43 crore<sup>40</sup> on which penalty amounting to ₹ 4.86 crore was realisable resulting in loss of revenue to that extent.

➤ **DMR check gates and Land Custom Stations, GOI**

It was seen that the DMR check gate at Dawki, Gasuapara and Dalu reported despatch of 6.99 lakh MT of coal between April 2011 and March 2013 whereas during the same period, 15.76 lakh MT of coal passed through the Land Customs stations, GOI located in the same locations. Thus, the DMR check gates under reported movement of 8.78 lakh MT of coal and failed to realise royalty amounting to ₹ 30.77 crore<sup>41</sup> resulting in loss of revenue to that extent.

**7.5.16 Short-payment of Financial Assurance**

Rules 23F of the MCDR, 1988 provides that Financial Assurance (FA) has to be furnished by every mining lease holder at the rate of ₹ 25,000 per hectare of the mining lease for 'A' category<sup>42</sup> mines and ₹ 15,000 per hectare of the mining lease for 'B' category<sup>43</sup> mines. The FA shall be submitted in the form of bank guarantee to the Regional Controller of Mines before executing the mining lease deeds. Further rule 58 of the MCDR stipulates that whoever contravenes any of the provisions of the MCDR shall be punishable with imprisonment up to 2 years, or with a fine up to ₹ 50,000 or with both, and in the case of continuing contravention with an additional fine ₹ 5,000 per day is liable for such continued contravention.

Out of 16 mining leases granted by the M&G Department, it was seen that M/s Lafarge Umiam Mining Pvt. Ltd. - an 'A' category lease holder, with a 100 hectare mining lease submitted FA of ₹ 8.23 lakh instead of ₹ 25 lakh thereby resulting in short payment of FA of ₹ 16.77 lakh.

<sup>40</sup> Revenue loss of ₹ 59.1 crore was already in featured in the Audit Reports for the years ended 31 March 2010, 31 March 2011 and 31 March 2012 (vide paras 7.13, 7.11.1 & 7.11.2 and 8.7 respectively)

<sup>41</sup> Revenue loss of ₹ 43.35 crore was already in featured in the Audit Reports for the years ended 31 March 2009, 31 March 2010 and 31 March 2011 (vide paras 7.6, 7.7 and 7.6.1.1 respectively)

<sup>42</sup> Category 'A' mines are those mines which satisfy one of the following conditions:

(a) mines are fully mechanised and the work is being carried out by deployment of heavy mining machinery for deep hole drilling, excavation, loading and transport;

(b) the average employment in the mines exceeds 150.

<sup>43</sup> All other mines which do not fall into the category of 'A' mines are Category 'B' mines

### 7.5.17 Non-recovery of dead rent from mining lease holders due to non-operation of mines

Section 9 A (1) of the MMDR, Act, 1957 stipulates that dead rent<sup>44</sup> is payable to the State Government every year by the holder of a mining lease if the mining operation is not carried out in the leased area. For non-payment of dead rent, interest is payable at 24 *per cent* per annum<sup>45</sup> under Rule 64 A of the MCR, 1960.

Out of 16 mining leases granted by the M&G Department, two lessees<sup>46</sup> failed to carry out mining operations but dead rent amounting to ₹ 7.43 lakh in respect of these lease holders was neither demanded by the DMR nor paid by the lessees. Despite non-operation of mines, no action was taken by the DMR to cancel the leases or carry out survey of the leased area to ascertain reasons for non-operation of mines by the lessees. Thus, inaction on the part of the DMR led to non-realisation of dead rent of ₹ 7.43 lakh on which interest amounting to ₹ 20.61 lakh was also leviable.

### 7.5.18 Short-realisation of royalty by check gates

In Meghalaya, coal can be transported outside the State only on the strength of Mineral Transport *Challans* (MTC) issued by the DMR on payment of prescribed royalty.

The Ministry of Coal, GOI revised the rate of royalty on coal to 14 *per cent* ad-valorem on the price of coal as reflected in the invoice with effect from 10 May 2012. Accordingly, the M&G Department revised the rate of royalty on coal from ₹ 290 to ₹ 675 per metric tonne (MT) by considering the invoice price as ₹ 4850 per MT with effect from 22 June 2012. The DMR while notifying the revised rate further directed all coal dealers/exporters to surrender their unutilised MTCs issued at the pre-revised rate and procure new ones after payment of the balance amount. The notification further stated that non-payment of royalty at the revised rate would entail payment of penalty at the rate of 25 *per cent* of the revised rate of royalty.

It was noticed that MTCs obtained at pre-revised rate were produced by 1516 coal trucks carrying 13,223 MT of coal at Mookyndur, Umling and Borsora check gates between 23 June 2012 and 27 June 2012 and the check gate officials in gross violation of the Government directive accepted the same and allowed the trucks to ply without payment of the additional royalty. Details of transportation of coal by submitting old MTCs are as under:

<sup>44</sup>

Rates of dead rent in rupees per hectare per annum		
From second years of lease	Third year and fourth year	Fifth year onwards
200	500	1000

<sup>45</sup> After the expiry of 60 days from the date when such money becomes due.

<sup>46</sup> M/s Anderson Mineral Pvt. Ltd and M/s K. Singh Wann & Sons.

Table 11

Name of check gate and quantity of coal which can be transported per MTC	No. of MTCs	Quantity (in MT)	Old rate of royalty at ₹290 per MT (in ₹)	New rate of royalty at ₹ 675 per MT (in ₹)	Balance amount to be realised (in ₹)	Penalty @ 25 per cent of the balance amount (in ₹)	Total amount to be realised (in ₹)
Mookyndur (9 MT per MTC)	1038	9342	2709180	6305850	3596670	899168	4495838
Umling (9 MT per MTC)	202	1949 (1818+131)	565210	1315575	788355 <sup>47</sup>	197089	937956
Borsora (7 MT per MTC)	276	1932	560280	1304100	743820	185955	929775
<b>Total</b>	<b>1516</b>	<b>13223</b>	<b>3834670</b>	<b>8925525</b>	<b>5128845</b>	<b>1282212</b>	<b>6411057</b>

Thus, the irregular action of the check gate officials resulted in loss of revenue amounting to ₹ 64.11 lakh.

#### 7.5.19 Non-realisation of revenue on limestone extracted from leased areas

Rule 45 of the MCR, 1960 stipulates that if the lessee makes any default in payment of royalty then the lessor may, after giving the lessee a notice, determine the lease within 60 days from the date of receipt of such notice if the royalty is not paid. Rule 64 A of the MCR, 1960 further provides that if any amount payable by the licensees are not paid within the time specified for such payment, simple interest at the rate of 24 per cent per annum may be charged on the said amount from the sixtieth day of the date fixed for payment of such dues. The royalty on limestone is ₹ 63 per MT. In addition, cess at ₹ 20 per MT is also payable. For payment of royalty in respect of mining lease holders, the M&G Department, GOM fixed the due date as follows:

Half yearly ending	Due date
<b>30 June</b>	31 July
<b>31 December</b>	31 January

**7.5.19.1** It was seen that five lease holders<sup>48</sup> having eight active mining leases produced 27.57 lakh MT of limestone between May 2011 and December 2012 against which, they deposited royalty amounting to ₹ 0.40 crore in respect of only 0.79 lakh MT leaving a balance of 26.78 lakh MT on which royalty amounting to ₹ 16.45 crore is yet to be paid. In addition, cess amounting to ₹ 5.35 crore was not paid on the entire quantity of limestone produced. In case of two other mining lease holders<sup>49</sup> the DMR does not even maintain records of the quantity of limestone extracted from the leased areas and the quantity on which royalty actually paid. However, from the records made available to audit, it was seen that these two lessees have to pay royalty

<sup>47</sup> 1818 MT X (₹ 675 – ₹ 290) + 131 MT X ₹ 675 = ₹ 788355

<sup>48</sup> (1) M/s Meghalaya Cements Ltd. (2 leases) (2) M/s Adhunik Cements Ltd. (3 leases) (3) M/s Hill Cements Ltd. (4) M/s JUD Cements (5) M/s Meghalaya Mines & Minerals Pvt. Ltd.

Details of payment in respect of two other lease holders viz., M/s Komorrah Limestone Mining Co. Ltd. and M/s MCCL are not maintained by the DMR, hence not taken into account although they have also defaulted in payment of royalty.

<sup>49</sup> M/s Komorrah Limestone Mining Co. Ltd. and M/s MCCL

amounting to ₹ 2.58 crore on which cess amounting to ₹ 1.12 crore was also leviable.

It was however seen that the DMR issued demand notices once each to these defaulters on various dates between May 2011 and October 2012. Despite non-compliance with the demand notices by these companies, no action was taken by the DMR to cancel the mining leases and recover the arrear royalty by way of *bakijai*<sup>50</sup> proceedings. Thus, inaction of the DMR resulted in non-realisation of revenue amounting to ₹ 21.80 crore on which interest amounting to ₹ 6.04 crore (up to July 2013) was also realisable.

It may be mentioned here that the DMR has only nine active mining lease holders and out of these, only two lessees<sup>51</sup> have paid their dues. This proves that the DMR and the M&G Department have completely failed to regulate the activities of 80 per cent of the mining lease holders.

#### 7.5.20 Short-extraction of limestone against the mining plan

Rule 13 of the MCDR, 1988 provides that every holder of a mining lease shall carry out mining operations in accordance with the approved mining plan wherein the details for mining operations are laid out. In case of deviation the Regional Controller of Mines or any authorised officer may order suspension of all or any of the mining operations. Further, Rule 58 of the MCDR stipulates that whoever contravenes any of the provisions of the MCDR shall be punishable with imprisonment up to two years, or with fine not exceeding ₹ 50,000 or with both and in case of continued offence, with a fine not exceeding ₹ 5,000 per day during the period of which such contravention continues.

It was seen that six<sup>52</sup> mining leases were granted on the basis of approved mining plans for extraction/production of 3.74 crore MT of limestone between the years 2008-09 and 2012-13. Against which, the lease holders extracted 1.30 crore MT thereby resulting in short extraction of limestone of 2.44 crore MT as shown below:

Table 12

Sl. No.	Name of lease holder	Year	Quantity (in MT)		Short extraction (in MT)	Short realisation of revenue <sup>53</sup> (in ₹)	
			To be extracted as per mining plan	Actually extracted		Royalty	Cess
1.	M/s Hills Cement	2011-12	90000	15782	74218	4670064	1484360
		2012-13	105000	1638.96	103361.04	6511746	2067221

<sup>50</sup> The Deputy Commissioner of the district acts as the Certificate Officer (also termed as *bakijai* officer) for recovery of Government dues under the Bengal Public Demands Recovery Act, 1913.

<sup>51</sup> M/s CMCL and M/s Lafarge Umiam Mining Pvt. Ltd.

<sup>52</sup> (i) M/s Cement Manufacturing Co. Ltd. (3 leases), (ii) M/s Meghalaya Cement Ltd. (2 leases) and (iii) M/s Adhunik Cement Ltd. (3 leases).

<sup>53</sup> Royalty on limestone was ₹ 45 per MT up to 27 September 2010 and ₹ 63 per MT thereafter. Cess on limestone was ₹ 5 per MT up to 5 January 2009 and ₹ 20 thereafter. For the purpose of calculation royalty has been calculated at ₹ 45 per MT up to 2010-11. Similarly cess on limestone has been calculated at ₹ 5 per MT up to 2008-09.

2.	M/s JUD Cement	2010-11	240000	350793.37	-110793.37	-4985702	-2215867
		2011-12	450000	191509.5	258490.5	16284902	5169810
		2012-13	450000	336828.899	113171.101	7129779	2263422
3.	M/s Adhunik Cement Ltd.	2010-11	926000	179124	746876	33609420	14937520
		2011-12	2606000	994691.14	1611308.86	101512458	19893823
		2012-13	1950000	352357	1597643	100651509	31952860
4.	M/s Cement Manufacturing Co. Ltd.	2008-09	814460.90	707897.39	106563.51	4795358	532818
		2009-10	919841.35	430337.48	489503.87	22027764	9790077
		2010-11	892589.30	724155.95	168433.35	7579501	3368667
		2011-12	877685.30	861299.89	16385.41	1032281	327708
		2012-13	877685.30	765785.78	111899.52	7049670	2237990
5.	M/s Lafarge Umiam Mining Pvt. Ltd.	2008-09	5000000	1471324	3528676	158790420	17643380
		2009-10	5000000	1730190	3269810	147141450	65396200
		2010-11	5000000	0	5000000	225000000	100000000
		2011-12	5000000	1390337	3609663	227408769	72193260
		2012-13	5000000	1851048	3148952	198383976	62979040
6.	Komorrah limestone Mining Co.	2008-09	250000	114975	135025	6076125	675125
		2009-10	250000	131909.1	118090.9	5314091	2361818
		2010-11	250000	140225	109775	4939875	2195500
		2011-12	250000	139831	110169	6940647	2203380
		2012-13	250000	124631.8	125368.2	7898197	2507364
<b>Total</b>			<b>37449262.15</b>	<b>13006672.26</b>	<b>24442589.891</b>	<b>1295762300</b>	<b>419965476</b>

No reason was given for short extraction of limestone by any of the mining lease holders. The M&G Department also failed to take any action to suspend the mining leases of the defaulters. Thus, due to non-adherence to the approved mining plans coupled with the inaction on the part of the M&G Department led to short realisation of royalty amounting to ₹ 129.58 crore and cess amounting to ₹ 42 crore on the short extracted quantity.

**7.5.21 Lack of documentary evidence/unjustified expenditure on geological investigations**

Apart from collection of royalty on minerals exported outside the State, the DMR also carries out geological investigations for detection of new reserves of existing minerals or of new minerals.

It was seen that between 2008-09 and 2012-13 the DMR expended a total of ₹ 12.20 crore on (i) research and development (ii) survey and mapping and (iii) mineral exploration under the Plan Scheme. The details may be seen below:

**Table 13**

Sl. No.	Head of Account	Description	Expenditure (in lakh)					Total
			2008-09	2009-10	2010-11	2011-12	2012-13	
1.	2853-004: Research and Development	Routine analysis of rock/mineral samples to assess the quality of the various mineral deposits of the State for industrial use.	16.81	25.38	25.70	191.76	7.00	<b>268.51</b>
2.	2853-101: Survey & Mapping	Conducting detailed survey of the minerals within the State and to supervise the mining activities.	19.09	26.19	30.49	21.63	14.05	<b>111.45</b>

3.	2853-102: Mineral exploration	Detailed exploration of various mineral resources, ground water resources by Geological investigation and drilling operation, study of Geo-technical aspects on constructional purposes, such as bridges, dams and plants <i>etc.</i> and landslides problem of the State for geological advice to the concerned Department.	81.67	73.21	56.79	518.59	111.17	<b>841.43</b>
Total			<b>117.57</b>	<b>124.78</b>	<b>112.98</b>	<b>731.98</b>	<b>132.22</b>	<b>1219.53</b>

(Source: DMR)

The DMR does not maintain any register of surveys carried out or of mapping done. There are no records of field parties engaged in exploration and surveys or of the reports submitted by these field parties after completion of their investigations. During the five year period reviewed by Audit, no senior officers have undertaken any field trips or supervised the work of the field parties. As such, the DMR has no control over the

- Actual field trips undertaken by the field parties or;
- The research carried out in the Headquarters.

In the absence of any relevant records, the DMR has no means of information to verify the travelling allowance claims submitted by the field parties.

In response to Audit requisition, not a single report of the surveys or investigations or mappings carried out could be furnished. Thus, there is no record to establish as to how the amount of ₹ 12.20 crore was expended and whether the expenditure was justified.

***Audit Objective: Whether there was damage to the environment due to non-conformity to the provisions of the Acts and Rules?***

***7.5.22 Violation of the Mining plans by the lease holders***

Under rule 45 of MCR, if the lessee commits a breach of any of the conditions of the lease, the lessor shall give notice to the lessee requiring him to remedy the breach within sixty days from the date of receipt of the notice and if the breach is not remedied within such period, the lessor without any prejudice to any proceeding that may be taken against the lessee determine the lease. As per the conditions of the lease stipulated in Rule 27 of MCR, the lessee shall *inter alia*:

- take immediate measures for planting not less than twice the number of trees destroyed due to the mining operations in the same area or any other area; (Rule 27 (1) (s) (i) )
- look after the trees during the subsistence of the lease after which these trees shall be handed over to the State Forest Department or any other authority nominated by the Government; (Rule 27 (1) (s) (ii) )
- restore to the extent possible other flora destroyed by the mining operations. (Rule 27 (1) (s) (iii) )



It was seen that all the mining lease holders accordingly submitted Mining Plans on various dates between October 2005 and March 2010 specifying the number of trees which each lessee<sup>54</sup> would plant. The details of afforestation for the lease holders are mentioned below:

**Table 14**

Sl. No.	Name of lessee	Lease Area (Ha.)	No. of trees to be planted					Total
			1 <sup>st</sup> Year	2 <sup>nd</sup> Year	3 <sup>rd</sup> Year	4 <sup>th</sup> Year	5 <sup>th</sup> Year	
1.	M/s Meghalaya Cements Ltd.	4.88	2275	2275	2325	1590	1200	7390
2.	M/s Meghalaya Cements Ltd. (Khliehjeri)	4.90	2925	1615	3000	3750	3000	14290
3.	M/s Adhunik Cements Ltd.	4.90	2700	2700	2800	2800	3350	14350
4.	M/s Lafarge Umiam Mining Pvt. Ltd.	100.0	6000	7000	7000	6000	NIL	26000
5.	M/s Hills Cements Ltd.	4.0	10	10	10	10	10	50
6.	M/s JUD Cements Pvt. Ltd.	4.76	100	100	50	50	50	350
7.	M/s Cement Manufacturing Company Ltd. (Khub-I)	4.96	750	750	500	400	400	2800
8.	M/s Cement Manufacturing Company Ltd. (Khub-II)	4.70	450	350	600	650	500	2250
<b>Total</b>		<b>133.10</b>	<b>15210</b>	<b>14800</b>	<b>16285</b>	<b>15250</b>	<b>8510</b>	<b>67480</b>

No environmental impact assessment was done by either the Forest Department or by the M&G Department and the number of trees to be planted as per the mining plans was solely on the basis of the assessment made by the concerned lessees. As such there was wide difference between the afforestation proposals made by the lessees ranging from 2929 trees per hectare (in case of M/s Meghalaya Cements Ltd.) to only 13 trees per hectare (in case of M/s Hills Cements Ltd.) over the five year period from the date of execution of grant.

The M&G Department however, made no efforts to regulate the activities of the lessees as per the approved MPs which was evident from the fact that the DMR did not maintain any records pertaining to the number of trees actually planted by the lessees. As such, there was no data pertaining to the number of trees planted year-wise by the lessees. However, it was seen that the lessees submit annual returns showing details of production and other miscellaneous information to the Regional Controller of Mines (with a copy to the DMR). A test check was made of the annual returns submitted by all the lessees for the year 2011-12. Based on the annual return, it was seen that there was shortfall in plantations in case of three out of eight lessees as seen below:

<sup>54</sup> MCCL was granted lease in 1961, Komorrah Mining Co. Ltd. was granted lease in 1973, M/s Lafarge Umiam Mining Pvt. Ltd. was granted lease in 2001 and M/s Meghalaya Minerals and Mines Pvt. Ltd. was granted lease in 2001. Hence they have been excluded from this list since the five year period of plantation does not fall in the scope of audit.

Table 15

Lease holders	Year of plantation	Number of trees		Shortfall	Percentage shortfall
		To be planted as per MP	Actually planted		
M/s Meghalaya Cement Ltd.	5 <sup>th</sup> year	1200	600	600	50
M/s Meghalaya Cement Ltd. (Khliehjeri)	5 <sup>th</sup> year	3000	875	2125	71
M/s Adhunik Cement Ltd.	1 <sup>st</sup> year	2700	1000	1700	63

Despite violation of the mining plans by these three lessees no action was taken either by the M&G Department or by the Regional Controller of Mines to cancel the mining leases.

### 7.5.23 Impact of Acid Mine Drainage from coal mines

Acid Mine Drainage (AMD) is the outflow of acidic water from coal mines, coal stocks and coal handling facilities. It is caused by the oxidation of pyrite and sulphur in the presence of water leading to the formation of sulphuric acid. Coal mines are a rich source of sulphur and thus AMD worldwide is associated with large scale coal mining. AMD *inter alia* occurs in the following ways in Meghalaya:

- The tunnels sometimes progress below the water table as a result of which, the water floods the mines and it needs to be constantly pumped out of the mine to prevent flooding. This acidic water is discharged at the mine entrance which then flows to the nearby streams/rivers through surface run-offs.
- AMD also occurs when the coal mines are abandoned and the ground water (in addition to rain water) floods the mines and the acidic water comes in contact with the ground water and percolates throughout the ground water system.



Photo No. 1: An abandoned coal mine in Jaintia Hills.



**Photo No. 2:** Seen here is one of the umpteen places where coal is dumped in the open in a mining area in Jaintia Hills.

The effects of AMD are contamination of water, disruption of growth and reproduction of aquatic plants and organisms and corroding effects of acid on parts of infrastructure such as bridges, dams etc.

#### **7.5.23.1 Pollution of rivers due to Acid Mine Drainage from coal mines**

Based on media reports relating to pollution of Lukha river in Jaintia Hills, the Meghalaya State Pollution Control Board (MSPCB) conducted (November 2011) an investigation to ascertain the water quality of the Lukha River and its feeding streams in Jaintia Hills District *vis-à-vis* a similar investigation carried out in February 2007. For this purpose, eight<sup>55</sup> water and sediment samples were collected from the same sampling locations investigated during 2007. The findings are as follows:

**Table 16**

Station	pH		Iron(mg/l)		Sulphate(mg/l)	
	BIS norms 6.5-8.5		BIS norms:0.3		BIS norms:200.0	
	2007	2011	2007	2011	2007	2011
St.1	3.0	2.7	3.6	6.2	254.0	566.5
St.2	7.5	5.0	0.13	5.4	13.4	305.0
St.3	6.8	7.3	0.17	0.4	62.0	8.69
St.4	4.5	4.3	0.46	4.8	211.8	265.0
St.5	6.3	5.0	0.32	1.2	188.8	200.0
St.6	4.3	6.2	0.372	0.26	192.1	118.2
St.7	7.9	8.2	1.35	0.18	99.0	29.04
St.8	7.8	8.1	0.3	0.28	101.5	45.6

The water quality characteristics in terms of pH, Sulphate and Iron concentrations with respect to Stations 1, 2, 4 and 5 indicated that there is

<sup>55</sup> St.1(Lunar River Myndihati), St.2 (Lukha River near Khaddum village), St.3 (Lukha River near Khaddum village coming out of cave like structure), St.4 ( point of confluence-river Lunar and river Lukha), St.5 (Lukha river- 100m downstream of confluence), St. 6 ( Lukha river sonapur bridge), St. 7 (20m downstream from point of discharge of CMCL to Umtyrngai River), St. 8 ( Ummutha River downstream of Umtyrngai River)

significant deterioration of water quality in comparison to that of the year 2007 the major cause of which was the AMD from coal mining in these areas.

The investigation made by the MSPCB further revealed that the river water on the entire stretch of the sampling locations was not suitable for drinking purposes.



**Photo No. 3: Impact of AMD on a stream in Jaintia Hills.**

The investigation report *inter alia* made the following recommendations to minimise the impact of mining activities on water quality as:

- Filling of abandoned mines to prevent generation of AMD.
- Proper management/treatment of AMD in mining areas for mitigation of water pollution.
- Afforestation and vegetation of the mined areas.
- Prohibition from direct discharge of both solid and liquid wastes generated from the mine into the rivers/streams.

The findings of the MSPCB including the recommendations were forwarded to M&G Department and the Deputy Commissioners of all the districts in February 2012. However, no efforts have been made by the State Government either to implement the recommendations made by the MSPCB or take alternative effective steps to control AMD.

#### **7.5.23.2 Damage to NEEPCO power plant due to AMD**

The North Eastern Electric Power Corporation Ltd., (NEEPCO), a GOI enterprise, developed the Kopili Hydro Electric Project in stages since 1984. The plant situated in Assam has a total installed capacity of 275 megawatts (MW) and caters to the north eastern States of India. Both Meghalaya and Assam, however, get 6 *per cent* free power from the project being the two

'host' states of the project as the reservoir of the hydro electric project falls in both these States.

During a routine testing by NEEPCO of the reservoir water in 2006-2007 it was found that the water was acidic and accordingly the Geological Survey of India (GSI) was entrusted to study the case. The report submitted by the GSI stated that the acidity of the reservoir water was mainly due to unscientific coal mining in the catchment area. Subsequently, severe corrosion has been observed in guide vanes, top cover, runner, *etc.*, due to the acidic nature of water there been frequent power outages due to failure of cooler tubes and cooling water pipes of the power stations. It was further confirmed by a multidisciplinary team of experts from the Central Water Commission, Central Electricity Authority and Central Soil and Material Research Station that the effect of acidic water on power plant equipments had become more severe with effect from 2008-09 as a result of which, NEEPCO had to even replace the equipments.

NEEPCO had taken up the matter with DMR and the Chief Secretary, GOM on various dates between January 2009 and August 2009 for taking up necessary measures for educating coal mining agencies and adopting necessary rules and methods for extraction of coal so that the problem of acidic water could be eliminated at the root itself. The DMR in November 2009 replied that the State Government had no control over coal mining by private mine operators.

Between 2008-2009 and 2012-2013, the Kopili HE Project suffered 336 numbers of outages due to damage to machinery by acidic water. The loss of generation during the same period was 972.28 million units worth ₹ 103.79 crore. As the State was entitled to 6 *per cent* free power from the Kopili HE, the loss to the State exchequer during the five year period 2008-13 was ₹ 6.23 crore.

#### **7.5.24 Summary of Audit Conclusions**

- The M&G Department has not adhered to the provisions of the MMDR Act and the Rules made there-under resulting not only in loss of revenue but also unauthorised operation of mines.
- There was lack of co-ordination between the M&G Department and the Forest Department due to which, royalty on limestone could not be realised.
- The check gates suffered from many problems resulting in recurring loss of Government revenue.
- There was absence of suitable system and procedures for identification and registration of all mineral dealers in the State.
- There was non-existence of internal control procedures in the functioning of M&G Department.
- There was damage to the environment in the form of AMD due to unscientific mining.

**7.5.25 Summary of recommendations**

- The Department should fix responsibility on the officers responsible for allowing the mining lease-holders to carry on mining activities in gross violation of the Acts and Rules. The Department should also cancel the mining leases of those lease holders so as to prevent them from carrying out any further mining activities in the area.
- The GOM should take up the matter of compensation claim with the GOI for delay in revision / non-revision of royalty at the earliest.
- The GOM should entrust collection of royalty on limestone to the M&G Department so as to prevent recurring loss of revenue to the Government.
- The Department should immediately do away with the system of issue of NOCs in lieu of MTCs. It should also immediately direct the DMR to issue demand notices to all defaulters at the earliest.
- The Department should immediately put in place a system for identification and registration of all coal dealers in the State.
- The Department should take up the matter at the highest level of Government so as to make it mandatory for all coal trucks to produce MTCs at all the LCS in the State failing which, they would not get customs clearance to cross the border.
- The security of the check gates need to be strengthened. The vigilance squad should be instructed to start inspections on a regular basis. The control mechanism for issue of MTC books has to be strengthened.
- Computerisation of the Department and the net linking of field offices and check gates with the DMR should be taken up on priority basis.

Shillong  
The

**(Rajesh Singh)**  
Accountant General (Audit)  
Meghalaya

Countersigned

New Delhi  
The

**(Shashi Kant Sharma)**  
Comptroller and Auditor General of India

## ANNEXURE – I

Reference Para 5.6: *Loss of revenue due to non-renewal of licences*

SL. NO.	NAME OF THE WEIGHBRIDGE (LOCATION)	PERIOD OF LEASE	LEASE AMOUNT (₹)	STATUS
1.	Thangskai (NH 40)	21.12.2007 to 19.12.2010	30,00,000	Applied on 10.11.2010 and rejected on 17.12.2010
2.	7 <sup>th</sup> Mile (Pasyih) (NH 40)	25.01.2009 to 24.01.2012	75,00,000	Functioning in view of Supreme Court Order
3.	Umling (NH 44)	15.03.2007 to 14.03.2010	75,00,000	Functioning in view of Supreme Court Order
4.	Mawpun (State PWD Road)	05.12.2008 to 14.12.2011	2,50,000	Applied on 26.10.2011 and rejected on 05.02.2013
5.	Athiabari (State PWD Road)	23.08.2007 to 22.08.2010	3,00,000	Applied on 18.06.2012 and rejected on 01.02.2013
6.	Borsora (State PWD Road)	17.11.2008 to 16.11.2011	10,50,000	Applied on 02.11.2011 and rejected on 14.02.2013
7.	Shallang (State PWD Road)	15.12.2008 to 14.12.2011	3,50,000	Did not apply
8.	Dobu (NH 62)	10.09.2007 to 09.09.2010	8,00,000	Not signed and returned
9.	Gasuapara (State PWD Road)	12.03.2009 to 11.03.2011	5,00,000	Applied on 09.03.2011 and rejected on 10.10.2011

## ANNEXURE II

Calculation for Para 5.6

Weighbridge	Period	Loss
Thangskai	1 June 2012 to 30 April 2013	6875000
Gasuapara	1 June 2012 to 30 April 2013	416667
Borsora	1 Nov 2011 to 30 April 2013	1575000
Athiabari	1 Sept 2010 to 30 April 2013	800000
Mawpun	1 Nov 2011 to 30 April 2013	375000
<b>Total</b>		<b>10041667</b>

## ANNEXURE III

Reference Para: “*Issue of defective demand notices*”

Sl. No.	Name of the exporter	LCS	Period	Quantity (in MT)	Amount (in ₹)
1	Manik Sarkar	Dalu	06/12 to 08/2012	146.5	53180
2	Sangjol Sangma	Baghmara	07/2012	80	67520
3	Bishu A. Sangma	- do -	- do -	30	25320
4	Evellyn Momin	- do -	- do -	5	4220
5	Browney Marak	- do -	- do -	5	4220
6	Stilla Momim	- do -	08/12	60	50640
7	Anthony Marak	- do -	- do -	20	16880
8	Evellyn Momin	- do -	- do -	15	12660
9	Manik Sarker	- do -	- do -	125	105500
10	Jay International	- do -	- do -	143.2	121536
11	Barshila Sangma	- do -	- do -	11.9	10128
12	Ollia A. Sangma	Baghmara	10/12	70	59080
13	Rakesh Ch. Momin	- do -	- do -	135	113940

14	John Benderson Sangma	- do -	- do -	55	46420
15	Nilath S. Marak	- do -	- do -	110	92840
16	Manoj G. Momin	- do -	- do -	20	16880
17	Surosh R. Marak	- do -	- do -	15	12660
18	Newton Marak	- do -	- do -	10	8440
19	Mithin Sangma	- do -	- do -	25	21100
20	Ollia A. Sangma	- do -	11/12	300	253200
21	Sangjol Sangma	-do-	-do-	20	16880
22	Browney Marak	Gasuapara	11/2012	300	253200
23	Kartush Marak	- do -	- do -	500	422000
24	Babul Marak	- do -	- do -	500	422000
25	Babul Borai	- do -	12/12	100	84400
26	Bansal Coal Traders	- do -	- do -	600	506400
27	Bijoy Kr. Debborma	- do -	- do -	200	168800
28	Balaji Export	- do -	- do -	100	84400
29	Chahat International	- do -	- do -	100	84400
30	Charnath Momin	- do -	- do -	100	84400
31	Dipoh Borah	- do -	- do -	100	84400
32	Elbison Sangma	- do -	- do -	200	168800
33	Francelina Marak	- do -	- do -	200	168800
34	Heninson Sangma	- do -	- do -	1800	1519200
35	Harsin Marak	- do -	- do -	100	84400
36	Kalveen Marak	- do -	- do -	100	84400
37	Kartush R. Marak	- do -	- do -	600	506400
38	North East Enterprise	- do -	- do -	200	168800
39	North East Traders	Gasuapara	12/12	1100	928400
40	Shashi Marak	- do -	- do -	100	84400
41	Somuti R. Marak	- do -	- do -	100	84400
42	Surendra Debborma	- do -	- do -	100	84400
43	Sunshine International	- do -	- do -	400	337600
44	S.K. Enterprise	- do -	- do -	400	337600
45	Ajoy Ghosh	Dalu	01/13	100	84400
46	Barshilla Sangma	- do -	- do -	300	253200
47	Heldina Marak	- do -	- do -	200	168800
48	Jay International	- do -	- do -	400	337600
49	Sipra Traders	- do -	- do -	100	84400
50	S.K. Enterprise	- do -	- do -	300	253200
51	Sujit Saha	- do -	- do -	200	168800
52	Stilla Ch. Momin	Baghmara	- do -	300	253200
53	Sangjol Sangma	- do -	- do -	600	506400
54	Harsin Marak	- do -	- do -	250	211000
55	Bobby Sangma	- do -	- do -	200	168800
56	John Benderson Sangma	- do -	- do -	200	168800
57	Browney Marak	- do -	- do -	100	84400
58	H.D. Shira	- do -	- do -	50	42200
59	Bobitha Marak	- do -	- do -	100	84400
60	Devasish Marak	- do -	- do -	100	84400
61	A.J. Exim	Gasuapara	01/13	1000	844000
62	Anthony Shanon M. Sangma	- do -	- do -	200	168800
63	Anup M. Sangma	- do -	- do -	100	84400
64	Babul S. Marak	- do -	- do -	600	506400
65	Bikash Bose	- do -	- do -	100	84400
66	Bonsin Ch. Marak	- do -	- do -	100	84400
67	Dosi Tourism	- do -	- do -	400	337600
68	Dipoh Borah	- do -	- do -	200	168800
69	Elbison Sangma	- do -	- do -	200	16880



70	Good Luck Enterprise	Gasuapara	01/13	100	84400
71	George S. Marak	- do -	- do -	700	590800
72	Gearson D. Sangma	- do -	- do -	100	84400
73	Gopal A. Sangma	- do -	- do -	100	84400
74	Jay International	- do -	- do -	100	84400
75	Krishna Traders	- do -	- do -	100	84400
76	Kelvin M. Marak	- do -	- do -	100	84400
77	Lavitha M. Sangma	- do -	- do -	400	337600
78	Madhura M. Marak	- do -	- do -	200	168800
79	Maheshwar Debbarma	- do -	- do -	100	84400
80	Minseng T. Sangma	- do -	- do -	100	84400
81	Maithy M. Sangma	- do -	- do -	100	84400
82	Naish M. Sangma	- do -	- do -	200	168800
83	Nagha M. Sangma	- do -	- do -	100	84400
84	Perfect Trade Link	- do -	- do -	200	168800
85	Purnima Hajong	- do -	- do -	100	84400
86	Ruthila R. Marak	- do -	- do -	2900	2447600
87	Rajesh Chauhan	- do -	- do -	100	84400
88	Ratan Gaur	- do -	- do -	100	84400
89	Sensilla Sangma	- do -	- do -	100	84400
90	Sumati Enterprise	- do -	- do -	300	253200
91	Sunshine International	- do -	- do -	100	84400
92	Salman Ch. Sangma	- do -	- do -	100	84400
93	S.K. Enterprise	- do -	- do -	200	168800
94	Teju Bhai & Enterprise	- do -	- do -	500	422000
<b>TOTAL</b>				<b>22605.60</b>	<b>18738448</b>

#### ANNEXURE IV

Reference Para: *“Improper maintenance and lack of control on stock keeping and issue of MTC books”*

Series	Book No.	No. of books	Date of Receipt from Government Press
<b>GG</b>	321-340	20	26/05/2008
	481-520	40	09/06/2008
	581-600	20	12/06/2012
	601-620	20	17/06/2008
	826	1	23/07/2008
	991-1000	10	06/08/2008
	1261-1280	20	05/09/2008
	1341-1400	60	09/09/2008
<b>HH</b>	1089-1100	12	02/02/2009
<b>E</b>	741-760	20	04/05/2011
	1089-1098	10	18/05/2011
	1241	1	25/05/2011
	1859-1860	2	06/07/2011
<b>F</b>	421-440	20	21/09/2011
	1331-1340	10	21/11/2011
<b>G</b>	398-420	23	23/12/2011
<b>H</b>	361-368	8	29/02/2012
	1561-1660	100	11/04/2012
<b>K</b>	1101-1107	7	20/3/2013
<b>Total</b>		<b>404</b>	

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