



सत्यमेव जयते

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
For the year ended 31 March 2016**



Government of West Bengal

Report No. 5 of the year 2016

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PREFACE

This Report for the year ended March 2016 has been prepared for submission to the Governor of West Bengal under Article 151 of the Constitution of India.

The Report contains significant results of the performance audit and compliance audit of the revenue earning Departments of the Government of West Bengal including Finance Department, Excise Department, Land and Land Reforms Department and Transport Department. However, Departments relating to Economic Sector as well as General and Social Sector are excluded and covered in separate reports.

The instances mentioned in this Report are those which were observed in the course of test audit for the period 2015-16, as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2015-16 have also been included, wherever necessary.

Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

OVERVIEW

OVERVIEW

I. General

This Report contains 25 paragraphs besides two Performance Audits and two theme based compliance audits relating to under-assessment/ non-realisation/ loss of revenue etc. of ₹ 812.61 crore. A follow-up audit on ‘Computerisation of Motor Vehicles Department’ featured in the Audit Report (Revenue Receipts) for the year 2010-11 has also been included in this Report. Some of the major findings are mentioned in the following paragraphs:

- Total receipts of the Government for the year 2015-16 increased to ₹ 1,09,732.21 crore from ₹ 86,514.21 crore in the previous year. Forty *per cent* of the total revenue collected in 2015-16 was raised by the Government through tax revenue (₹ 42,492.08 crore) and non-tax revenue (₹ 1,861.79 crore). The balance 60 *per cent* was received from the Government of India as State’s share of net proceeds of divisible Union taxes (₹ 37,163.93 crore) and Grants-in-aid (₹ 28,214.41 crore).

(Paragraph 1.1.1)

- As on 30 June 2016, 853 inspection reports issued up to December 2015, containing 4,460 audit observations involving ₹ 2,536.06 crore were outstanding for want of response or final action by the concerned departments.

(Paragraph 1.6)

- Test check of records of Sales Tax/Value Added Tax, Land Revenue, Motor Vehicles Tax, State Excise, Stamp Duty and Registration Fees, Profession Tax, Electricity Duty, Amusement/Entertainment Tax and other tax and non-tax receipts conducted during the year 2015-16 indicated under assessment /short levy/loss of revenue amounting to ₹ 1,121.01 crore in 1,830 audit observations. During the course of the year, departments accepted under-assessment etc. of ₹ 256.95 crore in 955 audit observations and recovered ₹ 3.98 crore at the instance of audit.

(Paragraph 1.10)

II. Value Added Tax/Sales Tax

- A theme-based compliance audit on “**Administration of Recovery of assessed dues by the Tax Recovery Officers under the Directorate of Commercial Taxes**” showed the following:
 - Disposal of certificate cases during the period from 2010-11 to 2014-15 was merely 16.18 *per cent* and 4.01 *per cent*, respectively, in terms of number and amount of the certificate cases received during the period. Such poor disposal resulted in accumulation of pending certificate cases.

(Paragraph 2.4.3)

- Failure of the Tax Recovery Officers to serve notices on the defaulters in 134 cases resulted in non-recovery of certificate dues of ₹ 29.62 crore.

(Paragraph 2.4.4)

- Inaction of the Tax Recovery Officers in 737 cases to comply with the provisions of the Acts regarding execution of certificate cases resulted in non-recovery of Government dues of ₹ 178.06 crore.

(Paragraphs 2.4.6.1 and 2.4.6.2)

- Non-attachment of property of defaulters even after issuing warrants of attachment issued by the Tax Recovery Officers in 69 cases resulted in non-recovery of Government dues of ₹ 12.38 crore.

(Paragraph 2.4.8)

- Failure of the Tax Recovery Officers to settle the certificate cases under WBST Act, 1994 resulted in non-settlement of 471 certificate cases involving ₹ 100.91 crore.

(Paragraphs 2.4.10.1 and 2.4.10.2)

- Deficiencies in the Internal Control Mechanism like non-monitoring of instalments under certificate cases of BPDR Act and absence of a database of certificate cases were also noticed.

(Paragraphs 2.4.15 and 2.4.16)

- In assessing five cases, contractual transfer price was determined short of that shown in certificates of tax deducted at source, resulting in short determination of contractual transfer price by ₹ 73.79 crore with consequent short levy of tax by ₹ 5.25 crore.

(Paragraph 2.10)

III. Land Revenue

- Non-initiation of any action to realise the dues from defaulting *raiya*ts resulted in non/short realisation of rent, cess and surcharge of ₹ 53.24 crore in 5,903 cases.

(Paragraph 3.7)

IV. Motor Vehicles Tax

- A theme-based compliance audit on “Receipts under the State Transport Authority” showed the following:

- In 14,078 cases application fees of ₹ 80.79 lakh for counter-signature of permits issued by State Transport Authority were not realised.

(Paragraph 4.4.5)

- Permit issued by the State Transport Authority in respect of 25 inter-region stage carriages and 16 inter-State stage carriages were not renewed even after expiry of their validity periods, resulting in non-realisation of fees for application and counter-signature and fine of ₹ 7.24 lakh.

(Paragraph 4.4.6)

- Non-maintenance of Tax Demand Registers led to non-realisation of tax, additional tax, penalty and special fee of ₹ 205.64 crore from the owners of 75,864 vehicles.

(Paragraph 4.5)

V. Stamp Duty and Registration Fees

- There was short levy of stamp duty and registration fees of ₹ 16.20 crore on a deed comprising several distinct matters.

(Paragraph 5.4)

VI. Mines and Minerals

- There was non/short recovery of price of brick earth of ₹ 5.41 crore on unauthorised extraction of brick earth of 845.12 lakh cft in 401 cases.

(Paragraph 6.4)

- Three DL&LROs did not levy penalty for short extraction of 87.92 lakh cft of sand in 20 cases resulting in non-realisation of revenue of ₹ 1.75 crore.

(Paragraph 6.5)

VII. State Excise

- A Performance Audit on “Assessment, Levy and Collection of Excise Revenue” showed the following:

- Absence of any departmental norms to identify the category of a hotel and non-verification of facilities/amenities available within the hotel premises in accordance with the norms prescribed by Indian Tourism Department, Government of India resulted in short realisation of revenue of ₹ 24.83 lakh.

(Paragraph 7.4.11)

- In the absence of any mechanism to cross verify utilisation of way bills shown for import of intoxicants from outside West Bengal with that shown to have been utilised to the Directorate of Commercial Taxes, West Bengal, there was evasion of excise duty of ₹ 23.89 crore.

(Paragraph 7.4.12)

- There was short disclosure of production of beer as per norms prescribed under Excise Manual, resulting in non-realisation of excise revenue of ₹ 116.04 crore.

(Paragraph 7.4.14)

- In two breweries, export passes were issued to the licensees without realisation of excise duty of ₹ 42.05 crore.

(Paragraph 7.4.15)

- Due to non-application of higher rate of excise duty prevailing in West Bengal in export of beer for civil consumption in two States, there was short realisation of excise revenue of ₹ 66.16 crore.

(Paragraph 7.4.16.1)

VIII. State Lotteries

- A Performance Audit on “West Bengal State Lotteries” showed the following:

- In the absence of a system to cross-verify the records with that of Organising States, evasion of lottery charges of ₹ 79.17 crore involving 4,013 lottery draws could not be detected.

(Paragraph 8.3.1.1)

- Collection of sale proceeds of ₹ 237.68 crore against ₹ 317.02 crore due to sale of lottery tickets at prices below the face value of tickets resulted in short realisation of sale proceeds of ₹ 79.34 crore.

(Paragraph 8.3.2.1)

- Adoption of improper procedure of adjustment of departmental expenditure with the revenue receipts and delayed processing of transfer bills resulted in credit of Government revenue of ₹ 80.24 crore with delays ranging between five and 918 days.

(Paragraph 8.3.2.2)

CHAPTER-I

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenues raised by the Government of West Bengal during the year 2015-16, 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 detailed in **Table – 1.1**.

Table – 1.1

Trend of revenue receipts

(₹ in crore)

Sl. No.	Particulars	2011-12	2012-13	2013-14	2014-15	2015-16
1.	Revenue raised by the State Government					
	<i>(a)</i> Tax revenue	24,938.16	32,808.49	35,830.56	39,411.98	42,492.08
	<i>(b)</i> Non-tax revenue	1,340.25	1,918.15	2,022.72	1,626.66	1,861.79
	Total	26,278.41	34,726.64	37,853.28	41,038.64	44,353.87
2.	Receipts from the Government of India					
	<i>(a)</i> Share of net proceeds of divisible Union taxes and duties	18,587.81	21,226.27	23,175.02	24,594.93	37,163.93
	<i>(b)</i> Grants-in-aid	13,888.82	12,342.84	11,853.49	20,880.64	28,214.41
	Total	32,476.63	33,569.11	35,028.51	45,475.57	65,378.34
3.	Total revenue receipts of the State Government (1 and 2)	58,755.04	68,295.75	72,881.79	86,514.21	1,09,732.21¹
4.	Percentage of 1 to 3	45	51	52	47	40

During the year 2015-16, the total revenue raised by the State Government (₹ 44,353.87 crore) was 40 *per cent* of the total revenue receipts. The remaining 60 *per cent* came from the Government of India.

¹ For details, please see Statement No. 14 – Detailed statement of revenue by minor heads in the Finance Accounts of Government of West Bengal for the year 2015-16. Figures under the heads 0020 - Corporation tax, 0021 - Taxes on income other than Corporation tax, 0032- Taxes on wealth, 0037 – Customs duty, 0038 - Union Excise duties and 0044 - Service tax mentioned in the Statement under caption “A - Tax revenue” have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes.

1.1.2 The details of the tax revenue raised during the period 2011-12 to 2015-16 are given in Table 1.2.

Table 1.2
Details of tax revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+)/ decrease (-) in 2015-16 over 2014-15
		BE	Actual									
1.	Taxes on sales, trade etc.	17,024.44	15,888.41	20,167.37	18,554.76	22,783.98	21,931.09	27,472.66	24,021.91	29,115.91	26,050.16	(+) 8.44
2.	Stamp duty and registration fees	3,002.92	2,731.68	2,940.74	4,357.23	4,500.00	4,053.07	5,399.06	4,196.20	4,597.67	4,174.97	(-) 0.51
3.	State excise	2,418.83	2,117.04	2,786.47	2,621.43	3,202.02	3,017.66	3,810.41	3,587.02	4,418.15	4,015.12	(+) 11.93
4.	Land revenue	1,694.37	1,872.23	1,805.27	2,023.72	3,942.82	2,253.54	2,829.13	2,275.74	3,031.85	2,456.27	(+) 7.93
5.	Taxes and duties on electricity	1,040.95	408.19	884.46	1,837.15	1,380.00	1,213.30	1,403.74	1,946.83	1,660.22	2,091.63	(+) 7.44
6.	Taxes on vehicles	1,358.97	1,007.23	1,595.13	1,221.55	1,389.97	1,350.66	1,667.96	1,504.68	1,590.00	1,707.02	(+) 13.45
7.	Others	1,149.51	913.38	1,042.80	2,192.65	2,584.83	2,011.24	2,830.99	1,879.60	2083.01	1,996.91	(+) 6.24
	Total	27,689.99	24,938.16	31,222.24	32,808.49	39,783.62	35,830.56	45,413.95	39,411.98	46,496.81	42,492.08	(+) 7.82

Source: Finance Accounts and Budget Publications of the Government of West Bengal.

As to reasons for variation in actual receipts in 2015-16 over actual receipts in 2014-15, Director of Electricity Duty stated that the variation occurred due to variation in power consumption. Reasons for variation in respect of other principal heads of tax revenue were not furnished by the Departments concerned, though requested (May 2016) and followed by reminders. However, no abnormal variations were noticed in respect of the tax revenues of the Government.

The details of the non-tax revenue raised during the period 2011-12 to 2015-16 are given in **Table 1.3**.

Table 1.3
Details of non-tax revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+)/ decrease (-) in 2015-16 over 2014-15
		BE	Actual									
1.	Interest receipts	602.91	291.54	1,008.14	934.10	478.41	986.29	775.45	277.46	1,152.93	334.94	(+) 20.72
2.	Miscellaneous general services	158.61	273.10	88.71	187.96	330.46	231.78	227.73	185.79	276.89	180.24	(-) 2.99
3.	Forestry and wild life	84.86	92.47	93.00	113.61	111.89	123.76	137.47	135.73	144.35	134.86	(-) 0.64
4.	Police	130.91	152.79	127.67	133.76	184.87	139.17	161.85	126.61	162.33	104.38	(-) 17.56
5.	Other non-tax receipts	2,217.17	530.35	1,945.34	548.72	650.57	541.72	687.85	901.07	643.39	1,107.37	(+) 22.90
Total		3,194.46	1,340.25	3,262.86	1,918.15	1,756.20	2,022.72	1,990.35	1,626.66	2,379.89	1,861.79	(+) 14.45

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

Reasons for variation in respect of principal heads of non-tax revenue were not furnished by the Departments concerned, though requested (May 2016) and followed by reminders.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 in respect of some principal heads of revenue amounted to ₹ 196.99 crore, of which ₹ 134.18 crore was outstanding for more than five years, as detailed in the **Table – 1.4**.

Table 1.4
Arrears of revenue

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2016	Amount outstanding for more than five years as on 31 March 2016	Replies of the Department
1.	Taxes administered by Directorate of Agricultural Income Tax	142.15	97.10	Reasons for accrual of revenue were not furnished.
2.	State Excise	54.64	37.08	The Directorate attributed accrual of revenue to recoveries stayed by the Hon'ble High Court and other judicial authorities, cases pending at appeal stage before the Government and other appellate authorities, recoveries held up due to rectification/review of demands. Certificate cases were initiated against defaulters and process of recovery was underway.
3.	Taxes and Duties on Electricity	0.20	Nil	The concerned Collectors/District Magistrates were the collecting authority. The Directorate of Electricity Duty compiled the data furnished by the various District collectors regarding estimation of Electricity duty.
Total		196.99	134.18	

Other principal revenue generating Departments/Directorates, viz. Directorate of Commercial Taxes, Directorate of Registration and Stamp Revenue, Land and Land Reforms Department and Transport Department did not furnish the figures of arrears of revenue (October 2016) though requested (May 2016) and followed by reminders.

1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year, as furnished by the Directorate of Electricity Duty and Commissioner of Agricultural Income Tax, are given in **Table 1.5**.

Table 1.5
Arrears in assessments

Head of revenue	Opening balance	New cases due for assesment during 2015-16	Total assessments due	Cases disposed of during 2015-16	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Taxes and duties on electricity	Nil	175	175	175	Nil	100
Taxes administered by Directorate of Agricultural Income Tax	42,379	11,448	53,827	12,555	41,272	23.32

The Directorate of Agricultural Income Tax attributed the accrual of arrears in assessment to acute shortage of officers and staff.

Arrears in assessments in respect of VAT/Sales Tax were not furnished by the Finance Department, despite being requested (October 2016).

1.4 Evasion of tax detected by the department

Commissioner of Agricultural Income Tax, Directorate of Electricity Duty and Directorate of Excise stated that no case of evasion was pending as on 31 March 2015 and no case was detected during 2015-16 also.

Other principal revenue generating Departments/Directorates, viz. Directorate of Commercial Taxes, Directorate of Registration and Stamp Revenue, Land and Land Reforms Department and Transport Department did not furnish any information on evasion of tax (October 2016) though requested (May 2016) and followed by reminders.

1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2015-16, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2015-16, as reported by the Departments are, given in **Table 1.6**.

Table 1.6
Details of pendency of refund cases

(₹ in crore)

SL No.	Particulars	Taxes and duties on electricity		Taxes administered by Directorate of Agricultural Income Tax	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	47	Not furnished	12	3.59
2.	Claims received during the year	98		09	1.10
3.	Refunds made during the year	91	67.18	06	0.82
4.	Balance outstanding at the end of the year	54	Not furnished	15	3.87

Directorate of Excise furnished a nil report regarding claims outstanding at the beginning of the year, claims received during the year, refunds made during the year and balance outstanding at the end of the year.

Other principal revenue administering Departments/Directorates viz. Directorate of Commercial Taxes, Directorate of Registration and Stamp Revenue, Land and Land Reforms Department and Transport Department did not furnish details of refund cases (October 2016) though requested (May 2016) and followed by reminders.

1.6 Response of the Government/Departments towards audit

The Accountant General (Economic and Revenue Sector Audit), West Bengal conducts periodical inspection of the Government Departments to test check transactions and verify 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 the inspection, and not settled on the spot, which are issued to the heads of the offices inspected, with copies 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 Accountant General (AG) within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection reports issued upto December 2015 disclosed that 4,460 paragraphs involving ₹ 2,536.06 crore relating to 853 IRs had remained outstanding at the end of June 2016, as mentioned along with the corresponding figures for the preceding two years in **Table 1.7**.

Table 1.7
Details of pending Inspection Reports

	June 2014	June 2015	June 2016
Number of IRs pending for settlement	882	918	853
Number of outstanding audit observations	3,997	4,695	4,460
Amount of revenue involved (₹ in crore)	1,472.12	2,311.57	2,536.06

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2016 and the corresponding amounts involved are mentioned in the **Table 1.8**.

Table - 1.8
Department-wise details of IRs

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance	Sales Taxes/ VAT	215	1,624	1,335.94
		Electricity duty	24	65	64.68
		Amusement Tax	33	92	13.64
		Profession Tax	69	203	9.42
		Stamp duty and registration fees	238	578	119.06
		Non-judicial Stamp duty	19	48	8.44
		Departmental Receipts	2	3	0.16
2.	Excise	State excise	29	105	10.73
3.	Land and Land Reforms	Land Revenue	71	916	336.20
		Receipts from mines and minerals	78	382	70.67
4.	Transport	Taxes on motor vehicles	75	444	567.12
Total			853	4,460	2,536.06

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of 364 IRs issued during 2015-16. The large pendency of IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

The Government may consider instituting an effective system for prompt and appropriate response to audit observations.

1.6.2 Departmental audit committee meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2015-16 and the paragraphs settled are mentioned in **Table 1.9**.

Table - 1.9
Details of Departmental audit committee meetings
(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Number of meetings held	Number of paras settled	Amount
1.	Land and Land Reforms	Land Revenue	1	6	0.19
		Receipts from mines and minerals		3	0.06
Total			1	9	0.25

The progress of settlement of paragraphs pertaining to the Land and Land Reforms Department was insignificant as compared to the huge pendency of the IRs and paragraphs, despite holding a Departmental Audit Committee meeting. The Finance Department, the Excise Department and the Transport Department did not hold any audit committee meeting during 2015-16 though requested.

1.6.3 Response of the Departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the PAG/AG to the Principal Secretaries/Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their responses within six weeks. The fact of non-receipt of the replies from the Department/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Twenty five draft paragraphs (DPs) besides two Performance Audits (PAs) and two theme based compliance audits were sent to the Principal Secretaries/Secretaries of the respective Departments by name between May and September 2016. The Principal Secretaries/Secretaries of the Departments did not send replies to 23 DPs despite reminders and as such, these have been included in this Report without their response.

1.6.4 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee (PAC), notified in December 2002, laid down that after presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, explanatory notes on audit paragraphs of the Reports were being delayed inordinately. One hundred fifty eight paragraphs (including Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of West Bengal for the years ended 31 March 2011, 2012, 2013, 2014 and 2015 were placed before the State Legislative Assembly between 24 September 2012 and 04 July 2016. The action taken explanatory note in respect of only one sub-paragraph of Performance Audit was received on time. The action taken explanatory notes from the concerned Departments on eleven sub-paragraphs/paragraphs were received late with average delay of 15 months in respect of Audit Reports for the years ended 31 March 2011, 2012, 2013, 2014 and 2015. Action taken explanatory notes in respect of remaining paragraphs from five Departments (Finance, Commerce & Industries, Transport, Home and Land & Land Reforms) had not been received for the Audit Reports for the years ended 31 March 2011, 2012, 2013, 2014 and 2015 so far (October 2016).

The Public Accounts Committee discussed (February 2016) only one selected paragraph of the Audit Report for the year 2010-11 during 2015-16. The recommendations on the paragraph were incorporated in their 14th Report of 2015-16. Action Taken Notes (ATNs) on the recommendations of the PAC were submitted by the Land & Land Reforms Department.

1.7 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the IRs/Audit Reports by the Departments/Government, action taken on the paragraphs and Performance Audits included in the Audit Reports of the last 10 years for one Department was evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 and 1.7.2 discuss the performance of the Excise Department and cases detected in the course of local audit during the last 10 years and also the cases included in the Audit Reports for the years 2006-2007 to 2015-16.

1.7.1 Position of Inspection Reports

The summarised position of the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2016 are tabulated in **Table 1.10**.

Table 1.10
Position of Inspection Reports

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance during the year		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2006-07	144	366	502.77	7	72	41.27	10	93	26.30	141	345	517.74
2.	2007-08	141	345	517.74	10	122	22.57	3	75	98.57	148	392	441.74
3.	2008-09	148	392	441.74	6	52	27.67	1	36	3.72	153	408	465.69
4.	2009-10	153	408	465.69	10	82	59.06	132	370	463.44	31	120	61.31
5.	2010-11	31	120	61.31	6	80	42.36	14	78	9.58	23	122	94.09
6.	2011-12	23	122	94.09	7	80	63.12	1	42	66.13	29	160	91.08
7.	2012-13	29	160	91.08	10	92	46.87	6	72	17.36	33	180	120.59
8.	2013-14	33	180	120.59	10	87	22.98	2	90	91.05	41	177	52.52
9.	2014-15	41	177	52.52	17	117	19.50	25	129	18.24	33	165	53.78
10.	2015-16	33	165	53.78	11	81	2.24	11	123	45.01	33	123	11.01

The Government arranges Audit Committee meetings between the Department and AG's office to settle old paragraphs. As would be evident from the above table, against 144 outstanding IRs with 366 paragraphs at the beginning of 2006-2007, the number of outstanding IRs were 33 with 123 paragraphs at the end of 2015-16.

1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table 1.11**.

Table 1.11
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 of recovery of accepted cases as of 31.03.2016
2005-06	04	0.35	04 ²	0.30	0.14
2006-07	14	37.69	07	27.02	0.59
2007-08	04	11.13	02	0.27	0.24
2008-09	06	20.66	03	0.73	0.43
2009-10	04	2.49	03	0.86	0.02
2010-11	01	293.85 ³	01 ⁴	85.06	0.08
2011-12	01	0.06	Nil	Nil	Nil
2012-13	01	1.96	01	1.96	0.06
2013-14	02	0.56	02 ⁵	0.25	Nil
2014-15	02	3.05	02	3.05	Nil

It is evident from the above table that the recovery, even in accepted cases, was meagre during these years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government.

The Department needs to take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

1.8 Action taken on the recommendations accepted by the Departments/Government

The draft performance reviews conducted by the PAG/AG are forwarded to the concerned Department/Government for their information with a request to furnish replies to audit observations included in the draft report. These reviews are also discussed in an Exit Conference and the Department's/Government's views are included while finalising the reviews for the Audit Reports.

The status of action taken on recommendations featured in the last five years' Reports as furnished by the Departments till October 2016 is given in **Table 1.12**.

² Partly accepted.

³ High money value was due to inclusion of a Performance Audit in the Audit Report.

⁴ Partly accepted.

⁵ Partly accepted.

Table 1.12
Action taken on recommendations

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
2010-11	Assessment, levy and collection of Excise Duty and fees	4	Incorporating suitable provisions in the Acts and Rules regarding charging fees on short production of spirit from molasses, charging late fee for delay in application for renewal of licence of foreign liquor manufactories and charging interest for non/delayed payment of Excise duties;	<p>As per memo No. 2A-09/2011-12/110/1 E.G. dated 8 September 2016, the reply of the Excise Commissioner, WB is as follows:</p> <p>In terms of a policy decision taken by the Government, production of spirit has shifted from molasses-based to grain-based. Accordingly, production of molasses-based spirit has been discontinued and is being discouraged henceforth. Hence, recommendation in this context is not considered at present.</p> <p>In terms of Government Notification No 158 EX dated 29 February 2016, late fee for delay in application for renewal of license of Foreign Liquor (FL) manufactories, trades etc., has been introduced with immediate effect.</p> <p>Excise Duty(s) in respect of all Excise Licence(s) in West Bengal, is/are collected in advance, i.e., at the point of production or import. Hence, there is the least chance for non-payment/delayed payment of Excise duty(s). Therefore, the consideration of the recommendation in this context does not arise.</p>
			Amending the provision of transit and handling wastages of spirit in respect of foreign liquor manufactories to remove the discrepancies of allowable wastages between Country Spirit (CS) manufactories and FL manufactories and introduction of minimum penalty for contravention of conditions of license under BE Act/WBMC Act;	<p>In terms of Government Notification No. 300-EX dated 19 March 2013, allowable limit of transit wastages, in respect of FL manufactories [Rule-32 of the WBE (FL) Rules], has been revised downward; making the allowance at par with the CS Sector.</p> <p>In respect of handling wastage, the manufacturing process of foreign liquor involves number of steps. Primarily Over-Proof spirit is reduced in strength, blended with specialised spirit, matured over a period of time ranging from five to 20 days and then colouring and flavouring agents are added to obtain the final product.</p> <p>Manufacture of country spirit involves the simple process of reduction of strength of OP spirit and maximum period of</p>

			<p>maturation is 48 hours only.</p> <p>As such, the handling and bottling wastages involved in the manufacture of foreign liquor will always be slightly higher than that of country spirit. Based on this logic, the rate of allowable handling wastage and bottling wastage should be proportionately higher in a foreign liquor manufactory than that of country spirit bottling plant.</p> <p>In terms of existing provision of the Rules under BE Act, the Excise Commissioner, WB has the power for composition of the contravention of the conditions of any Excise Licence, including Molasses Licence, to impose a fine/penalty, not exceeding ₹ one lakh, in lieu of cancellation or suspension of the licence under consideration.</p> <p>Introduction of minimum penalty will transgress the discretionary power of the Trying Authority and would be <i>ultra vires</i> to the spirit of Law.</p>
		<p>Introducing computerised system of chemical examination of samples to avoid delay and improving the infrastructure in the chemical examination laboratory;</p>	<p>The computerised system, for keeping a vigil on the samples under analysis and the report thereof, in the chemical examination laboratory, has been developed. It has been accepted by the Government that the process of analysis of samples of various alcoholic products in the chemical examination laboratory was affected by the shortage of manpower and inadequate infrastructure. However, attention is drawn to the reply furnished by the Government to the Audit Para(s) 4.7.26 and 4.7.27 of the CAG Report – 2011 in which it was submitted that emphasis has been given for utilisation of modern equipment and instruments, which were hitherto unavailable; and also to fill up the vacant posts.</p> <p>It may be mentioned that a number of technical posts have been filled up through Public Service Commission, West Bengal and some modern equipment have been installed in the Chemical Examination laboratory and now it is working properly.</p>

			<p>Strengthening the internal control for effective implementation of Rules and Regulations and control over the functioning of the Department.</p>	<p>To improve the internal control of the Excise Department for effective implementation of Rules and Regulations, re-organisation of the Excise Administration has been effected on and from November 2012, in terms of Government Notification No. 1074-EX dated 1 November 2012.</p> <p>In terms of this direction, Excise Districts have been divided in suitable numbers of Ranges and Ranges have been divided in suitable numbers of Circles, to provide round-the-clock vigil over the area under their control. Eight Excise Divisions have also been re-organised, headed by Additional Excise Commissioners, to control the 24 Excise Districts in this State. The Software “Slack” is being used in the Excise Department for all over the State for strengthening of internal control and also for effective implementations of Rules and Regulations.</p> <p>Further, vacant posts under different categories of Excise Establishment, have been filled up through Public Service Commission/Staff Selection Commission.</p>
2013-14	Administration of taxes under various Acts by Directorate of Agricultural Income Tax in West Bengal	7	<p>Establishing a system to mandatorily coordinate with different Departments, local bodies and other sources and exchanging of relevant information so as to bring eligible tax payers into the tax net.</p>	<p>All attempts have been made to enlist a system of co-ordination with different Departments, local bodies etc. Agricultural Income Tax Officers have been directed to coordinate systematically with different Departments, local bodies and other sources and to exchange relevant information to bring the maximum number of tax payers into the tax net. Accordingly, a good number of Agricultural Income Tax Offices have requested the District Collector to check from the Cinema Hall owners the Entertainment Tax Clearance Certificates issued by the Agricultural Income Tax Office before renewal of Cinema Hall licenses. The same approach has also been taken in respect of Entertainment programmes as well.</p> <p>The Head Post Offices have been requested to follow the same</p>

				<p>approach before issuing or renewing the Registration Certificates under the Cable Television Networks (Regulation) Act, 1995.</p> <p>The District Land and Land Reforms authority are being contacted by the Agricultural Income Tax Officers to detect new cases of Tea Gardens, followed by physical inspections.</p>
			Timely initiation of recovery proceedings and evolving a mechanism to monitor compliance of Appellate orders for efficient tax administration.	The Deputy Commissioners of Agricultural Income Tax in charge of different Circles have been directed to monitor timely initiation of recovery proceedings and early compliance of the appellate orders at the level of Assessing Officers.
			Making the definition of luxury more inclusive in the tax.	The matter will be examined by the Government and if it is found justified considering all aspects, required amendments will be made in the said Act.
			Widening the scope of taxation under the Bengal Amusement Tax Act 1922, on complimentary tickets of commercialised entertainment/sports events.	Widening the scope of taxation of complementary tickets for the Sports under the Bengal Amusement Tax Act will be examined by the Government. If it is found justified considering all aspects, necessary amendment will be made in the said Act.
			Ensuring timely assessment of taxes under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the Bengal Amusement Tax Act, 1922.	The Agricultural Income Tax Officers have been asked to reduce the number of pending assessments under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the Bengal Amusement Tax Act, 1922, by taking appropriate steps. The Officers of this Directorate have undertaken the work of timely assessments for both the aforesaid Acts.
			Contemplating provisions in the Bengal Amusement Tax Act, 1922 for levy of interest.	It will be examined by the Government. If it is found justified considering all aspects, necessary amendment will be made in the said Act.
			Establishing an effective internal audit wing and formulating the office procedure manual to ensure that various provisions of the Acts and Rules are efficiently administered for effective tax administration.	At present, there is a functional Internal Audit Wing of the Directorate which is functioning. Steps are being taken to further streamline the proper functioning of the Internal Audit Wing.

The following Departments did not furnish any reply in respect of action taken on the recommendations of reviews/Performance Audits featured in the last five years' Audit Reports, though requested (August 2016) and followed by reminders as mentioned in **Table 1.13**.

Table – 1.13
Non-submission of reply

Name of the department	Year of Audit Report	Name of the Performance Audit
Finance	2010-11	Utilisation of declaration forms in inter- state trade and commerce
	2011-12	e-Services in the Directorate of Commercial Taxes
	2012-13	Efficiency of the Administration of Value Added Tax in West Bengal
	2012-13	Evasion of Stamp Duty and Registration Fees
	2013-14	Assessment, levy and collection of Value Added Tax from works contractors
	2014-15	System of Assessment under Value Added Tax
Transport	2010-11	Computerisation in Motor Vehicles Department
Home	2010-11	Assessment and collection of Police Receipts
Land and Land Reforms	2011-12	Management of Government Land
		Receipts from Major Minerals
	2014-15	Assessment and Collection of revenue from Minor Minerals

As the Transport Department did not furnish any reply on action taken on the recommendations, a follow up audit of the Performance Audit on “Computerisation in Motor Vehicles Department” that was incorporated in the Audit Report (Revenue Receipts) of 2010-11 was taken up to analyse the action taken on the accepted audit observations, which has been included in this Report in Chapter IV.

1.9 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 includes 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, issues related to the tax administration, the extent of audit coverage and its impact during past five years etc.

During the year 2015-16, there were 573 auditable units, of which 184 units were planned and 184 units audited, which was 32.11 *per cent* of the total auditable units. The details are shown in the **Appendix – I**.

Besides the compliance audits mentioned above, two Performance Audits and two theme-based compliance audits were also taken up to examine the efficacy of the tax administration of these receipts.

1.10 Results of audit

Position of local audit conducted during the year

Test check of the records of 184 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles tax, Land and Land Reforms, Stamp Duty and Registration Fees and other Departmental offices conducted during the year 2015-16 showed under assessment/short levy/loss of revenue aggregating ₹ 1,121.01 crore in 1,830 cases. During the course of the year, the Departments concerned accepted under-assessment and other deficiencies of ₹ 256.95 crore involved in 955 cases, which were pointed out in audit during 2015-16. The Departments collected ₹ 3.98 crore in 221 cases during 2015-16 pertaining to the audit findings.

1.11 Coverage of this Report

This Report contains 25 paragraphs (selected from the audit observations made during the local audits referred to above and during earlier years, which could not be included in earlier reports), besides two Performance Audits on “Assessment, Levy and Collection of Excise Revenue” and “West Bengal State Lotteries”, and two theme based compliance audits on “Receipts under the State Transport Authority” and “Administration of recovery of assessed dues by the TROs under the Directorate of Commercial Taxes” involving financial effect of ₹ 812.61 crore. A follow-up audit on Performance Audit on “Computerisation in Motor Vehicles Department” featured in the Audit Report for the year 2010-11 has also been included in this Report.

The Departments/Government have accepted audit observations involving ₹ 404.30 crore of which ₹ 95.33 lakh had been recovered. No replies /specific replies had been furnished in respect of the remaining cases (October 2016). These are discussed in succeeding Chapters II to VIII.

CHAPTER-II

CHAPTER II

VALUE ADDED TAX/SALES TAX

2.1 Tax administration

Value Added Tax (VAT) laws and rules framed thereunder are administered at the Government level by the Principal Secretary, Finance (Revenue) Department who was assisted by one Commissioner of Commercial Taxes (CCT), nine Special Commissioners, 37 Additional Commissioners, 108 Senior Joint Commissioners, 179 Joint Commissioners, 134 Deputy Commissioners, 581 Commercial Tax Officers, three Senior Joint Commissioners (Accounts) and three Senior Joint Commissioners (Audit) for administering the relevant tax laws and rules.

2.2 Internal audit

The Department had an Internal Audit Wing (IAW) under the charge of the Additional Commissioner of Commercial Taxes. He was assisted by one Senior Joint Commissioner, one Joint Commissioner and two Commercial Tax Officers. This Wing was to conduct scrutiny and detect irregularities in the assessments of VAT cases as well as to check different records and registers to ascertain whether internal control system as envisaged in the Acts and Rules made thereunder were properly followed.

Of the 77 Charge offices and nine Ranges under the Directorate of Commercial Taxes (DCT), West Bengal, the wing planned to audit five Charge offices/Ranges during the year 2015-16 for checking 100 cases. However, the wing audited only two Charge offices/Ranges and checked 37 cases only. IAW stated that the plan for audit of three charge offices could not be executed due to shortage of manpower. They also stated that there was no internal audit manual to formulate working procedure of IAW. Therefore, manpower of IAW needs to be strengthened.

2.3 Results of audit

In 2015-16, test check of the records of 46 units relating to VAT assessments and other records showed underassessment of tax and other irregularities involving ₹ 512.42 crore in 681 cases, which fall under the following categories as given in **Table 2.1**.

Table 2.1
Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Incorrect determination of Contractual Transfer Price / turnover of sales	48	21.15
2.	Irregular allowance of transfer of goods/ Input Tax Credit /remission	89	45.15
3.	Application of incorrect rate of tax/mistake in computation	98	51.34
4.	Non/short levy of purchase tax/ penalty/ interest	224	86.76
5.	Others	222	308.02
Total		681	512.42

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 134.09 crore in 346 cases, of which 328 cases involving ₹ 132.35 crore were pointed out in audit during the year 2015-16 and the rest in the earlier years. An amount of ₹ 30.81 lakh was realised in 18 cases during the year 2015-16.

A theme-based compliance audit on “**Administration of recovery of assessed dues by the TROs under the Directorate of Commercial Taxes**” and a few illustrative cases involving ₹ 50.12 crore are discussed in the following paragraphs.

2.4 Audit on “Administration of recovery of assessed dues by the TROs under the Directorate of Commercial Taxes”

2.4.1 Introduction

The Tax Recovery offices under the Directorate of Commercial Taxes, West Bengal work for the recovery of assessed Government dues related to the Commercial Tax Acts⁶ and several other Acts⁷. Working of the Tax Recovery offices is guided by the provisions of the West Bengal Sales Tax (WBST) Act, 1994, the West Bengal Value Added Tax (WBVAT) Act, 2003 and the Bengal Public Demands Recovery (BPDR) Act, 1913. There are eight⁸ Tax Recovery offices in all for performing the recovery of assessed dues in the State, of which one⁹ office administers recoveries of Government dues assessed under Commercial Tax Acts as well as other Acts and the rest of the offices administer recovery of dues assessed under Commercial Tax Acts only. On

⁶ The Bengal Finance (Sales Tax) Act, 1941, the West Bengal Sales Tax Act, 1994, the West Bengal Value Added Tax Act, 2003 and the Central Sales Tax Act, 1956.

⁷ The West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the Bengal Amusements Tax Act, 1922, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, the West Bengal Entertainment-cum-Amusements Tax Act, 1982, the Bengal Agricultural Income Tax Act, 1944 and the West Bengal Multi Storeyed Building Act, 1979.

⁸ TROs: Berhampore, Durgapur, Howrah, Kolkata & 24 Parganas, Medinipur, Purulia, Raiganj and Siliguri.

⁹ Tax Recovery office, Kolkata & 24 Parganas.

receipt of the requisition from the Requiring Officers¹⁰ stating the total amount of dues to be recovered, the Tax Recovery Officer (TRO) shall take the following steps:

- issue a notice to the debtor for payment of Government dues;
- issue a warrant to the debtor intimating execution of certificate¹¹ for recovery of dues; and
- attach and sell the property and/or arrest the debtor to recover the Government dues.

2.4.2 Objectives, Scope and Methodology

Audit was undertaken with a view to ascertain:

- whether the recovery mechanism of the Tax Recovery offices was efficient and effective;
- whether the provisions of the Acts and Rules under which recovery was guided are adequate; and
- whether there was an effective internal control mechanism including internal audit.

The DCT, West Bengal has eight Tax Recovery offices for recovery of the assessed dues. All these eight offices were selected for audit. The audit covered the period from 2010-11 to 2014-15 and also includes cases of prior periods, where action was taken during the coverage period or was still due. Audit scrutinised the relevant files and documents relating to recovery of assessed dues in these eight TROs. Selection of cases was done mainly on the basis of recoverable amount.

Audit findings

Audit observed deficiencies related to the system, compliance and internal control in respect of administration of certificate cases by the Tax Recovery Officers (TROs). Observations in respect of 1,823 cases have been highlighted in the report, out of which 1,702 cases involve certificate dues of ₹ one lakh or more. These cases are illustrative and are based on test checks carried out by audit. The audit findings are discussed in the following paragraphs: -

2.4.3 Analysis of certificate cases received and disposed of by TROs

Certificate cases received vis-à-vis those disposed of by different TROs during the period from 2010-11 to 2014-15 are detailed in the following table:

¹⁰ Requiring officer means an officer who forwards to the Tax Recovery Officer a certificate for recovery of dues.

¹¹ Intimation made by the Requiring Officer to Tax Recovery Officer about the details of the amount to be recovered.

Table 2.2
Analysis of certificate cases received and disposed

(₹ in crore)

Sl. No.	Name of the TRO	Total number of cases/amount received during 2010-11 to 2014-15.		Total number of cases/amount disposed during 2010-11 to 2014-15.		Percentage of disposal in terms of cases	Percentage of disposal in terms of amount involved.
		Cases	Amount (in ₹)	Cases	Amount (in ₹)		
1.	TRO, Berhampore	273	5.72	65	0.21	23.81	3.67
2.	TRO, Durgapur	899	39.65	86	0.66	9.57	1.66
3.	TRO, Howrah	820	105.60	38	0.29	4.63	0.27
4.	TRO, Kolkata & 24 Parganas	6,206	1,691.22	1,342	73.67	21.62	4.36
5.	TRO, Medinipur	1,031	10.51	12	0.06	1.16	0.57
6.	TRO, Purulia	14	2.56	0	0	0	0
7.	TRO, Raiganj	272	2.63	25	0.03	9.19	1.14
8.	TRO, Siliguri	174	10.71	0	0	0	0
Total		9,689	1,868.60	1,568	74.92	16.18	4.01

Source: Information obtained from Tax Recovery Offices

The table above shows that disposal of the certificate cases in terms of number and amount stood at only 16.18 per cent and 4.01 per cent respectively, indicating the need for improvement in performances of the TROs. Such poor disposal of cases also resulted in accumulation of pending certificate cases.

Compliance deficiencies

2.4.4 Failure of TRO to serve notices for recovery

Section 7 of the BPDR Act, 1913 and Rule 2 of the 'Rules regulating the procedure for recovery of tax, late fee, penalty and interest' as mentioned in Schedule 'X' of the WBST Act, 1994 and Schedule 'F' of the WBVAT Act, 2003, prescribe that when a certificate has been filed in the office of a Certificate Officer (CO)/TRO, he shall cause to be served upon the certificate-debtor¹², in the prescribed manner, a notice in the prescribed form and a copy of the certificate.

Rule 6 under Schedule II of the BPDR Act and Rule 2A of the 'Rules regulating the procedure for recovery of tax, late fee, penalty and interest' of Schedule 'F' of WBVAT Act, 2003, prescribe that the notice may be served upon the addressee personally, by messenger/courier or registered/speed post. If the TRO is satisfied that the defaulter is avoiding service or for any other reason notice cannot be served upon him, the same may be served by affixing a copy thereof in some conspicuous place in his office or the last notified place of business of the defaulter, and the notice so served shall be deemed to have been duly served.

Audit observed from the test check of the certificate case registers (Register-X) and relevant case records maintained by eight¹³ TROs that out of the 134 certificate cases, which were received during April 2005 and September 2015,

¹² A certificate debtor is the person from whom recovery is to be made and named as a 'debtor' in the certificate.

¹³ TROs: Berhampore, Durgapur, Howrah, Kolkata & 24 Parganas, Medinipur, Purulia, Raiganj and Siliguri.

notices were not issued in 25 cases and in 109 cases notices were issued but were returned undelivered. No further action was taken to serve the notices even after expiry of periods ranging from eight to 133 months from the date of receipt of certificate cases by the TROs. Certificate dues involved in these 134 cases were more than ₹ one lakh in each case. Total Government revenue involved in these certificate cases was ₹ 29.62 crore which could have been recovered if action was taken by the TROs. As the notices under these certificate cases were not served, no further action for recovery of the Government dues could be initiated by the TROs. Thus, failure of the TROs to serve the notices resulted in non-recovery of certificate dues of ₹ 29.62 crore.

On this being pointed out, four¹⁴ TROs accepted (between May and June 2016) audit observations in 56 cases involving ₹ 6.97 crore and stated that action was being taken to serve notices. In the remaining cases TROs did not furnish any/specific reply (October 2016).

2.4.5 Delay in service of notices for recovery

Audit observed from the certificate case records maintained under two¹⁵ TROs that notices in 11 cases were issued by the TROs between January 2014 and April 2016, after expiry of periods ranging from eight to 52 months from the date of receipt of certificate cases. These cases were received by the TROs between August 2009 and November 2014. No reason was available on record for such inordinate delay in issue of notices. Certificate dues involved in these 11 cases were more than ₹ one lakh in each case. Total Government dues recoverable under these cases stood at ₹ 1.21 crore.

After this was pointed out, the TRO, Durgapur accepted (May 2016) audit observations in eight cases involving ₹ 1.14 crore and stated that the delay in service of notices was due to vacancy in the post of TRO. The reply is not tenable as posting of TROs was also departmental responsibility. In the remaining cases the TRO, Siliguri did not furnish reply (October 2016).

2.4.6 Non execution of certificate cases

Section 10 of Bengal Amusements Tax Act, 1922, Section 7 of West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972, Section 9 of West Bengal Entertainment-cum-Amusements Tax Act, 1982, Section 45 of Bengal Agricultural Income Tax Act, 1944, Section 11 of West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and Section 11(4) of Bengal Finance (Sales Tax) Act, 1941 prescribe that all arrears of tax and penalty due from the person liable to pay assessed dues under these Acts and Rules shall be recoverable as arrears of revenue under BPDR Act, 1913.

Sections 13 and 14 of BPDR Act, 1913 prescribe that CO/TRO may execute the certificate after expiry of a period of 30 days from the date of service of notice. The mode of execution of the certificate may be attachment and sale of property, attachment of any decree or arresting of certificate debtor.

¹⁴ TROs: Berhampore, Medinipur, Purulia and Raiganj.

¹⁵ TROs: Durgapur and Siliguri.

Under provisions of Rule 2 and 3 of 'Rules regulating the procedure for recovery of tax, late fee, penalty and interest', as mentioned in Schedule 'X' of WBST Act, 1994 and Schedule 'F' of WBVAT Act, 2003, when a certificate has been received by TRO from Requiring Officer, the TRO shall cause to be served upon the defaulter a notice requiring the defaulter to pay the amount specified in the certificate within 15 days from date of service of the notice. A certificate may be executed after a period of 15 days from date of service of the notice.

2.4.6.1 Audit observed from Administrative Report of DCT, West Bengal for the year 2014-15 that in addition to other cases, 75,227 certificate cases related to Bengal Finance (Sales Tax) Act, 1941 were pending for disposal as on March 2015. Further, Audit observed from Administrative Reports for previous years and certificate case registers (Register -X) that no action was taken by the CO during the last five years for disposal/recovery of these cases. A test check showed that in 402 cases involving ₹ 95.70 crore, no action other than issue of the notice was initiated by CO for recovery of certificate dues and only ₹ 19.40 lakh was found to have been noted as recovered. Though COs were required to take further action to execute the certificates, no action was found to have been taken by them. Further, unlike the settlement scheme introduced under the West Bengal Finance Act, 2010 for settlement of certificate cases of WBST Act, 1994, no such settlement scheme had been introduced by DCT/Government to dispose of these long pending certificate cases under BF (ST) Act. This has resulted in non-recovery of certificate dues of ₹ 95.51 crore.

After this was pointed out, the concerned TRO did not furnish any specific reply (October 2016).

2.4.6.2 Audit observed from Register-X and case records maintained by seven¹⁶ TROs that in 335 cases of dues pertaining to Amusement Tax, Profession tax, Sales Tax and Value Added Tax, notices were issued between December 2005 and June 2015. Government revenue recoverable under these cases stood at ₹ 82.55 crore. Though TROs were required to execute certificate cases under the provisions of the Act, no action was taken by them even after expiry of periods ranging from eight to 124 months from the dates of service of the notices. Inaction of the TROs to comply with the provisions of the Acts resulted in non-recovery of Government revenue of ₹ 82.55 crore as detailed in following table:

Table 2.3

Non execution of certificate cases

(₹ in crore)

Sl. No.	Name of Tax	Number of cases	Notice issued between	Delay in execution (in months)	Total Dues Involved
1.	Amusement tax	107	July 2010 and April 2015	8 to 65	13.07
2.	Profession Tax	21	July 2012 and December 2014	12 to 41	1.25
3.	Sales Tax/VAT	207	December 2005 and June 2015	11 to 124	68.23
Total		335	December 2005 and June 2015	8 to 124	82.55

¹⁶ TROs: Berhampore, Durgapur, Howrah, Kolkata & 24 Parganas, Medinipur, Raiganj and Siliguri.

After this was pointed out, three¹⁷ TROs accepted (between May and June 2016) audit observations in 145¹⁸ cases involving ₹ 17.66 crore and stated that action had been/was being taken for recovery. In the remaining cases, TROs did not furnish any/specific reply (October 2016).

2.4.7 Non disposal of petitions filed by certificate debtors

Sections 52 (7) and (8) of WBST Act, 1994 and Sections 55 (7) and (8) of WBVAT Act, 2003 prescribe that the certificate debtor may present to the TRO a petition in the prescribed form, denying his liability in the certificate in whole or in part. The TRO shall hear the petition, take evidence and determine whether the certificate debtor is liable for the whole or any part of the amount in the certificate.

Audit observed from certificate case records maintained by TRO, Raiganj that in seven cases involving certificate dues of more than ₹ one lakh in each case, notices were issued by TRO between November 2006 and June 2011. These certificate debtors filed petitions with the TRO denying liability on grounds like non-receipt of demand notice, defective demand, etc. TRO called for production of relevant records from Requiring Officers between July 2009 and August 2011 for disposal of petitions. In four cases involving ₹ 13.38 lakh, even after expiry of periods ranging from 57 to 59 months from the dates of such references, no responses were received from the Requiring Officers as no timeline has been fixed for the Requiring Officers to respond. No further action was taken by TRO for disposal of petitions, as required. In the remaining three cases involving ₹ 5.07 lakh, Requiring Officers furnished relevant records however the TRO did not dispose of these petitions. Thus, due to non-disposal of petitions filed by debtors, further recovery proceedings could not be initiated and certificate demand of ₹ 18.45 lakh remained unrecovered.

After this was pointed out, TRO stated (June 2016) that action was being taken for recovery.

2.4.8 Non attachment of property of defaulters

Under provisions of Rule 4 of 'Rules regulating the procedure for recovery of tax, late fee, penalty and interest', as mentioned in Schedule 'X' of WBST Act, 1994 and Schedule 'F' of WBVAT Act, 2003, when the amount mentioned in notice is not paid, the TRO shall proceed to realise it by attachment and sale of defaulter's movable/immovable property or by arrest of the defaulter or by appointing a receiver for management of the defaulter's movable and immovable properties.

Further, under Rule 20 and 21 of Rules *ibid*, when any movable property is to be attached, a warrant in writing and signed with the name of TRO specifying the name of the defaulter and the amount to be realised, was required to be served. Further, Rule 22 prescribes that if the amount is not paid forthwith, the TRO shall proceed to attach movable property of the defaulter.

¹⁷ TROs: Berhampore, Kolkata & 24 Parganas and Medinipur.

¹⁸ 107 cases involving ₹ 15.66 crore related to Sales Tax & VAT, 19 cases involving ₹ 82.33 lakh related to Amusement Tax and 19 cases involving ₹ 1.17 crore related to Profession Tax.

Audit observed from certificate case records maintained by four¹⁹ TROs that in 69 cases, involving certificate dues of more than ₹ one lakh in each case, warrants of attachments were issued by the TROs and reports²⁰ by the warrant serving officer/*Nazir* were furnished between August 2006 and June 2014. Neither the property was attached in any case nor was any further action taken for recovery of dues. Recoverable Government dues in those cases stood at ₹ 12.38 crore.

Out of these 69 cases, in 20 cases involving ₹ 4.91 crore, though the debtors were existent/traceable at the time of delivery of warrants, no action was taken by the TROs to attach the property/body arrest of debtors even after expiry periods ranging from 22 to 114 months from the dates of the reports.

In 27 cases involving ₹ 5.75 crore, though debtors were found to be non-existent, no further details were sought from Requiring Officers about the debtors even after expiry of periods ranging from 20 to 59 months from the dates of the reports. Police authorities were also not instructed by the TROs to produce these debtors before the TROs.

In the remaining 22 cases involving ₹ 1.72 crore, reports were not available with the case records. Thus, neither existence of these dealers could be established nor any action was taken by the TROs to realise certificate dues.

Inaction of TROs to comply with the provisions of Rules resulted in non-recovery of dues of ₹ 12.38 crore.

After this was pointed out, two²¹ TROs accepted (between May and June 2016) audit observations in 54 cases involving ₹ 11.12 crore and stated that action had been/was being taken. In the remaining cases, the TROs did not furnish any/specific reply (October 2016).

2.4.9 Non-assessment and non-raising of demand of cost and charges

Under provisions of Rule 5 of 'Rules regulating the procedure for recovery of tax, late fee, penalty and interest' as mentioned in Schedule 'X' of WBST Act, 1994 and Schedule 'F' of WBVAT Act, 2003, expenses incurred in respect of service of notice upon the defaulter and of warrants and other processes and all other proceedings taken for realising arrears of tax, penalty, late fee or interest are also realisable from the defaulters.

Audit observed from Register X and certificate case records maintained in five²² TROs that in 37 cases, where the amounts requisitioned by Requiring Officers was recovered in course of pursuance of the certificate cases, the amount of cost and charges, though realisable from the certificate debtors, were not realised. Audit observed that there was no system in place to maintain the accounts of costs and charges. As a result, cost and charges were neither assessed nor demanded by the TROs even after expiry of periods ranging from 28 to 121 months from the dates of payment of the certificate dues.

¹⁹ TROs Berhampore, Durgapur, Kolkata & 24 Parganas and Siliguri.

²⁰ Except in 22 cases where reports of the concerned officer/*Nazir* was not available.

²¹ TROs: Berhampore and Kolkata & 24 Parganas.

²² TROs: Berhampore, Durgapur, Howrah, Medinipur and Raiganj.

After this was pointed out, two²³ TROs in 13 cases accepted (June 2016) the audit observations and stated that action was being taken for realisation of cost and charges. In the remaining cases, the TROs did not furnish specific reply (October 2016).

2.4.10 Failure of TRO to settle certificate cases under WBST Act, 1994

A scheme for settlement of certificate cases was introduced by State Government in 2010 by inserting Section 56(A) of WBST Act, 1994 vide West Bengal Finance Act, 2010 to dispose of the certificate cases under WBST Act, 1994. According to the scheme certificate cases, in which notices were issued by TROs on or before 31 March 2004 were eligible for settlement. This scheme was valid for the period upto 31 March 2011.

As the scheme related to old certificate cases, TRO/DCT had to make public/certificate debtors aware of the scheme. Further, as WBST Act, 1994 was repealed²⁴ in 2005 after enactment of WBVAT Act, 2003, TRO and DCT had to link the Registration Certificates (RCs) of certificate debtors with the new RCs obtained by them under WBVAT Act, 2003, if any, for proper monitoring and realisation of certificate dues under WBST Act, 1994.

Audit observed that no records pertaining to any attempt made by the TRO/DCT to make the public/certificate debtors aware of the scheme was available. TRO/DCT also did not make any attempt to link RCs of certificate debtors with new RCs obtained by them under WBVAT Act.

Data in respect of 6,162 certificate cases eligible for settlement under Section 56(A) of the WBST Act, 1994 was obtained from the DCT. Of these, 1,901 cases were selected for audit scrutiny. Dealers involved in these cases were registered under the WBVAT Act, 2003 also. Tax Recovery Officer received all these cases between 1999-2000 and 2003-04.

2.4.10.1 Audit observed from certificate case registers (Register X) maintained by TRO, Kolkata & 24 Parganas that in 352 cases involving dues more than ₹ one lakh in each case, RCs of dealers were cancelled after December 2005. Thus, the dealers had been running their businesses for a minimum period of 21 months from the dates of receipt of certificate cases by the TRO. Certificate amount involved in these cases stood at ₹ 54.01 crore, of which ₹ 49.31 lakh only was realised before introduction of this scheme, the rest remained unrealised. As RCs of the dealers had been cancelled, the possibility of realisation of the certificate dues was remote. Failure of the TRO in initiating prompt action against certificate debtors, who had not applied for settlement, resulted in non-settlement of certificate cases involving ₹ 53.52 crore under WBST Act, 1994.

After this was pointed out, the TRO did not furnish any/specific reply (October 2016).

2.4.10.2 Audit observed from the certificate case registers (Register X) maintained by TRO, Kolkata & 24 Parganas that in 119 cases having certificate dues of more than ₹ one lakh in each case, the certificate debtors

²³ TROs: Berhampore and Raiganj.

²⁴ Except in case of a few commodities like liquor and motor spirit.

were still operating their business. Certificate dues involved in these cases stood at ₹ 49.69 crore, of which ₹ 2.30 crore only was recovered. TRO did not initiate any further action to recover dues of ₹ 47.39 crore that remained unpaid by them. The cases were not involved in any appeal, revision or court cases. Thus, failure of the TRO to bring the certificate debtors under the settlement scheme and initiate prompt action against certificate debtors who did not apply for settlement resulted in non-settlement of certificate cases involving ₹ 47.39 crore under WBST Act, 1994.

After this was pointed out, the TRO did not furnish any/specific reply (October 2016).

2.4.11 Non-pursuance of the cases sent to Requiring officer/ Police/ Bank

Under provisions of Rule 20 and 21 of the “Rules regulating the procedure for recovery of tax, late fee, penalty and interest” as mentioned in Schedule ‘X’ of the WBST Act, 1994 and Schedule ‘F’ of the WBVAT Act, 2003, when any movable property is to be attached, a warrant in writing and signed with the name of TRO specifying name of the defaulter and amount to be realised, is required to be served. Rule 31 provides that for attachment of property in custody of court or public officer, the TRO may issue a notice to such authorities requesting to hold that property till his further orders.

2.4.11.1 Audit observed from certificate case records maintained in five²⁵ TROs, that in 63 cases involving certificate dues of more than ₹ one lakh in each case, notices/warrants of attachment of movable property were issued by the TROs between July 2006 and June 2015. The copy of the notice/warrant however could not be served as the defaulters were either declared non-existent/non traceable or the certificate debtors avoided appearing before the TROs. The cases were referred to the Requiring Officers or Officers-in-charge of the concerned police stations between March 2007 and September 2015 to furnish further information about the address of the certificate debtor or to produce the debtor before the TROs. In 62 cases, even after expiry of five to 110 months from the dates of such references, neither the Requiring Officer/Officer-in-charge of police stations had responded nor were any reminder issued to them by the TROs. In one case involving ₹ 4.06 crore, although the desired information was furnished by the Requiring Officer, no action against the debtor was taken by the TRO. Government dues involved in these cases stood at ₹ 87.71 crore.

Thus, inaction of the TROs to pursue the cases with the Requiring Officers/ police authorities resulted in non-recovery of Government dues amounting to ₹ 87.71 crore.

After this was pointed out, three²⁶ TROs accepted (between May and June 2016) the audit observations in 26 cases involving ₹ 6.99 crore and stated that the cases had been/were being pursued. In the remaining cases, the TROs did not furnish specific reply (October 2016).

²⁵ TROs: Berhampore, Durgapur, Howrah, Kolkata & 24 Parganas and Medinipur.

²⁶ TROs: Berhampore, Kolkata & 24 Parganas and Medinipur.

2.4.11.2 Audit observed from certificate case records maintained by the TRO, Howrah that in six cases involving certificate dues of more than ₹ one lakh in each case, notices for bank attachment were issued in prescribed format to the bank authorities by the TRO between February 2013 and January 2014. Government dues liable to be recovered under these cases were ₹ 70.21 lakh. In all these cases, neither the bank authorities had responded nor any action was taken by the TRO regarding pursuance of the cases with the bank authorities even after lapse of periods ranging from 28 to 39 months from the dates of notices for bank attachment. This resulted in non-recovery of certificate dues of ₹ 70.21 lakh.

After this was pointed out, the TRO did not furnish specific reply (October 2016).

2.4.12 Non-initiation of recovery proceedings after adjournment

Audit observed from certificate case records maintained by two²⁷ TROs that in 14 cases involving certificate dues of more than ₹ one lakh in each case, recovery proceedings were stopped between November 2010 and January 2015 for various reasons like the debtors requesting for some additional time, the hearing being adjourned by the TROs, etc. Audit also observed that no further action was taken by the TROs even after the expiry of eight to 65 months from the completion of adjournment periods up to the dates falling between December 2010 and June 2015. Failure of the TROs to restart the certificate cases after adjournment resulted in non-recovery of Government revenue amounting to ₹ 3.18 crore.

After this was pointed out, the TROs accepted (between May and June 2016) the audit observation and stated that action had been/was being taken for recovery.

2.4.13 Non-compliance with process while sending demand to the Official Liquidator and non-raising of demand of interest

During the course of execution of three certificates for recovery of WBVAT dues amounting to ₹ 14.72 crore, received in July 2014, November 2014 and September 2015, a requisition for recovery of this amount was made by the TRO, Kolkata & 24 Parganas to the Official Liquidator, High Court Calcutta in respect of a dealer under liquidation. The requisition was made in January 2016 through an official letter addressed to the Dy. Official Liquidator, High Court, Calcutta. There was a prescribed 'FORM-66' in the Companies (Court) Rule, 1959 for lodging claim of dues in respect of the companies under liquidation.

When enquired by Audit, the Official Liquidator intimated that the requisition for recovery of the Government dues in respect of the dealer had not been received in appropriate Form and in proper manner from the TRO, Kolkata & 24 Parganas, as the TRO did not claim Government dues in the prescribed Form.

Under provisions of Rule 5 of the 'Rules regulating the procedure for recovery of tax, late fee, penalty and interest' of Schedule 'F' of the West Bengal Value Added Tax Act, 2003, interest at the rate of one *per centum* for each calendar

²⁷ TROs: Kolkata & 24 Parganas and Raiganj.

month from the date immediately following the end of the period of time specified in the notice issued under Rule 2 upon the amount of tax, penalty, late fee and interest or other sum to which the certificate relates shall be recoverable in the proceedings in execution of every certificate.

Audit observed that in the requisition the total certificate dues were intimated as ₹ 14.72 crore instead of ₹ 16.75 crore, without incorporating the interest recoverable. This resulted in non-incorporation of interest amounting to ₹ 2.03 crore in the requisition sent to the Official Liquidator for recovery.

After this was pointed out, the TRO stated (May 2016) that the matter would be intimated to the law section of the Directorate and the claim of ₹ 14.72 crore in Form-66 would be resubmitted as per guidance of law section however TRO did not furnish any reply regarding interest.

Adequacy of Provisions

2.4.14 Allowing payment of dues in instalments not prescribed under the WBST/WBVAT Act

Audit observed from the records of six²⁸ TROs that in 80 cases, certificate debtors were allowed to make payment of certificate dues in instalments. The cases were either related to the WBST Act, 1994 or WBVAT Act, 2003, where no provision was prescribed for payment of certificate dues in instalments. Certificate dues involved in these cases stood at ₹ 1.50 crore, of which the certificate debtors had paid ₹ 29.32 lakh only. Audit observed that the certificate debtors had stopped payments during the period between March 2006 and January 2015. No action was taken by the TROs to recover the unpaid dues of ₹ 1.20 crore.

In another 11 certificate cases of ₹ 92.30 lakh, TRO, Kolkata & 24 Parganas fixed instalments of less than one *per cent* of the total certificate dues. Under such circumstances, these certificate debtors would be able to pay off their dues in 133 to 1,986 months. Considering interest leviable on certificate dues, the period in which these certificate debtors would be able to pay off the dues would be longer. Such decisions of the TRO were neither reasonable nor in favour of Government revenue. The certificate debtors have paid ₹ 7.56 lakh only. Certificate dues of ₹ 84.75 lakh remained unrecovered.

Thus, allowing payment of certificate dues in instalments without having such provisions in the Acts and Rules resulted in non-recovery of ₹ 2.05 crore.

After this was pointed out, TRO Berhampore and TRO Kolkata & 24 Parganas accepted (between May and June 2016) audit observations in 14 cases involving ₹ 19.16 lakh, of which TRO, Kolkata & 24 Parganas has initiated action for recovery in seven cases involving ₹ 11.67 lakh. In the remaining cases, other TROs did not furnish any/specific reply (October 2016).

²⁸ TROs: Berhampore, Durgapur, Howrah, Kolkata & 24 Parganas, Medinipur and Siliguri.

Internal Control Mechanism

Internal Control is an integral component of an organisation's management processes established in order to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. Evaluation of internal control mechanism in the administration of different taxes under the Directorate showed deficiencies in the administrative, operational and monitoring controls. Deficiencies in the internal control mechanism are discussed in the following sub-paragraphs:

2.4.15 Non-monitoring of instalments under certificate cases of BPDR Act

Under provisions of Rule 80 of Schedule II of the BPDR Act 1913, payment of the amount due under any certificate may be made by instalments, if the CO decides so.

Audit observed from certificate case registers and records that in 22 certificate cases involving ₹ 18.97 lakh of dues under BPDR Act, TRO Kolkata & 24 Parganas had allowed payment in instalments. After payment of ₹ 2.64 lakh in a few instalments, the certificate debtors stopped payments. No actions like attachment of property, arrest of certificate debtor etc. were taken by the TRO.

Audit observed that no instalment register was maintained to monitor the receipts of the instalments. In the absence of such a register, actual number of certificate cases where payment of certificate dues in instalments were allowed by the TRO, and payments received thereagainst, could not be ascertained.

Thus, in the absence of a system to monitor payment of dues in instalments, certificate dues of ₹ 16.33 lakh remained unrecovered.

After this was pointed out, the TRO did not furnish any specific reply (October 2016).

2.4.16 Absence of a database of certificate cases

A centralised database, preferably computerised, is absolutely necessary in the present age of information technology for proper monitoring of functions of a large institution and appropriate decision making at different levels of hierarchy.

Audit observed from records and discussions held with TROs that no database had been maintained either by TROs or by the Directorate²⁹ to monitor the status of certificate cases. In absence of such a database, two³⁰ TROs could not ascertain the total number of pending certificate cases and amount involved therein for recovery. In the remaining six TROs 1,01,666 certificate cases involving ₹ 4,296.54 crore were pending for final disposal. These TROs were unable to assess the present status of the certificate cases as well as total amount of Government revenue lying pending at various stages of recovery in those certificate cases.

²⁹ The Directorate started maintaining a computerised database of cases involving VAT under TRO, Kolkata & 24 Parganas only.

³⁰ TROs: Howrah and Purulia.

In absence of a database, disposal of certificate cases were not monitored by the TROs. Further, TROs were unable to consolidate the cases of the same dealer received at different dates for various periods of assessment, due to absence of computerised database. Thus, further actions like attachment of property, arrest of certificate debtor etc., were not taken by TROs even against evasive dealers and habitual defaulters. Though the process of computerisation of Directorate of Commercial Taxes was initiated much earlier, certificate cases were not digitised in TROs except the TROs, Kolkata & 24 Parganas till 2015 by the DCT.

After this was pointed out, four³¹ TROs accepted (between May and June 2016) the audit observation and stated that no computerised database had been maintained. The remaining TROs did not furnish any/specific reply (October 2016).

2.4.17 Non-availability of records of certificate cases

2.4.17.1 During the course of audit in TRO, Howrah, 261 case records selected for audit were requisitioned; however, due to poor maintenance of records only 166 case records could be made available to the Audit for scrutiny. In the absence of any cases records in TRO office, Audit could not verify the status of recovery in these certificate cases. Certificate dues involved in the cases, records of which were not made available, stood at ₹ 24.21 crore.

After this was pointed out, the TRO did not furnish specific reply (October 2016).

2.4.17.2 Cross-verification of certificate case register (Register-IX) maintained by the JCCT, Purulia and certificate case records maintained by the TRO, Purulia showed that 61 certificate cases were sent by JCCT to the TRO during the period from 1996-97 to 2001-02 for recovery of dues. Receipt of the certificate cases were acknowledged by the TRO office. Entry of these cases in Register X, action taken thereon, status of the cases and realisation made could not be verified as neither Register X for the relevant period nor the concerned case records were available with the TRO. None of the case records in respect of pending and disposed certificate cases could be made available to audit. Government dues involved in these 61 certificate cases stood at ₹ 86.43 lakh.

After this was pointed out, the TRO stated (May 2016) that efforts would be made to locate the registers and detailed reply would be furnished shortly.

2.4.18 TROs not audited by the internal audit wing (IAW) of the Directorate

The audit questionnaire issued to the TROs and replies received from them showed that the performance of the TROs had never been evaluated by the IAW. During the period covered under audit, none of the TROs was inspected and records thereof were scrutinised by the IAW. Apart from these, the TROs were never inspected by any of the higher authorities of the Directorate/Department as no evidence in the form of inspection report, compliance report, etc. had been found on record.

³¹ TROs: Berhampore, Durgapur, Purulia and Raiganj.

2.4.19 Other points of interest

Audit observed from certificate case records maintained in TRO, Berhampore that in four cases, notices for attachment (VATCP-10) were issued by the TRO between July 2013 and November 2013 to the bank authorities for realisation of ₹ 85.67 lakh. The bank authorities intimated the TRO between November 2013 and March 2014 that they were unable to realise the dues from the certificate debtors as the accounts were non-existent, closed/nil balance, etc. In all these cases, even after expiry of 25 to 30 months from the dates of such intimation from the bank authorities, no further action regarding attachments of other movable properties, attachment of immovable properties etc. was taken by the TRO. This has resulted in non-recovery of certificate dues amounting to ₹ 85.67 lakh.

After this was pointed out, the TRO accepted (June 2016) the audit observation and stated that action was being taken as per provision of the law.

2.4.20 Conclusion

Audit on administration of recovery of assessed dues by the TROs under the DCT showed poor disposal of certificate cases by TROs which was merely 4.01 *per cent* in terms of amount involved in certificate cases and 16.18 *per cent* in terms of number of certificate cases received during last five years. TROs failed to serve notices, execute certificate cases and attach properties of defaulters even after lapse of a considerable span of time. Non-pursuance of cases with Requiring Officers/police authorities/banks etc., also led to non-recovery of certificate dues. Deficiencies in internal controls were also observed like absence of a computerised database, non-availability of records and inadequacy of internal audit.

Other audit observations

2.5 Irregular allowance of remission of tax

In terms of Section 116(1)(c) read with Section 118(1)(c) of West Bengal Value Added Tax (WBVAT) Act, 2003, subject to prescribed conditions and restrictions, a dealer is eligible for remission of tax on sale of goods manufactured in a newly set up industrial unit or in an expanded portion of the existing industrial unit. The Commissioner, Commercial Taxes, West Bengal in a circular issued in October 2002, had instructed all assessing authorities (AAs) to limit remission of tax on sale of goods manufactured in an industrial unit to the annual capacity of production as specified in the eligibility certificate (EC)³². West Bengal Taxation Tribunal in a case³³ had held (November 2008) that remission could not be on the sale of goods manufactured in excess of the approved annual capacity as mentioned in the EC, unless amended by the competent authority.

³² A certificate issued by the Commissioner, Commercial Taxes to an industrial unit for enjoying tax incentives namely, remission of tax, deferment of payment of tax and tax holiday.

³³ Case No. RN-384/2006 in respect of Lintex Tea and Industries Ltd.-vs-Assistant Commissioner, Sales Tax, Special Cell.

Directorate of Industries (DI), West Bengal had issued certificate of registration under West Bengal Incentive Scheme, 1999 to Haldia Petrochemicals Limited in December 1999, with annual capacity of production in respect of benzene and linear low density polyethylene (LLDPE) fixed at 77,055 MT and 2,25,000 MT respectively. In April 2004, DI had amended the certificate of registration and increased the annual capacity of production of benzene and LLDPE to 85,000 MT and 2,60,000 MT, respectively.

The dealer was granted EC by the Special Cell, Directorate of Commercial Taxes (DCT) in August 2000 for remission of tax under Section 41 of West Bengal Sales Tax (WBST) Act, 1994 on sale of plastic granules and petrochemical products manufactured in a unit located in Haldia for a period of 12 years. With the introduction of WBVAT Act in the State from April 2005, DCT issued fresh EC to the dealer for remission of output tax on sales of plastic granules and petrochemical products for the unexpired period of 88 months for which the dealer was eligible under the previous Act. In the EC it was specifically mentioned that the dealer was eligible for remission of output tax in respect of sales of plastic granules and petrochemical products up to the approved annual capacity of production mentioned against each product manufactured in its unit in West Bengal. The commodities, on sale of which remission was admissible, included LLDPE and benzene.

In course of scrutiny of assessment records in Large Taxpayers Unit (LTU), Audit observed that the dealer had sold LLDPE and benzene in 2008-09 and 2010-11, in excess of the annual capacity of production approved by DI and claimed remission of payment of tax on sale thereof. Assessing authority had allowed remission of payment of tax without restricting the claim to the sale as per annual capacity of production. This resulted in incorrect allowance of remission of payment of tax of ₹ 26.92 crore, as shown in the following table:

Table 2.4
Irregular allowance of remission of tax

Assessment period	Sales (in MT)		Sales of goods admissible for remission (in MT)		Sales of goods in excess of production capacity (in MT)		Value of the finished goods sold in excess of approved production capacity (₹ in crore)		Remission allowed in excess (₹ in crore)*
	LLDPE	Benzene	LLDPE	Benzene	LLDPE	Benzene	LLDPE	Benzene	
2008-09	2,91,966	1,02,656	2,60,000	85,000	31,966	17,656	203.24	61.37	10.58
2010-11	2,97,885	1,22,560	2,60,000	85,000	37,885	37,560	250.57	157.92	16.34
Total									26.92

*Tax calculated at the rate of four per cent.

After this was pointed out, the AA accepted (June 2015) audit observations in both the cases and stated that proposal for *suo motu* revision of the case in respect of assessment period 2008-09 had been sent to the Special Commissioner, Commercial Taxes and that in respect of assessment period 2010-11 would be sent in due course.

The cases were reported to Government in December 2015 followed by reminders issued up to November 2016; their reply has not been received.

2.6 Short levy of additional sales tax

In terms of Section 18A of the WBST Act, 1994, an additional sales tax is to be levied on the tax payable by a dealer under Section 17 in respect of sales of motor spirit at the rate of 20 *per cent* of such tax.

In course of scrutiny of assessment case records in LTU, Audit observed in February 2015 that in assessing a case of a dealer in June 2012 for the assessment period 2009-10 the AA had determined tax on motor spirit at ₹ 416.55 crore that was exigible to additional sales tax of ₹ 83.31 crore. While calculating the additional sales tax, AA had incorrectly deducted the rebate on high speed diesel and light diesel oil of ₹ 16.67 crore from ₹ 416.55 crore and levied additional sales tax of ₹ 79.98 crore on the tax amounting to ₹ 399.88 crore. This resulted in short levy of additional sales tax of ₹ 3.33 crore.

After this was pointed out AA, while accepting the observation, stated (June 2015) that proposal for *suo-motu* revision of the assessment order had been sent to the Special Commissioner, Commercial Taxes, West Bengal.

The case was reported to the Government in December 2015 followed by reminder issued up to November 2016. Further report on realisation is awaited.

2.7 Incorrect determination of turnover of sales

In terms of Section 2(55) of WBVAT Act, 2003 and Section 2(40) of WBST Act, 1994, turnover of sales (TOS) in relation to any period means the aggregate of the sale prices or parts of sale prices received or receivable by a dealer in respect of sales of goods made during such period which remains after making deductions therefrom as prescribed under both the Acts. Section 16 of WBVAT Act and Section 17 of WBST Act provide for levy of tax at applicable rates on such part of the TOS which remains after making deductions therefrom as prescribed under the Acts.

Audit found in three³⁴ Charge offices between April 2015 and September 2015 that in assessing eight cases of five dealers between June 2012 and August 2014 for the assessment periods between 2009-10 and 2011-12, AA had incorrectly determined TOS at ₹ 1,474.35 crore instead of ₹ 1,491.46 crore. This resulted in short determination of TOS of ₹ 17.11 crore with consequent short levy of tax of ₹ 2.20 crore, as detailed in the following table:

³⁴ Ballygunge, Salt Lake and LTU.

Table 2.5
Incorrect determination of TOS

(₹ in crore)

Sl. No.	No. of cases/No. of dealers	Nature of irregularity	TOS assessable	TOS assessed	TOS determined short	Short levy of tax
Cases assessed under WBVAT Act, 2003						
1.	3/2	Deduction allowed from aggregate of sales prices was more than that admissible to the dealer	110.18	104.17	6.01	0.26
2.	1/1	Turnover of sales determined was less than that shown in returns	4.56	4.38	0.18	0.01
3.	1/1	Sales as per database of DCT was higher than that determined on the basis of returns filed	7.20	6.42	0.78	0.10
Cases assessed under WBST Act, 1994						
1.	3/1	Turnover of sales accepted as per returns was short of that shown in P & L Account	1,369.52	1,359.38	10.14	1.83
Total	8/5		1,491.46	1,474.35	17.11	2.20

After this was pointed out, two³⁵ Charge offices accepted (between May 2015 and August 2015) audit observations in four cases involving ₹ 26.44 lakh and intimated that action for *suo motu* revision of assessments was initiated. Report on realisation is, however, awaited (October 2016). In three cases involving ₹ 1.83 crore, the AA, LTU stated (April 2016) that sales of manufactured alcohol/India made foreign liquor (IMFL) as shown in Profit & Loss Accounts included sales of other goods also. The reply is not tenable, as in schedules to Profit & Loss Accounts showing stock and sale of finished goods, price and quantity of alcohol/IMFL sold were disclosed separately. Ballygunge Charge office did not furnish specific reply in one case (October 2016).

The cases were reported to the Government between July 2015 and December 2015, followed by reminders issued up to November 2016; their reply has not been received.

2.8 Irregular allowance of input tax credit

Section 22 of WBVAT Act, 2003 provides that a registered dealer can avail of the benefits of input tax credit (ITC) to the extent of tax paid or payable by him in respect of purchases of taxable goods from the registered dealers of West Bengal. However, ITC on purchases made from dealers paying tax at compounded rate is not admissible. In terms of Rule 19(8) of WBVAT Rules, 2005, a dealer claiming ITC shall make payment to the seller by account payee cheque or account payee draft or through electronic banking clearance.

³⁵ Salt Lake and LTU.

Audit found in six³⁶ Charge offices that in 12 cases of 11 dealers assessed between June 2012 and August 2014 for assessment periods between 2009-10 and 2011-12, AAs had allowed ITC of ₹ 2.83 crore, instead of ₹ 1.35 crore, resulting in irregular allowance of ITC of ₹ 1.48 crore, as detailed in the following table:

Table 2.6

Irregular allowance of input tax credit

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of dealers/cases	ITC allowed	ITC allowable	Irregular allowance of ITC
1.	Inadmissible claim of ITC brought forward from previous assessment period was allowed	5/5	120.31	0.68	119.63
2.	ITC was allowed on purchases made without making payment by account payee cheque/draft or electronic banking clearance to the selling dealer	1/1	32.03	19.99	12.04
3	ITC was allowed on purchases from the dealer paying tax at compounded rate	1/1	4.67	0	4.67
4.	ITC was allowed on sale of tax free goods	1/2	8.00	4.15	3.85
5.	ITC, net of reverse credit, was determined excess	1/1	59.70	56.11	3.59
6.	ITC brought forward from previous assessment period was set off twice	1/1	33.72	30.69	3.03
7.	ITC was allowed on claim of purchase from a dealer having cancelled Registration Certificate	1/1	25.05	23.65	1.40
Total		11/12	283.48	135.27	148.21

After this was pointed out, the concerned Charge offices accepted (between April and June 2015) audit observations in 10 cases involving ₹ 74.97 lakh. However, no report on realisation of tax has been furnished. In the remaining cases, LTU did not furnish any reply (October 2016).

The cases were reported to the Government between May and December 2015 followed by reminders issued up to November 2016; their reply has not been received.

2.9 Application of incorrect rate of tax

Section 16(2) of the WBVAT Act, 2003 prescribes rates of tax on sale of goods according to classification of the goods. Section 8(2) of Central Sales Tax (CST) Act, 1956 provides that in case of inter-state sales of goods made to unregistered dealers, tax is leviable at the rates applicable to the sale/purchase of such goods within the State.

Audit observed in 11³⁷ Charge offices that in 24 cases of 23 dealers assessed between June 2012 and June 2014 for the assessment periods from 2009-10 to 2011-12, AAs in 21 cases, involving sales of ₹ 55.11 crore, levied tax short by ₹ 5.03 crore due to application of incorrect rates owing to misclassification of

³⁶ Bally, Behala, Darjeeling, LTU, Maniktala and N. D. Sarani.

³⁷ Asansol, Bally, Ballygung, Behala, Belgachia, Darjeeling, Howrah, LTU, Princep Street, Raja Katra and Salt Lake.

goods, whereas in three cases involving inter-state sales of ₹ 2.16 crore to unregistered dealers, levied tax short by ₹ 6.65 lakh due to application of rates of tax lower than the rates applicable within the State. This resulted in overall short levy of tax of ₹ 5.10 crore.

After this was pointed out, eight³⁸ Charge offices accepted (between August 2011 and March 2016) audit observations in 18 cases involving ₹ 3.94 crore, but did not furnish any report on levy and realisation of tax. In the remaining six cases, four³⁹ Charge offices did not furnish any/specific reply (October 2016).

The cases were reported to the Government between October 2014 and December 2015, followed by reminders issued up to November 2016; their reply has not been received.

2.10 Incorrect determination of contractual transfer price

In terms of Section 2(10) of WBVAT Act, 2003, contractual transfer price (CTP) in relation to any period is the amount received or receivable by a dealer in respect of transfer of property in goods in the execution of any works contract.

Sections 14 and 18 of the Act prescribe that any transfer of property in goods involved in the execution of a works contract shall be deemed to be a sale by the person making such transfer and tax at prescribed rates shall be levied on his CTP after allowing deductions towards labour, service and other charges, like payments to sub-contractors etc. Under Section 40 of the Act, a contractee shall deduct tax at source at the rate of two *per cent* from payments made to a registered dealer for execution of a works contract.

Audit found in four⁴⁰ Charge offices that in five cases, assessed between June 2012 and June 2013 for the assessment periods between 2009-10 and 2010-11, AAs had allowed tax credit of ₹ 7.05 crore on the basis of certificates of tax deducted at source (TDS) produced by the dealers. According to TDS certificates, the dealers received payments of ₹ 352.57 crore as CTP for execution of works contract during the period of assessment. The AAs, however, determined CTP for the purpose of assessment at ₹ 278.78 crore only. This resulted in short determination of CTP by ₹ 73.79 crore with consequent short levy of tax by ₹ 5.25 crore.

After this was pointed out, two⁴¹ Charge offices accepted (March 2016) audit observations in two cases involving tax effect of ₹ 21.43 lakh and stated that proposal for revision of the assessment orders had been sent to the higher authorities. In the remaining cases, Charge offices did not furnish any/specific reply (October 2016).

The cases were forwarded to the Government between October 2014 and September 2015, followed by reminders issued up to November 2016; their reply has not been received.

³⁸ Bally, Ballygung, Behala, Belgachia, Darjeeling, Howrah, Princep Street and Salt Lake.

³⁹ Asansol, Ballygung, LTU and Raja Katra.

⁴⁰ Asansol, Belgachia, Jalpaiguri and LTU.

⁴¹ Asansol and Belgachia.

2.11 Incorrect determination of taxable contractual transfer price

Under Section 18(2) of WBVAT Act, 2003, taxable contractual transfer price (TCTP) of a dealer is determined after deducting contractual transfer of goods, sales of which are declared tax free, labour charges, payments to sub-contractors etc. from CTP. Under Section 18(3) of WBVAT Act, 2003, where TCTP for application of proper rates of tax are not ascertainable from the books of accounts and records maintained by the dealer or where a dealer does not maintain books of accounts and records worthy of credence, as found by the AA or the auditing authority, taxable CTP and application of proper rates of tax thereon shall be determined according to percentage of CTP as specified in the table provided under Rule 30(2). According to the type of works contract, different percentages of CTP have been prescribed under the table for determination of labour, service and other like charges and taxable CTP for application of proper rates of tax.

Audit found in two⁴² Charge offices that in four cases assessed between April and June 2013 for the assessment period 2010-11, the AAs had determined labour, service and other like charges and taxable CTP in accordance with the provisions under Section 18(3). However, due to application of incorrect percentages of the CTP, taxable CTP for application of tax at the rate of four *per cent* was determined at ₹ 4.21 crore, instead of ₹ 3.25 crore, and that for application of tax at the rate of 12.5/13.5 *per cent* at ₹ 3.50 crore instead of ₹ 5.44 crore. This resulted in net short levy of tax of ₹ 17.61 lakh as shown in the following table:

Table 2.7
Incorrect determination of taxable contractual transfer price

(₹ in lakh)

Sl. No.	Name of the Charge office	No. of case(s)	TCTP assessable to tax @		Total tax assessable	TCTP assessed to tax @		Total tax assessed	Net short levy of tax(F-I)
			4 <i>per cent</i>	12.5/13.5 <i>per cent</i>		4 <i>per cent</i>	12.5/13.5 <i>per cent</i>		
A	B	C	D	E	F	G	H	I	J
1.	Asansol	3	320.17	466.65	71.44	392.62	311.44	57.29	14.15
2.	Princep Street	1	4.80	76.86	9.80	28.82	38.43	6.34	3.46
Total		4	324.97	543.51	81.24	421.44	349.87	63.63	17.61

After this was pointed out, Princep Street Charge office accepted (March 2016) the audit observation in one case and stated that proposal for revision had been sent to the higher authority. In the remaining cases, Asansol Charge office did not furnish any specific reply (October 2016).

The cases were reported to the Government between March and October 2015 followed by reminders issued up to November 2016; their reply has not been received.

2.12 Non-levy of penalty on evaded tax

Section 96 of the WBVAT Act, 2003 prescribes levy of penalty, if a dealer has claimed excess ITC but has not reversed the same within the tax period or concealed any sales/purchases. Further, the quantum of penalty should not

⁴² Asansol and Princep Street.

exceed twice the amount of tax which would have been avoided if such concealment was not detected.

Audit found in seven⁴³ Charge offices that in 26 cases of 24 dealers assessed between June 2012 and September 2014 for assessment periods 2008-09 and 2011-12, AAs detected evasion of tax of ₹ 11.67 crore by dealers resorting to claim of excess amount of ITC or concealment of sales/purchases. Though the AAs detected evasion of tax, they did not initiate proceedings to levy any penalty under Section 96 of WBVAT Act. Penalty to the extent not exceeding ₹ 23.07 crore was leviable for evasion of tax.

After this was pointed out, six⁴⁴ Charge offices accepted (between May 2015 and April 2016) the audit observations in 17 cases involving ₹ 12.10 crore and penalty proceedings were initiated. In the remaining cases, the Charge offices did not furnish any/specific reply (October 2016).

The cases were reported to the Government between January 2015 and December 2015, followed by reminders issued up to November 2016; their reply has not been received.

2.13 Non/short levy of interest

Sections 33 and 34 of the WBVAT Act, 2003 prescribe that a dealer, who fails to adjust any amount of reverse credit by way of deducting inadmissible ITC from the amount of ITC claimed for a tax period or fails to make full payment or delays payment of net tax in respect of any tax period of a return period or delays payment of assessed tax by the date specified in the demand notice issued after assessment, shall be liable to pay interest at the rate of 12 *per cent* per annum.

Audit found in 11⁴⁵ Charge offices that in 19 cases assessed between June 2011 and July 2014 for assessment periods between 2008-09 and 2011-12, AAs in one case short levied interest of ₹ 3.63 lakh due to incorrect calculation of number of days involved in delay of payment of tax, in eight cases AAs did not levy interest of ₹ 29.10 lakh where the dealers did not pay tax by prescribed dates. In the remaining 10 cases, AAs did not levy interest of ₹ 82.72 lakh where dealers did not reverse credit by way of deduction of the inadmissible ITC in their returns. This resulted in non/short levy of interest of ₹ 1.15 crore.

After this was pointed out, 10⁴⁶ Charge offices accepted (between December 2014 and March 2016) audit observations in 14 cases involving ₹ 1.05 crore, but did not furnish any report on realisation. In the remaining five cases, four⁴⁷ Charge offices did not furnish any/specific reply (October 2016).

The cases were reported to the Government between October 2014 and December 2015, followed by reminders issued up to November 2016; their reply has not been received.

⁴³ Alipur, Asansol, Behala, Belgachia, LTU, Princep Street and Salt Lake.

⁴⁴ Alipur, Asansol, Behala, LTU, Princep Street and Salt Lake.

⁴⁵ Bally, Ballygunj, Belgachia, Darjeeling, Howrah, LTU, Medinipur, N. D. Sarani, Park Street, Princep Street and Raja Katra.

⁴⁶ Bally, Belgachia, Darjeeling, Howrah, LTU, Medinipur, N. D. Sarani, Park Street, Princep Street and Raja Katra.

⁴⁷ Ballygunj, Belgachia, Darjeeling and Medinipur.

2.14 Short levy of tax due to mistake in computation

Under the WBVAT Act, 2003, tax is to be computed at prescribed rates along with interest and penalty, if any, on the goods sold. The Act also provides for levy of purchase tax on unregistered purchases of goods by a dealer which are not directly related to his business or fall in the negative list of the Act.

Audit observed in 12⁴⁸ Charge offices that in 22 cases assessed between June 2011 and September 2014 for assessment periods between 2007-08 and 2011-12, the AAs had assessed tax and interest of ₹ 163.56 crore, instead of ₹ 168.07 crore due to mistakes in computation. This resulted in short levy of tax of ₹ 4.51 crore.

After this was pointed out, eight⁴⁹ Charge offices accepted (between November 2014 and September 2015) the audit observations in 11 cases involving ₹ 3.61 crore; but did not furnish any report on realisation of tax and interest. In the remaining cases, the Charge offices did not furnish any/specific reply (October 2016).

The cases were reported to the Government between October 2014 and December 2015, followed by reminders issued up to November 2016; their reply has not been received.

⁴⁸ Alipur, Asansol, Bally, Ballygunj, Behala, Burdwan, Durgapur, LTU, Princep Street, Purulia, Salt Lake and Siliguri.

⁴⁹ Alipur, Bally, Burdwan, Durgapur, LTU, Purulia, Salt Lake and Siliguri.

CHAPTER-III

CHAPTER III

LAND REVENUE

3.1 Tax administration

Land Revenue consists of receipts from land rent, rates and cess, management of Ex-Zamindari Estates, survey and settlement operations etc. Assessment and collection of land revenue are governed by the West Bengal Land Reforms Act, 1955; West Bengal Land Reforms Rules, 1965; West Bengal Land Acquisition Manual, 1991; West Bengal Land and Land Reforms Manual, 1991 and Land Transfer Rules contained in the Bengal Land Acquisition Act, 1917.

During 2015-16, Land Revenue was administered by the Land and Land Reforms (L&LR) Department headed by the Land and Land Reforms Commissioner (LRC) and Principal Secretary, assisted by one Director of Land Records and Surveys (DLR&S) and Joint LRC, 19 Additional District Magistrate (ADM) and District Land and Land Reforms Officers (DL&LROs), 64 Sub-Divisional Land and Land Reforms Officers (SDL&LROs), 354 Block Land and Land Reforms Officers (BL&LROs), 1,438 Revenue Officers and 3,110 Revenue Inspectors.

3.2 Internal audit

The Internal Audit Wing (IAW) of the L&LR Department was established with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations and safeguarding resources against loss. During 2015-16, the Wing was headed by the Audit Officer cum ex-officio Joint Secretary who was assisted by 11 Assistant Auditors. While no Internal Audit Officer was posted in the wing against sanctioned strength of 16, number of Assistant Auditors posted were 11 against the sanctioned strength of 14. The wing planned to audit 19 DL&LROs, one First Land Acquisition (FLA) Collector, one Rent Controller and two Thika tenancy during 2015-16 and conducted audit of 18 DL&LROs, one FLA Collector, one Rent Controller and one Thika Tenancy during the period, which was 91.30 *per cent* of the units planned for audit.

3.3 Results of audit

In 2015-16, test check of the records of 11 units relating to receipts from Land Revenue showed irregularities involving ₹ 142.20 crore in 375 cases, which fell under the following categories as given in **Table 3.1**.

Table 3.1
Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non-realisation of Govt. revenue due to non-settlement of long term lease	57	46.72
2.	Non/short realisation of rent, cess and surcharge on land used for commercial purpose	167	21.99
3.	Non-realisation of <i>salami</i> and annual lease rent	45	57.76
4.	Non-realisation of Govt. revenue due to non-renewal of long term lease	12	0.97
5.	Non-realisation of transfer value due to non-settlement of land with Government of India	9	10.37
6.	Non-realisation of land revenue/cess from big <i>raiyats</i>	13	1.70
7.	Blockage/loss of revenue due to non-leasing of <i>sairati</i> interest	13	2.12
8.	Other cases	59	0.57
Total		375	142.20

During the course of the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 85.99 crore in 367 cases, of which 326 cases involving ₹ 84.36 crore were pointed out during the year 2015-16 and the rest in earlier years. An amount of ₹ 56.17 lakh was realised in 41 cases at the instance of audit.

A few illustrative cases involving ₹ 79.05 crore are discussed in the following paragraphs.

3.4 Non-realisation of transfer value

Rule 471 of West Bengal Land and Land Reforms (WBL&LR) Manual, 1991 provides that transfer of land between the Central and State Government is governed by the principles laid down in Land Transfer Rules, as embodied in Land Acquisition Manual and for such transfer of State Government land, amount payable by the Central Government is transfer value comprising market value and capitalised value of land. As per the order⁵⁰ of the West Bengal Government issued in August 2012, the capitalised value of land shall be determined at 25 times of two *per cent* of market value as payable by the Central Government for such land.

In District Land and Land Reforms Office (DL&LRO), Nadia, Audit found in June 2015 that 21 acres of State Government land was under the possession of P1-Basic Seed Farm, a unit of Central Silk Board under Ministry of Textiles, Government of India since October 1985. DL&LRO did not take any action to settle the land and recover the transfer value till the Farm applied for transfer of land in December 2013. DL&LRO sent a proposal for transfer of land to the Land and Land Reforms (L&LR) Department in August 2014. The case was pending with L&LR Department till date of audit (June 2015).

⁵⁰ G O No. 4607-LA/3M-32/12 dated 24.08.2012.

Non-initiation of transfer process for more than 28 years (1985 to 2013) and non-finalisation of the proposal led to non-realisation of transfer value of ₹ 5.35 crore (market value ₹ 3.57 crore and capitalised value of ₹ 1.78 crore).

After this was pointed out, the DL&LRO stated (June 2015) that action was being taken to settle the land and realise the amount.

The case was reported to the Government in July 2015, followed by the reminders issued up to November 2016; their reply has not been received.

3.5 Non-settlement of long term lease

Rule 238 of the WBL&LR Manual, 1991 provides that Government land, remaining in the possession of a person(s) without any lease, may be offered to such person(s) on long term settlement for non-agricultural purpose on realisation of rent and *salami*⁵¹ at the prescribed rates. Further, Rule 225 of the Manual prescribes that the procedure of long term settlement is to be completed by the Department within five months from the date of its initiation.

During scrutiny of files relating to long term settlement cases in nine⁵² DL&LROs, Audit found between June 2014 and September 2015 that in 25 cases 113.90 acres of land was under unauthorised occupation. The occupants had applied between May 2003 and June 2013 for long term settlement of the land for non-agricultural purposes. The valuation of land was done by the DL&LROs between August 2011 and April 2015. However, long term settlements were not finalised even after lapse of periods ranging from one to 11 years. In 11 cases, the proposals for long term lease were not forwarded by the concerned DL&LROs to the approving authority (L&LR Department). In the remaining 14 cases, proposals were pending with the L&LR Department. Thus, due to failure of the Department to settle the land through lease agreement with the unauthorised occupants within the prescribed time limit, revenue realisable from such unauthorised occupants stood at ₹ 19.49 crore (*salami* ₹ 17.79 crore and rent ₹ 1.70 crore).

The Department accepted (between August 2014 and May 2015) the audit observations in 12 cases involving ₹ 8.57 crore; however, it did not furnish report on finalisation of the leases. In the remaining cases, the Department did not furnish any/specific reply (October 2016).

Government stated (November 2016) that reminders were being issued to the DL&LROs for realisation of dues.

3.6 Non-realisation of rent due to non-renewal of long term lease

Rule 219 of the WBL&LR Manual, 1991 provides that a long term lease shall ordinarily be for a period of 30 years and, on expiry of the period, the lessee shall be entitled to the option of successive renewals of the lease for the same length of time. Further, Rule 226(i) prescribes that no *salami* shall be charged at the time of the renewal of long term leases. However, rent shall be realised

⁵¹ *Salami* means the lump sum amount payable by the lessee in the case of settlement of Government land.

⁵² Birbhum, Burdwan (E), Cooch Behar, Dakshin Dinajpur, Hooghly, Howrah, Jalpaiguri, North 24 Parganas and Purulia.

at the rate of four *per cent* of the market price of the land at the time of the renewal, if the lease is for industrial or commercial purpose.

During scrutiny of files relating to renewal of long term lease cases, Audit observed (December 2014) that in one case under DL&LRO, Dakshin Dinajpur, a lease of land granted to West Bengal State Electricity Distribution Company Limited (WBSEDCL) covering an area of 9.34 acres, had expired in 2001. The occupant had, however, applied for renewal of the lease in September 2012. Though the DL&LRO sent the proposal for renewal of the lease to L&LR Department in January 2014, the case was pending till date of audit. In another case under DL&LRO Purulia, Audit observed (September 2014) that a lease of land covering an area of 0.34 acres, granted to Purulia Wholesale Consumer Co-operative Society Limited, had expired in August 2004. Though the occupant had applied for renewal of the lease in July 2014, the case has been lying with the Block Land and Land Reforms Office (BL&LRO) without any action. Due to non-monitoring of the leases by the L&LR Department, the expired leases were not renewed and rent of ₹ 56.86 lakh⁵³ has not been realised.

The Department accepted (in September 2014 and December 2014) the audit observations, but did not furnish any justification for delay in disposal of the cases (October 2016).

The cases were reported to the Government (between October 2014 and January 2015), followed by reminders issued up to November 2016; their reply has not been received.

3.7 Non-realisation of revenue on land used for commercial purpose

Sections 22 and 23 of the West Bengal Land Reforms (WBLR) Act, 1955 provide that *raiyats*⁵⁴ using land for commercial purposes are liable to pay land revenue at the prescribed rate. Further, Section 3 of the West Bengal Rural Employment and Production (WBREP) Act, 1976 provides for levy and collection of a surcharge⁵⁵. Different kinds of cess⁵⁶ are also realisable on the land revenue payable by *raiyats*. The *Bhumi Sahayaks* posted in the Revenue Inspectors' offices under the BL&LROs are responsible for collection of land revenue.

During test check of *Bhumi Sahayaks*' Collection Registers (Register-III) and Rent Receipt Books in 10⁵⁷ DL&LROs, Audit found (between February 2014 and September 2015) that in 5,903 cases⁵⁸ 3,037 *raiyats* did not pay rent, cess and surcharge of ₹ 53.24 crore on 48,392.73 acres of land being used for

⁵³ Rents were calculated at the rate of four *per cent* per annum on market value of ₹ 3.55 crore.

⁵⁴ *Raiyat* means a person or institution holding land for any purpose.

⁵⁵ A surcharge of 15 *paise* (non-irrigated) and 30 *paise* (irrigated area) on each rupee of land rent payable.

⁵⁶ Road cess six *paise*, public works cess 25 *paise* and primary education cess 10 *paise*, rural employment cess 30 *paise* and surcharge 15 *paise* on each rupee of land rent payable.

⁵⁷ Birbhum, Burdwan (W), Cooch Behar, Dakshin Dinajpur, Hooghly, Murshidabad, Nadia, North 24 Parganas, Paschim Medinipur and South 24 Parganas.

⁵⁸ One instance of non-payment of rent in any year constitutes one case.

commercial purposes for various periods between 2011-12 and 2014-15. However, the DL&LROs had not initiated any action to realise the dues from them. This resulted in non-realisation of rent, cess and surcharge of ₹ 53.24 crore.

After this was pointed out, seven⁵⁹ DL&LROs accepted (between September 2014 and September 2015) the audit observations in 4,626 cases involving ₹ 50.49 crore; but did not furnish any report on realisation. In the remaining cases, DL&LROs did not furnish any specific reply (October 2016).

Government accepted the audit observations and intimated (November 2016) realisation of ₹ 18.34 lakh in 1,336 cases by three⁶⁰ DL&LROs. In the remaining cases, they did not furnish specific details in respect of realisation.

3.8 Non-realisation of lease rent and interest

Rule 235 of the WBL&LR Manual, 1991 provides that the rent shall be payable yearly according to the Bengali year which falls due on the last day of the year in respect of which it is paid. Rule 303 prescribes interest at the rate of 6.25 *per cent* per annum on delayed payment of revenue.

During scrutiny of lease registers and case records of lessees in five⁶¹ DL&LROs, Audit observed (between June 2014 and September 2015) that annual lease rent of ₹ 37.86 lakh was not realised in 28 cases from 26 lessees in possession of 86.25 acres of land in respect of periods between 2010-11 and 2014-15. It indicates that the Department did not monitor the lease registers to keep track of timely collection of lease rents. This resulted in non-realisation of annual rent and interest of ₹ 40.41 lakh (lease rent ₹ 37.86 lakh and interest ₹ 2.55 lakh).

After this was pointed out, two⁶² DL&LROs accepted (June 2014 and June 2015) the audit observations in five cases involving ₹ 28.09 lakh and stated that action would be taken to realise the dues. In the remaining cases, the authorities did not furnish any specific reply (October 2016).

Government accepted the audit observations and intimated (November 2016) realisation of ₹ 8.46 lakh in four cases by DL&LRO Howrah. In the remaining cases, they did not furnish specific details in respect of realisation.

⁵⁹ Burdwan (W), Dakshin Dinajpur, Hooghly, Murshidabad, Nadia, Paschim Medinipur and South 24 Parganas.

⁶⁰ Paschim Medinipur, North 24 Parganas and Nadia.

⁶¹ Cooch Behar, Howrah, Jalpaiguri, Nadia and Purulia.

⁶² Howrah and Nadia.

CHAPTER-IV

CHAPTER IV

MOTOR VEHICLES TAX

4.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and Rules made thereunder and are under the administrative control of the Transport Department. The Transport Department collects motor vehicle taxes, fees and fines through the State Transport Authority (STA), Public Vehicle Department (PVD), Kolkata and Registering Authorities (RAs) comprising of Regional Transport Officers (RTOs) at the district level and Additional Regional Transport officers (ARTOs) at the Sub-Divisional level.

4.2 Internal audit

Despite being requested (August 2016), the Department did not furnish details regarding Internal Audit Wing (IAW). Therefore, the performance of internal audit conducted by the Department could not be analysed.

4.3 Results of audit

In 2015-16, test check of the records of 17 units relating to road tax, additional tax, special tax, audio fee, special fee, video fee, dealer's tax, permit fee and penalties showed underassessment of tax and other irregularities involving ₹ 330.75 crore in 252 cases, which fell under the following categories in the **Table 4.1**.

Table 4.1
Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non-realisation of		
	• Dealer's tax	16	27.02
	• Showroom inspection fee	12	0.74
	• Permit fee and fine	17	21.06
	• Tax, additional tax and penalty	80	272.67
	• Special fee	14	0.66
	• Special tax and penalty	12	0.07
	• Revenue due to non-renewal of authorisation of National Permit	15	1.85
	• Audio fee	13	0.28
2.	Non-levy and non-realisation of fine from overloaded vehicles	1	2.46
3.	Short realisation of		
	• Road tax from contract carriage vehicles	14	0.60
	• Road taxes from LMV/Omni buses (Pvt. Use)	16	1.18
	• Fines for delayed production of vehicles for Certificate of Fitness	16	1.69
4.	Other cases	26	0.47
Total		252	330.75

During the course of the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 114.96 crore in 70 cases, of which 30 cases involving ₹ 11.16 crore were pointed out in audit during the year 2015-16 and the rest in earlier years. An amount of ₹ 10.59 lakh was realised in 40 cases at the instance of audit.

A theme based compliance audit on “Receipts under the State Transport Authority, West Bengal” having money value of ₹ 94.36 lakh and few illustrative cases involving ₹ 227.40 crore are discussed in the following paragraphs.

4.4 Audit on “Receipts under the State Transport Authority, West Bengal”

4.4.1 Introduction

Under Section 68 of the Motor Vehicles (MV) Act, 1988 the State Government had constituted a State Transport Authority (STA) under the Transport Department consisting of a Chairman, a Deputy Chairman, two Members and a Member Secretary.

STA has been vested with the authority to co-ordinate, regulate and supervise the activities and policies of Regional Transport Authorities (RTAs) of the State that grant and renew different types of permits in respect of their respective regions. For the state as a whole and for inter-state operations, STA issues different types of permits⁶³, viz., stage carriage permit⁶⁴, contract carriage permit⁶⁵, tourist permit⁶⁶, special permit⁶⁷, temporary permit⁶⁸ and luxury taxi permit⁶⁹. Till 1 September 2013, STA used to issue national permits (NP)⁷⁰ to goods vehicles, after which it has been delegated to the RTAs.

4.4.2 Audit objective, scope, methodology and criteria

Audit was undertaken with the objective of ascertaining whether the existing rules were complied with in respect of assessment and collection of revenues and remittance thereof to the Government account; whether provisions of Acts/Rules were sufficient to safeguard revenues and whether there was adequate internal control mechanism in place.

Audit was conducted between January 2016 and April 2016 in the Office of the Secretary, STA. Records of the stage carriage permits, international permits, temporary permits, counter-signature on permits, and bank drafts received were audited. Audit was conducted with reference to provisions made under the laws governing transport management in the State: MV Act, 1988; Central Motor Vehicles (CMV) Rules, 1989; West Bengal Motor Vehicles (WBMV) Rules, 1989; West Bengal Treasury (WBT) Rules, 2005 and notifications issued thereunder. The period of audit was from April 2010 to March 2015. The audit findings are discussed in the succeeding paragraphs.

⁶³ A permit issued by a STA/RTAs or an authority prescribed in this behalf under this Act authorising the use of motor vehicle as a transport vehicle.

⁶⁴ A motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers.

⁶⁵ A motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole.

⁶⁶ A contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as may be prescribed in this behalf.

⁶⁷ A permit defined under Section 88(8) of the MV Act, 1988.

⁶⁸ Permits issued for a limited period to authorise the use of a transport vehicle temporarily.

⁶⁹ As referred under schedule A under Rule 127 of the WBMV Rules, 1989.

⁷⁰ Permit granted by the appropriate authority to goods carriages to operate throughout the territory of India or in such contiguous States not being less than four in number, including the State in which the permit is issued as may be specified in such permit in accordance with the choice indicated in the application.

Audit findings

Adequacy of provisions of MV Act/Rules

4.4.3 Absence of provision for realisation of counter-signature fees on permits issued by STA

Section 88 of the MV Act, 1988 prescribes that a permit granted by the RTAs or STA shall not be valid in any other region or State unless the permit has been countersigned by the RTAs/STA of that region/State where the permit holders intend to ply their vehicles covered under it. Further, Rule 102 read with Rule 129 of WBMV Rules, 1989 lays down the procedure for realisation of fees for counter-signature on permits at the rate as specified in Schedule 'A' of the Rules. However, unlike the provision for realisation of fees for counter-signature of stage carriage and contract carriage permits issued by RTAs, there is no provision in WBMV Rules, 1989 for realisation of such fees in cases where stage and contract carriage permits are issued by the STA.

Audit observed that STA had issued/renewed 13,951 stage and contract carriage permits during the period from April 2010 and March 2015 for plying vehicles in more than one region. However, in the absence of any provision in rules, no counter-signature fees from the permit holders could be realised. Had there been provision for realisation of counter-signature fee like that prescribed in cases where stage carriage and contract carriage permits were issued by RTAs, counter-signature fees of ₹ 3.14 crore could have been realised by the STA.

After this was pointed out (March 2016), the Secretary, STA accepted (August 2016) the audit observation, but did not offer any comment on the need of a change in Rules to incorporate provision for realisation of fees for counter-signature of permits issued by the STA.

4.4.4 Incorrect fixation of period of validity of counter-signature of permanent stage carriage permits

Section 81(1) of MV Act, 1988 prescribes that a permit other than a temporary permit and a special permit shall be valid for a period of five years, provided where the permit is countersigned under Section 88(1), such counter-signature shall remain valid without renewal for such period so as to synchronise with the validity of the primary permit. Further, Rule 129 of WBMV Rules, 1989 prescribes that the fees for the counter-signature of permits are to be realised at the rates specified in Schedule 'A' of the Rules.

In respect of inter-state permits, audit observed that in the reciprocal agreement signed between Assam and West Bengal, the period of validity of counter-signature on permanent stage carriage permits was fixed as one year at a time. Fixing the validity of counter-signature on permanent stage carriage permits for a period less than that of the primary permit was in contravention of the provisions laid down in Section 81(1) of the Act. Short-realisation of revenue due to non-synchronisation of validity period of counter-signature with that of permits cannot be ruled out.

After this was pointed out (January 2016), the Secretary, STA stated (August 2016) that necessary steps would be taken for insertion of clauses for

synchronisation of the validity of counter-signature on permit with that of primary permit in the agreement with Assam, whenever fresh reciprocal agreement was executed.

Compliance deficiency

4.4.5 Non-realisation of application fee for counter-signature on permit

Rule 102 read with Rules 126, 129 and 149 of WBMV Rules, 1989 lays down the procedures for realisation of application fee for grant or renewal of permit or counter-signature on permits⁷¹ at the rates specified in Schedule 'A' of the Rules.

Audit observed that in 14,078 cases, application fees for counter-signature on permits issued by STA were not realised from April 2010 to March 2015. This resulted in non-realisation of application fee of ₹ 80.79 lakh.

After this was pointed out (January and March 2016), the Secretary, STA accepted (August 2016) the audit observation but did not furnish any report on the realisation of application fee.

4.4.6 Non-realisation of permit fees and fine

Section 66(1) of the MV Act, 1988 prescribes that no owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place unless the vehicle carrying any passenger or goods is granted a specific permit to that effect and/or the same is countersigned by the competent STA/RTAs. Further, Rule 102 read with Rules 126, 127 and 129 of WBMV Rules, 1989 lays down the procedures for realisation of fees for application/grant/renewal of permits or counter-signature on permits at the rates as specified in Schedule 'A' of the Rules. Moreover, Section 192A of the MV Act, 1988 prescribes fine for contravention of Section 66(1) of the MV Act, 1988.

Audit observed that in respect of 25 inter-region stage carriages and 16 inter-State stage carriage vehicles, the permits issued by STA were not renewed after expiry of their validity periods. Audit also observed from the database that owners of those vehicles were regularly paying fitness fees and road taxes, which indicated that the vehicles were plying on roads. The permits were neither surrendered nor cancelled. Non-renewal of permits resulted in non-realisation of fees for application and counter-signature and fine of ₹ 7.24 lakh.

After this was pointed out (January 2016), Secretary, STA stated (August 2016) that demand notices would be issued to the respective permit holders.

⁷¹ Counter-signature on permits is done by the RTAs, other than the permit issuing RTA, within whose jurisdiction the vehicle owners intend to ply the vehicle. It is required for granting permission to ply the vehicle in the region other than the issuing region (Section 88(1) of MV Act, 1988).

4.4.7 Short realisation of permit fees

Schedule 'A' to the WBMV Rules, 1989 prescribes permit fees of ₹ 10,000 and ₹ 17,500 for contract carriage vehicles with seating capacity upto 10 excluding the driver and seat capacity beyond 10 excluding the driver, respectively, for plying within the State of West Bengal for five years.

Audit observed that in 134 out of 234 vehicles, having seating capacity beyond 10, permit fees were realised at rates lower than the prescribed rates pertaining to the period from April 2010 to March 2015. The system⁷² was unable to prompt/alert the STA to realise permit fees at the prescribed rates at the time of issue/renewal of permit. This resulted in short realisation of permit fees amounting to ₹ 4.87 lakh.

After this was pointed out (March 2016), the Secretary, STA stated (August 2016) that demand notices would be issued to the respective permit holders and necessary steps would be taken for rectification in software.

4.4.8 Blocking of revenue due to delay in credit of bank drafts in Government accounts

Rule 3.01 of the WBT Rules, 2005 and explanation given thereunder, read with Appendix-21 to sub-Rule 3(c) of T.R. 2.33, prescribes the procedures to be followed for remittance of all moneys received by or tendered to government employees on account of the revenues of the State into government account and also its accounting and reconciliation.

Audit had pointed out in Para no. 4.4 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) Government of West Bengal for the year ended 31 March 2010 deficiencies in monitoring, remittance and reconciliation of bank drafts. Audit observed that the deficiencies still persisted in STA. Audit further observed that 1,253 bank drafts worth ₹ 9.09 lakh pertaining to the period between April 2010 and March 2015, received from the STAs of other States, were kept out of Government accounts for more than three years, resulting in expiry of the validity of those drafts. There was no mechanism in place to monitor the receipt and remittance of bank drafts into Government account. Absence of a system to monitor receipt and credit of bank drafts into Government accounts in time resulted in blocking of revenue of ₹ 9.09 lakh.

After this was pointed out (March 2016), the Secretary, STA stated (August 2016) that action would be taken for remittance of the bank drafts into the Bank/Government account.

⁷² The database in respect of contract carriage permits, maintained in 'MySql' software.

Internal control mechanism

4.4.9 Non-customisation of Permit Module and non-utilisation of data of 'VAHAN' software

Provision for 'Permit Module' exists in the 'VAHAN' software which has been operationalised in RTAs of Transport Department in West Bengal since 2004. However, STA, WB has not operationalised such module till date, resulting in short realisation of revenue, besides exposure to other risks as detailed below:

Table 4.2

Non-customisation of Permit module

Sl. No.	Audit observation	Number of cases
1.	Short realisation of road taxes	Nine contract carriage vehicles were paying taxes at the rate applicable to the stage carriage vehicles resulting in short realisation of revenue of ₹ 1.46 lakh.
2.	Short levy of different kinds of fees in issue/renewal of permit/counter-signature on permits	In cases of 134 out of 234 vehicles where the seating capacity was beyond 10, there was short realisation of ₹ 4.87 lakh (also discussed in para 4.4.7 above).
3.	Irregular exemption of fees in respect of issue/renewal of permit/counter-signature on permits	Non-realisation of application fee of counter-signature on permits of ₹ 80.79 lakh in 14,978 cases (also discussed in para 4.4.5).
4.	Issue of duplicate/fake permits	56 pages were kept blank after inscribing the permit numbers.
5.	Issue of stage carriage permit to a goods vehicle	One case observed from the resolution of the meeting of STA held on 19.04.2014.
6.	Irregular grant/renewal of permits to the applicants and irregular refusal of application of permit	669 applicants were not issued any permit while 136 were issued more than one permit each. No record in respect of refusal of permit was made available to audit.
7.	Lack of trail in respect of missing Offer Letters, transactions of permits etc. due to incomplete digitisation of stage carriage permits, all India tourist permit, and international permit	Applicants in 39 cases were not recorded in the database.
8.	Manual intervention in calculation of permit fees, late fees etc. in respect of special permit, luxury taxi permit, contract carriage permit, and stage carriage	Due to manual intervention/ computation mistakes short realisation had been detected (also discussed in para 4.4.7 above).

After this was pointed out (January 2016), Secretary, STA stated (August 2016) that the matter would be taken up with National Informatics Centre (NIC)/West Bengal Transport Infrastructure Development Corporation Limited (WBTIDCL) for proper customisation of permit module.

4.4.10 Absence of a mechanism to monitor performance of foreign agreements

An Agreement for the regulation of motor vehicle passenger traffic between the Government of India and the Government of the People's Republic of Bangladesh was signed on June 1999, which allowed plying of two stage carriages from either side. Article XVII of the Agreement prescribed that the agreement would be valid for two years and the agreement could be extended for one year at a time by mutual consent, subject to such modifications as might be agreed upon. Audit observed that a third international permit was issued in June 2015 by STA without obtaining concurrence from the Government of India. No revision/modification was made, nor was a fresh agreement executed between the two countries regarding the third stage carriage vehicle.

After this was pointed out in audit (March 2016), the Secretary, STA replied (August 2016) that the matter would be brought to the notice of the Govt. of India and necessary concurrence would be obtained.

Audit further observed that STA did not have a copy of the agreement which governed the plying of vehicles between India and Bhutan. Scrutiny showed that five permits were received from Bhutan Government for counter-signature. To verify the maximum number of permits that could be issued by either country, provision and guidelines for such issuance/renewal should be in place. Audit also observed that there was no mechanism in place to regulate, monitor and grant permits for the movement of vehicles due to lack of agreement.

After this was pointed out in audit (January 2016), the Secretary, STA replied (August 2016) that the matter would be brought to the notice of the Government of India for executing appropriate agreement. From the reply of the STA it appeared that the counter-signature permits were issued to vehicles of Bhutan without any appropriate agreement.

4.4.11 Absence of a mechanism to monitor realisation of composite fees

The State of West Bengal had entered into reciprocal agreements with its neighbouring States for smooth plying of vehicles in the reciprocating States. There was a provision in the agreements for realisation of tax from the vehicles in the reciprocating States at the rate agreed upon. Further, Rule 128(5) of WBMV Rules, 1989, prescribed the rates of composite fees in respect of the motorcabs⁷³ and omnibuses⁷⁴ which had All India Permits granted by other States or Union Territories. The aforesaid taxes/composite fees were to be collected by such States or Union Territories, as the case may be, on behalf of the State of West Bengal and were to be sent to it in the mode of payment as agreed upon.

⁷³ Means vehicles adapted to carry not more than six passengers excluding driver for hire or reward.

⁷⁴ Means vehicles adapted to carry more than 13 passengers but less than 35 passengers excluding the driver.

The calculation of taxes/fees was based on seating capacity, engine capacity and laden weight of the vehicle and whether the vehicle was air conditioned or not. Therefore, for proper monitoring of taxes, composite fees etc., it was necessary to maintain the records of specifications of the vehicles entering the State and compare the amount of fees realisable with the fees realised. Audit observed that there was no such system instituted in the State, in the absence of which short realisation of revenue could not be ruled out.

After this was pointed out (January 2016), Secretary, STA, stated (August 2016) that the matter would be taken up with the concerned States and monitoring system would also be strengthened at the local level.

4.4.12 Lack of transparency in issue of permits

Section 80(2) of the MV Act, 1988 prescribes that the STA shall not ordinarily refuse to grant an application for permit of any kind made at any time under this Act. Provided that the RTA, STA or the prescribed authority refuses an application for grant of permit of any kind under this Act, it shall give to the applicant in writing its reason for refusal of the same and an opportunity of being heard in the matter. Further, Rule 124(2) of the WBMV Rules, 1989 provides for refund of security deposit.

During the period from April 2012 to March 2015, 3,761 applications were made before STA, WB for issue of luxury taxi permits. The applicants had paid security deposit of ₹ 1,000 each along with application fee of ₹ 520 at the time of application for luxury taxi permits. Audit observed that permits were not issued in cases of 669 applicants. However, neither the reasons for refusal were given nor refund of security deposit was made to them. Thus, there was lack of transparency in system of grant of permits.

After this was pointed out (January 2016), the Secretary, STA stated (August 2016) that action would be taken.

4.4.13 Conclusion

Audit observed certain deficiencies in the working of STA in the state. There was absence of provision for realisation of counter-signature fees which inhibited revenue collection. Further, there was loss of revenue due to non/short realisation of fees/fines related to permits, application fees for counter-signature on permits, composite fees and incorrect fixation of period of validity of counter-signature of permanent stage carriage permits. Weak internal controls in STA resulted in blocking of revenue. Audit also observed deficiencies in the IT module, besides poor monitoring of implementation of foreign agreements, and lack of transparency in the system of grant of permits.

Other Audit Observations

4.5 Non-realisation of tax, additional tax, penalty and special fees due to non-maintenance of Tax Demand Register

Section 3 of West Bengal Motor Vehicles Tax (WBMVT) Act, 1979 and Sections 3 and 4 of the West Bengal Additional Tax & One-time Tax on Motor Vehicles (WBAT & OTMV) Act, 1989 prescribe the rates of tax and additional tax on vehicles. Further, Sections 11 and 10 of these Acts, respectively, provide for imposition of penalty in case of non-payment of taxes. Moreover, Rule 26 of the West Bengal Motor Vehicles Tax (WBMVT) Rules, 1957 prescribes that the tax officer shall maintain a Tax Demand Register (TDR) in Form 'J' showing registration number, name and address of the owner, tax due etc. and shall review the register in order to see whether the tax is regularly paid and shall take prompt action against the person concerned who has not paid the tax. In addition, Rule 121 of the WBMV Rules, 1989 prohibits plying of heavy goods vehicles having gross vehicle weight (GVW) above 22,542 kg within the State. This provision was relaxed by Government of West Bengal and it permitted plying of such vehicles on payment of a special fee at varying rates depending on the GVW.

During analysis of data pertaining to 15 Regional Transport Authorities (RTAs) between January 2015 and March 2015, Audit found that the RTAs did not maintain TDR as prescribed under the rule either manually or electronically. The software VAHAN⁷⁵ did not have the provision to maintain TDR to monitor payment of taxes, fees etc falling due from the owners of the vehicles. VAHAN also did not have any provision to generate a report providing information as required in the TDR, by capturing data spread across various tables created in the software. However, by analysing the data as available in the tables, Audit calculated the taxes and penalty of ₹ 205.02 crore realisable from the defaulting owners of 75,864 vehicles during 2010-2014, of which owners of 1,696 vehicles were also liable to pay special fees of ₹ 61.62 lakh during the period. Thus, non-maintenance of TDRs deprived the Department of monitoring and taking necessary action against defaulting owners of vehicles. This resulted in non-realisation of tax, additional tax, penalty and special fee of ₹ 205.64 crore, as detailed in the following table:

⁷⁵ An application software used by the Transport Department for registration of vehicles and collection of taxes and fees thereof.

Table 4.3
Non-realisation of tax, additional tax, penalty and special fee

(₹ in lakh)

Sl. No.	Name of the RTA	Period of Audit	Tax, additional tax and penalty		Special fee		Total amount of non-realisation
			No. of vehicles	Amount of non-realisation	No. of vehicles	Amount of non-realisation	
1.	Alipur	2013-14	7,756	2,420.44	44	1.26	2,421.70
2.	Barasat	2013-14	3,262	379.11	237	5.44	384.55
3.	Barrackpore	2013-14	4,690	1,272.61	325	7.97	1,280.58
4.	Birbhum	2012-14	3,946	712.56	143	6.12	718.68
5.	Contai	2011-14	1,157	222.87	9	0.37	223.24
6.	Howrah	2013-14	3,009	699.57	134	4.08	703.65
7.	Jalpaiguri	2012-14	2,182	403.50	49	1.68	405.18
8.	Kalimpong	2005-14	70	11.40	0	0	11.40
9.	Murshidabad	2012-14	5,294	1,108.21	203	9.07	1,117.28
10.	Nadia	2011-14	4,226	863.51	73	3.36	866.87
11.	Paschim Medinipur	2012-14	5,652	1,212.79	169	7.08	1,219.87
12.	Purulia	2012-14	1,878	194.59	8	0.42	195.01
13.	PVD, Kolkata	2013-14	26,112	9,724.92	21	0.47	9,725.39
14.	Tamluk	2013-14	1,138	245.11	91	2.55	247.66
15.	Uttar Dinajpur	2010-14	5,492	1,031.31	190	11.75	1,043.06
Total			75,864	20,502.50	1,696	61.62	20,564.12

After audit pointed out the cases, nine⁷⁶ RTAs accepted the system deficiency pointed out in the audit observations (between January 2015 and April 2016) in 54,363 cases involving ₹ 159.77 crore. RTA, Barasat also intimated realisation of ₹ 1.06 lakh in 22 cases. In the remaining cases, the RTAs did not furnish any specific reply (October 2016).

The cases were reported to the Government between February 2015 and April 2015, followed by reminders issued up to November 2016; their reply has not been received.

4.6 Non-realisation of dealer's tax and penalty

Section 3(2) of the West Bengal Motor Vehicles Tax (WBMVT) Act, 1979 prescribes that every dealer or manufacturer who keeps in his possession or control any motor vehicle shall pay dealer's tax on such motor vehicle at the time of its first registration at the rates specified in part H of the Schedule

⁷⁶ Alipur, Barasat, Birbhum, Contai, Jalpaiguri, Kalimpong, Nadia, Paschim Medinipur and PVD, Kolkata.

appended to the Act. The motor vehicles in part H comprise motor cycles, three wheelers, light motor vehicles (excluding motor cars and omnibuses with seats up to 14 and not registered as transport vehicle and tourist taxi, luxury taxi or contract carriages with seats upto 14)⁷⁷, medium motor vehicles and heavy motor vehicles including chassis. Further, Section 11(b)(iii) of the Act provides that in case of delay in payment of tax exceeding 60 days after the expiry of grace period of 15 days, penalty equal to the amount of tax payable is also realisable from a defaulting dealer.

During analysis of data of 13 RTAs between January 2015 and March 2015, Audit found that out of 5,40,157 vehicles registered between 2010-11 and 2013-14, dealer's tax in case of 3,56,699 registered vehicles was not paid by the dealers even after the expiry of 75 days including grace period of 15 days. The RTAs also did not take any action to realise the tax and penalty for delay in payment of tax by the dealers. Audit also found that the VAHAN software was not customised to make entries in the field "dealer's tax", mandatory for realisation of the dealer's tax at the time of first registration. Imposition of penalty for delayed payment of dealer's tax was also not customised in the software. This resulted in non-realisation of dealer's tax and penalty of ₹ 14.30 crore, as detailed in the following table:

Table 4.4
Non-realisation of dealer's tax

(₹ in lakh)

Sl. No.	Name of the RTA	No. of newly registered vehicles	No. of defaulter vehicles	Year of default	Non-realisation of dealer's tax and penalty
1.	Alipur	34,370	29,467	2013-14	119.71
2.	Barasat	39,520	36,108	2013-14	144.43
3.	Barrackpore	22,680	19,760	2013-14	79.04
4.	Contai	11,901	5,997	2011-14	24.04
5.	Howrah	29,830	26,932	2013-14	107.73
6.	Jalpaiguri	22,744	14,927	2012-14	59.75
7.	Murshidabad	65,848	47,718	2012-14	190.99
8.	Nadia	78,736	40,906	2011-14	163.79
9.	Paschim Medinipur	93,082	63,576	2012-14	254.54
10.	Purulia	21,634	13,901	2012-14	55.65
11.	PVD, Kolkata	52,769	24,554	2013-14	98.42
12.	Tamluk	15,980	15,313	2013-14	61.26
13.	Uttar Dinajpur	50,703	17,540	2010-14	70.28
Total		5,39,797	3,56,699		1,429.63

Though similar observations were made in the Audit Reports for the years 2009-10, 2011-12, 2013-14 and 2014-15, no action has yet been initiated to customise the VAHAN.

⁷⁷ Substituted by Government notification no. 1181-L dated 10.08.2012 for the words "light motor vehicles".

After Audit pointed out the cases, five⁷⁸ RTAs accepted (between January 2015 and April 2016) the audit observations in 1,64,500 cases involving ₹ 6.61 crore but did not furnish any report on realisation. In the remaining cases, the RTAs did not furnish any specific reply (October 2016).

The cases were reported to the Government between February and April 2015 followed by reminders issued up to November 2016; their reply has not been received.

4.7 Non-realisation of fee on the permits issued by RTAs

Section 66 of the Motor Vehicles (MV) Act, 1988 provides that the owner of a transport vehicle can use his vehicle in a public place only after obtaining a permit from the prescribed authority. Further, Rules 126 and 127 of West Bengal Motor Vehicles (WBMV) Rules, 1989 prescribe that fees for application and grant/renewal of permits in respect of different kinds of vehicles are realisable as per rates specified in Schedule- 'A' of the Rules.

On scrutiny of permit registers and analysis of database of 12 RTAs, Audit found between January and March 2015 that 6,805 public transport vehicles plied with expired permits during 2011-14. Audit also observed from the database that owners of those vehicles were paying fitness fees and road taxes, which indicated that the vehicles were plying on roads. RTAs, however, did not realise permit fee from them. This resulted in non-realisation of permit fee of ₹ 5.50 crore as detailed in the following table:

Table 4.5

Non realisation of permit fee

(₹ in lakh)

Sl. No.	Name of the RTA	No. of vehicles	Non-realisation of permit fee
1.	Alipur	382	23.97
2.	Barasat	787	56.43
3.	Birbhum	826	69.56
4.	Howrah	332	28.83
5.	Jalpaiguri	422	35.77
6.	Murshidabad	1,113	94.57
7.	Nadia	453	37.76
8.	Paschim Medinipur	638	53.62
9.	Purulia	273	23.20
10.	PVD, Kolkata	471	34.71
11.	Tamluk	214	15.94
12.	Uttar Dinajpur	894	75.64
Total		6,805	550.00

It has also been observed in audit that the permit module in the VAHAN has not been made operational despite its implementation in 2004, which resulted in non-monitoring of timely renewal of expired permits. Though the matter of non-realisation of permit fee has been reported regularly in the Audit Reports for the last five years, no remedial action has been taken.

⁷⁸ Alipore, Contai, Nadia, Paschim Medinipur and PVD, Kolkata.

After the cases were pointed out, nine⁷⁹ RTAs accepted (between January and September 2015) the audit observations in 2,390 cases involving ₹ 1.91 crore but did not furnish any report on realisation except RTA, Purulia which reported realisation of ₹ 0.47 lakh in six cases. In the remaining cases, RTAs did not furnish any/specific reply (October 2016).

The cases were reported to the Government between February and April 2015, followed by reminders issued upto November 2016; their reply has not been received.

4.8 Short realisation of fitness fee

Rules 62 and 81 of the Central Motor Vehicles (CMV) Rules, 1989 prescribe that the owner of a transport vehicle shall make application and produce the vehicle for inspection for conducting test of fitness annually for the renewal of certificate of fitness (CF) after completion of two years of registration and pay fees at the prescribed rates. Further, Rule 57(6) of the West Bengal Motor Vehicles (WBMV) Rules, 1989 provides that if the owner fails to produce the vehicle within stipulated time, he shall be liable to pay 150 per cent of prescribed fee for conducting test of fitness.

During analysis of data of 14 RTAs pertaining to the period 2010-11 to 2013-14, Audit found that owners of 93,616 vehicles produced the vehicles belatedly for inspection for renewal of CF. RTAs, however, realised the fee for CF at normal rates instead of at the rate of 150 per cent of the fitness fee. This was due to non-mapping of any provisions in the VAHAN software regarding realisation of fee for CF at the rate of 150 per cent in case of delayed production of vehicles. This resulted in short realisation of fitness fee of ₹ 1.19 crore, as detailed in the following table:

Table 4.6
Short realisation of fitness fee

(₹ in lakh)

Sl. No.	Name of the RTA	No. of Vehicles produced belatedly for inspection of fitness	Fee realisable (inclusive of application fee @ ₹ 100 per vehicle)	Fee realised (inclusive of application fee @ ₹ 100 per vehicle)	Short-realisation
1.	Alipur	6,166	24.06	18.09	5.97
2.	Barasat	10,274	50.75	37.26	13.49
3.	Barrackpore	8,080	50.17	36.14	14.03
4.	Birbhum	3,061	17.44	12.65	4.79
5.	Contai	2,149	10.60	7.78	2.82
6.	Howrah	4,145	22.19	16.18	6.01
7.	Jalpaiguri	2,655	13.83	10.10	3.73
8.	Murshidabad	5,131	26.91	19.65	7.26
9.	Nadia	4,814	23.52	17.28	6.24
10.	Paschim Medinipur	7,787	41.19	30.06	11.13
11.	Purulia	1,348	6.10	4.52	1.58
12.	PVD, Kolkata	27,873	109.43	82.25	27.18
13.	Tamluk	3,302	19.11	13.84	5.27
14.	Uttar Dinajpur, Raiganj	6,831	35.54	25.97	9.57
Total		93,616	450.84	331.77	119.07

⁷⁹ Alipur, Barasat, Birbhum, Jalpaiguri, Murshidabad, Nadia, Purulia, PVD, Kolkata and Uttar Dinajpur.

After the cases were pointed out, seven⁸⁰ RTAs accepted (between February 2015 and April 2016) the audit observation in 57,306 cases involving ₹ 67.23 lakh; but did not furnish any report on realisation. In the remaining cases, RTAs did not furnish any/specific reply (October 2016).

The cases were reported to the Government between February 2015 and April 2015, followed by reminders issued upto November 2016; their reply has not been received.

4.9 Short realisation of one-time and life –time tax

WBMVT Act, 1979 and WBAT&OTMV Act, 1989 prescribe the rates of tax and additional tax on vehicles.

WBAT&OTMV Act, 1989 was amended⁸¹ in August 2012 and provisions were made for:

- (a) realisation of life-time tax or one-time tax at prescribed rates on motor cars and omnibuses (with seats up to 14 and not registered as transport vehicles);
- (b) realisation of life-time tax from owners of such vehicles registered in other States; and
- (c) rebate on life-time tax or one-time tax to non-air-conditioned (non-AC) vehicles having engine capacity upto 800 cc.

During analysis of data of 14⁸² RTAs between January and March 2015, Audit found that one-time and life-time taxes of ₹ 1.83 crore were realised, instead of ₹ 2.60 crore in case of 600 vehicles during the period from September 2012 to March 2014. This was due to realisation of life-time and one-time tax at rates lower than the prescribed rates in 523 cases, realisation of tax at the rate applicable prior to the date of implementation of the notification in 16 cases, irregular rebate to AC vehicles in 35 cases and irregular rebate to non-AC vehicles having engine capacity more than 800 cc in 26 cases, due to improper mapping of the amendment in the WBAT&OTMV Act in the VAHAN software which resulted in short levy and subsequent short realisation of life-time and one-time tax of ₹ 76.94 lakh, as detailed in the following table:

⁸⁰ Barasat, Birbhum, Contai, Nadia, Paschim Medinipur, Purulia and PVD, Kolkata.

⁸¹ Vide Government notification No. 118 2-L dated 10.08.2012.

⁸² Alipur, Barasat, Barrackpore, Birbhum, Contai, Howrah, Jalpaiguri, Murshidabad, Nadia, Paschim Medinipur, Purulia, PVD, Kolkata, Tamluk and Uttar Dinajpur.

Table 4.7
Short realisation of one-time and life-time tax

(₹ in lakh)

Sl. No.	Name of the RTA	Total no. of cases	Amount of tax realisable	Amount of tax realised	Short realisation of road tax
1.	Alipur	39	19.93	13.49	6.44
2.	Barasat	79	28.49	20.89	7.60
3.	Barrackpore	50	21.23	16.37	4.86
4.	Birbhum	12	2.62	2.02	0.60
5.	Contai	4	1.28	1.06	0.22
6.	Howrah	36	12.47	10.16	2.31
7.	Jalpaiguri	10	4.75	1.78	2.97
8.	Murshidabad	52	13.98	8.91	5.07
9.	Nadia	11	3.32	2.43	0.89
10.	Paschim Medinipur	16	4.40	3.26	1.13
11.	Purulia	10	2.78	2.24	0.55
12.	PVD, Kolkata	243	131.43	90.80	40.63
13.	Tamluk	10	5.15	4.07	1.08
14.	Uttar Dinajpur	28	7.88	5.29	2.59
Total		600	259.71	182.77	76.94

After the cases were pointed out, seven⁸³ RTAs accepted (between January 2015 and April 2016) the audit observations in 404 cases involving ₹ 57.51 lakh, but did not furnish any report on realisation. In the remaining cases, the RTAs did not furnish any/specific reply (June 2016). Similar observations had been made in respect of RTAs Alipur, Barasat, Barrackpore and PVD, Kolkata in the Report of the Comptroller and Auditor General of India (Report No.5 of 2015), West Bengal, out of which RA Barasat had accepted the observations in 76 cases involving ₹ 16.11 lakh. No remedial action has since been taken, resulting in persistent irregularities.

The cases were reported to the Government between February and April 2015 followed by reminders issued upto November 2016; their reply has not been received.

4.10 Report of follow up audit on Performance Audit on “Computerisation in Motor Vehicles Department”

4.10.1 Introduction

The Performance Audit on “Computerisation in Motor Vehicles Department” featured as Paragraph No. 5.7 of Chapter V of the Audit Report (Revenue Receipts) for the year ended 31 March 2011 of the CAG of India was conducted between June 2011 and August 2011 to cover implementation of the software VAHAN and SARATHI and examination of controls in the

⁸³ Alipur, Barasat, Birbhum, Contai, Nadia, Paschim Medinipur and PVD, Kolkata.

software from the date of their implementation in various Regional Transport Offices (RTOs)/Additional Regional Transport Offices (ARTOs) upto 31 March 2011. The report was placed before the State Legislative Assembly on 24 September 2012.

4.10.2 Objective, scope and methodology

The follow up audit on Performance Audit on “Computerisation in Motor Vehicles Department” was conducted during the period from May 2016 to July 2016 to ascertain the action taken by the Department on audit observations accepted by it. The Performance Audit Report contained 23 audit observations. Of those 23 observations, 14 were accepted by the Department. Information about action taken on those accepted observations was called for and analysed.

4.10.3 Audit findings

The status of implementation of the 14 audit observations, accepted by the Department, has been arranged in three categories i.e. (A) Insignificant or no progress (nine observations); (B) Partial implementation (five observations); and (C) Full implementation (none). Detailed analysis is as follows:

Table 4.8

Status of implementation

A. Insignificant or no progress

Para no. and caption of the PA	Gist of the Audit observation/ Follow up audit observation	Replies/Comments of the Department	Audit comments
5.7.8 Non-existence of User Requirement Specification (URS)	<i>The Department did not furnish URS or any other document to Audit to establish that VAHAN and SARATHI were customised according to the Acts and Rules of the State.</i> The Department was requested to furnish information on status of preparation of URS with supporting documents (May 2016).	The Department stated that a core committee on e-Governance had been formed to centrally decide on all customisation requests. The committee deliberated on such requests on the basis of extant provisions of law and took decisions on the matter. Decisions so taken were ratified by the Government. NIC was asked for effecting the changes only thereafter.	The reply was not acceptable as in the absence of URS, or any other such document, requirements of system user cannot be ascertained and unexpected output from the system due to improper customisation of system cannot be ruled out.
5.7.9 Lack of security policy	<i>In absence of well framed and implemented security policy and business continuity plan, the goal and objectives of computerisation of the Department could not be achieved which might lead to data loss in computerised environment.</i> Audit observed that security policy was yet to be framed. Audit further observed that in respect of business continuity plan, all data of the RTOs/ARTOs were stored at their offices and respective data of the States were stored at Delhi.	The Department stated that Expression of Interest (EoI) was being invited shortly for framing such policy. It further stated that e-Vahan had been introduced on pilot study basis in a motor vehicles office and it would be rolled out to all motor vehicles offices in the centralised architecture model which might resolve security policy shortcomings pointed out in the PA.	The Department did not offer comments on the action to be taken to secure the existing data base.
5.7.13 Analysis of budget provision	<i>Due to non-analysis of budget provision, the Department was not able to quantify the funds</i>	No action on this point was reported by the Department.	

	<p><i>utilised for computerisation in the State.</i></p> <p>The Department was requested to furnish information on provisions made in the budget for the period 2007-16 along with status of utilisation of funds (May 2016).</p>		
5.7.14 Partial implementation of software	<p><i>Due to partial implementation of software i.e., areas like issue/renewal of permits to transport vehicles, enforcement activities relating to offending vehicles, temporary registration of vehicles, issue/renewal of trade certificates to dealers, surrender of vehicles, maintenance of daily collection register and sub-dealer's licence register etc., the desired objective of computerisation had not been achieved.</i></p> <p>Audit observed from the analysis of data that issue/renewal of permits of goods vehicles and contract carriage vehicles, temporary registration of vehicles and surrender of vehicles, were done through RVS. Enforcement activities relating to offending vehicles, issue/renewal of trade certificates to dealers, maintenance of daily collection register and sub-dealer's licence register were not computerised</p>	The Department stated that prospective implementation of VAHAN and SARATHI had taken place at all the offices equipped with required infrastructure.	The Department did not furnish specific reply/ documentation with regard to implementation.
5.7.15. Non-replication of Smart Card system	<p><i>Due to non-replication of Smart Card system in all RTOs/ARTOs, the use of fake driving licences (DL) and registration certificates (RC) of vehicles could not be ruled out.</i></p> <p>Audit observed that Smart Card of DL and RC was issued only by Public Vehicles Department, Kolkata since the year 2004 but had not been replicated in other RTOs/ARTOs.</p>	The Department stated that uniform smart card system would be rolled out in that financial year.	The smart card system was yet to be introduced.
5.7.16 Partial implementation of online services	<p><i>Online services for payment of tax, registration of vehicles, driving licences and fitness of vehicles to reduce the rush to the RTOs were not implemented.</i></p> <p>Audit observed that online services were not made available by the Department till date for vehicle owners.</p>	The Department stated that integration of VAHAN and GRIPS had been completed in all offices and online facilities would be extended throughout the State	The online services were yet to be introduced.
5.7.21.1 Allotment of work	<p><i>The Department had not taken any initiative to implement centralised tendering processing for Annual Maintenance contract(AMC) for BOT model, ensure uniformity in issuance of cards for DL and RC and to incorporate relevant terms and conditions in tender</i></p>	The Department stated that the issue had been resolved and uniformity in the output had been ensured.	No evidence was made available by the Department in support of their reply. Audit also observed that centralised tendering process for AMC was still in progress, and

	<p><i>agreements of AMC by the concerned District Magistrates for smooth running of computerised system.</i></p> <p>Audit observed from the scrutiny of documents that deficiencies still existed.</p>		therefore it was not possible for the Department to issue uniform cards.
5.7.21.3 Non-realisation of electricity charges	<p><i>Non-realisation of electricity charges resulted in loss of revenue to the Government.</i></p> <p>Audit observed in RTO, Hooghly that electricity charges were still not being recovered from the agency due to non-inclusion of concerned clause in the agreement.</p>	The Department stated that the District Magistrate, Hooghly had been instructed to realise electricity charges and modify agreement, if required.	The report on realisation was not furnished.
5.7.21.4 Irregular allotment of work of Lamination	<p><i>Work of lamination to the BOT agency in RTOs at Barasat and Barrackpore was allotted without following the process of competitive bidding for selection of vendor.</i></p> <p>Audit observed from the scrutiny of documents that the same agency was still executing the lamination work.</p>	No action on this point was reported by the Department.	

B. Partial implementation

Para no. and caption of the PA	Gist of the Audit observation/ Follow up audit observation	Replies/Comments of the Department	Audit comments
5.7.10 Non-updating of antivirus software	<p><i>Non-existence and non-updating of antivirus software led to system crash and vulnerability of data.</i></p> <p>Audit observed that in two RTOs, antivirus software was installed but not being updated regularly. In remaining RTOs covered in the PA, no antivirus software was installed in their systems.</p>	The Department stated that requirement of antivirus system had been dealt with adequately.	No evidence was provided by the Department. It was however observed by Audit that till May/June/July 2016, in eight of the motor vehicle offices, antivirus software had neither been installed nor updated regularly.
5.7.12 Non-segregation of duties	<p><i>Due to non-segregation of duties for functioning in the computerised environment, the accountability of user could not be ascertained.</i></p> <p>The Department was requested to furnish a copy of the Manual of Office Procedure and manuals for segregation of duties and functioning in the computerised environment (May 2016).</p>	The Department stated that model set of roles of RTO/ARTO/MVI had been set by the Transport Department and ascertaining user's responsibilities was very much possible.	Requirement of a written down procedure to segregate duties/ responsibilities cannot be dispensed with.
5.7.17 Local/ Customised Application	<p><i>Due to continuation of use of Regional Vahan Sarathi (RVS), the locally developed software, the provisions of VAHAN and SARATHI had not been fully utilised.</i></p>	The Department stated that collection of revenue had been discontinued through RVS and it was principally used for report generation purposes and collection of revenue in some cases where	The Department did not furnish any report on steps taken for updating VAHAN and incorporation of modules which were

	Audit observed from analysis of data that RVS was still running parallel.	corresponding modules were not available in VAHAN and SARATHI.	not readily available in VAHAN. The use of RVS had still not been discontinued.
5.7.18 Irregular utilisation of Regional Vahan Sarathi	<i>Utilisation of RVS for generation of computerised money receipts after manual assessment of taxes, fees and fines payable by the vehicle owners, inspite of such provisions of automatic assessment of such dues available in VAHAN, did not fulfil the objective of computerisation.</i> Audit observed from analysis of data that deficiencies existed.		
5.7.19 Non-completion of State Register	<i>Due to non-completion of State Register (SR) back up data was not stored for disaster recovery at State Consolidation Register (SCR).</i> Audit observed that the SR was incomplete as backlog data of VAHAN and SARATHI of RTO, Bankura were pending for data entry in SR (June 2016).	The Department stated that SR for Vahan had been completed. That issue would be effectively managed once e-Vahan was operational.	The Department has not informed the status of completion of SR of SARATHI.

C. Full implementation

Para no. and caption of the PA	Gist of the Audit observation/ Follow up audit observation	Replies/Comments of the Department	Audit comments
In none of the accepted observations, full implementation was observed.			

4.10.4 Conclusion

Thus, the extent of implementation by the Department on accepted audit observations was zero *per cent* implemented, 35.71 *per cent* partially implemented and 64.29 *per cent* not implemented (October 2016).

CHAPTER-V

CHAPTER V

STAMP DUTY AND REGISTRATION FEES

5.1 Tax administration

Receipts from stamp duty and registration fees are regulated under the Indian Stamp Act, 1899, (IS Act); Indian Registration Act, (IR Act) 1908 and the rules framed thereunder as applicable in West Bengal and are administered at the Government level by the Principal Secretary, Finance (Revenue) Department. The Inspector General of Registration & Commissioner of Stamp Revenue (IGR & CSR) is the head of the Directorate of Registration and Stamp Revenue under the Finance (Revenue) Department who is empowered with the task of superintendence and administration of registration work. During 2015-16, the Directorate had strength of 13 posts of Deputy Inspectors General of Registration (DIGR) and above, 27 posts of District Registrars (DR) and equivalent, 26 District Sub-Registrars (DSR), 229 Additional District Sub-Registrars (ADSR) and three Sub- Registrars.

5.2 Internal audit

As per reply of the Directorate (October 2016), the Department did not have Internal Audit Wing (IAW) of its own for internal audit purpose. However, the Directorate had internal control mechanism at the district level through the DIGRs so far as the determination of proper market value of the property for registration was concerned and the overall supervision and administrative control of the registering offices was under the District Registrars. Within the registering offices, there existed internal checking system under which a transaction was allowed to pass through hands with a view to preventing mistakes, frauds, misrepresentations and internal collusion, if any. Also, at the Head Quarter, the Post of Joint Commissioner of Stamp Revenue (Audit), WB was manned by a senior WBA&AS officer of the Finance (Audit) Department.

5.3 Results of audit

In 2015-16, test check of the records of 54 units of the Directorate of Registration and Stamp Revenue under the Finance (Revenue) Department, showed non/short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 91.30 crore in 172 cases, which fell under the categories given in **Table 5.1**.

Table 5.1
Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Misclassifications of deeds/instruments	24	18.06
2.	Short levy of stamp duty due to deficiency in the CORD software	1	1.28
3.	Misclassification of deed of mortgage with irrevocable POA as mortgage deed	1	16.20
4.	Lease period/lease consideration	9	16.08
5.	Non/short levy of stamp duty and registration fee	9	2.53
6.	Others	128	37.15
Total		172	91.30

During the course of the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 5.01 crore in 87 cases, of which 80 cases involving ₹ 4.18 crore were pointed out during the year 2015-16 and the rest in earlier years. An amount of ₹ 82.98 lakh was realised in seven cases at the instance of audit.

A few illustrative cases involving ₹ 16.68 crore are discussed in the following paragraphs.

5.4 Short levy of stamp duty and registration fees on a deed comprising several distinct matters

Under Section 5 of the Indian Stamp (IS) Act, 1899, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which individual instruments, each comprising or relating to one of such matters, would be chargeable under this Act. Articles 40(b) and 48(h) of Schedule IA to the Act prescribe the rates of stamp duty for mortgage deed without possession and power to sell immovable property, respectively.

During scrutiny of deeds in office of the Additional Registrar of Assurance (ARA)-I, Kolkata, in December 2015, Audit observed from the recital of a deed that Bata India Limited (BIL) had collaborated with Riverbank Developers Private Limited (RDPL) in April 2010 for developing a residential project. To fund the project, BIL and RDPL mortgaged immovable properties without possession to a debenture trustee⁸⁴ in March 2015 for securing loan of ₹ 200 crore. For that purpose, the deed classified as mortgage deed was executed between BIL and RDPL and the debenture trustee in March 2015, which was registered in April 2015, and stamp duty and registration fees of ₹ 1.55 lakh was levied and realised.

Further, Audit observed that in the same deed, BIL and RDPL had given an irrevocable power of attorney to the debenture trustee for enforcing security created over the mortgaged properties. Thus, the instrument contained two distinct matters, one for mortgaging property without possession and another

⁸⁴ IL&FS Trust Company Limited.

for giving irrevocable power of attorney to the debenture trustee. The aggregate of stamp duties and registration fees chargeable on each distinct matter of the deed stood at ₹ 16.22 crore. ARA-I, however realised stamp duty and registration fees of ₹ 1.55 lakh for mortgage of the property only. This resulted in short levy and short realisation of stamp duty and registration fees of ₹ 16.20 crore.

After this was pointed out, ARA-I, Kolkata did not furnish specific reply (October 2016).

The matter was brought to the notice of the Government in January 2016, followed by a reminder issued in November 2016; their reply has not been received.

5.5 Short levy of stamp duty due to misclassification of instruments

Schedule-IA of the IS Act, 1899 as amended from time to time, prescribes the rate of stamp duty chargeable on instruments registered in the State. Article 33(i) of the Schedule prescribes that any instrument of gift in favour of family members⁸⁵ is chargeable with stamp duty at the rate of 0.5 *per cent* of the market value of the property, whereas under Article 63, stamp duty on the transfer of lease by way of assignment is chargeable on the market value of the property as applicable in case of sale. Misclassification of instruments results in under charge of stamp duty and registration fees.

During scrutiny of the instruments in four⁸⁶ Registering Authorities (RAs), Audit observed between May 2014 and January 2015 that five instruments registered between August 2012 and February 2014 involved transfer by way of assignment of leasehold rights of properties having market value of ₹ 7.34 crore, as mentioned in the instruments. The RAs however, misclassified the instrument as gift deed and charged stamp duty and registration fees of ₹ 3.68 lakh accordingly, instead of ₹ 51.40 lakh chargeable for transfer of leasehold properties by way of assignment. This resulted in short levy of stamp duty of ₹ 47.72 lakh.

After this was pointed out, two⁸⁷ RAs accepted (in May 2014 and July 2014) the audit observation in two cases involving ₹ 22.98 lakh. In remaining cases, RAs did not furnish any/ specific reply (October 2016).

The cases were reported to the Government between June 2014 and March 2015, followed by reminders issued up to November 2016, their reply has not been received.

⁸⁵ Family member means parent, spouse, son, daughter, son's wife, grandson, granddaughter, brother or sister. (Explanation below Article 33 of Schedule-IA of IS Act as applicable in West Bengal).

⁸⁶ ADSR Alipore, ADSR Sealdah, ARA-I and DSR-III Alipore.

⁸⁷ ADSR Sealdah and DSR-III Alipore.

CHAPTER-VI

CHAPTER VI

MINES AND MINERALS

6.1 Tax administration

Assessment and collection of mining receipts are governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957; the West Bengal Minor Minerals (WBMM) Rules, 2002; the Bengal Public Demands Recovery (BPDR) Act, 1913; the Cess Act, 1880; the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.

Commerce and Industries (C&I) Department, Finance Department, Land and Land Reforms (L&LR) Department, Irrigation and Waterways (I&W) Department and the General Administration Department are associated with the assessment, levy and collection of mining receipts. All Departments are headed either by an Additional Chief Secretary or Principal Secretary/Secretary level officer and assisted by Director (s) and district level officers.

6.2 Internal audit

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are mainly regulated by Land and Land Reforms (L&LR) Department, the IAW of the L&LR Department is liable to conduct audit of the units involved in regulation of mining activities. The IAW of the L&LR Department was established with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly and effective operations and safeguarding resources against loss. Performance of the IAW of L&LR Department has already been discussed in Paragraph No. 3.2 of this report.

6.3 Results of audit

In 2015-16, test check of the records of 14 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 26.19 crore in 136 cases, which fell under the categories given in Table 6.1.

Table 6.1

Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	58	6.28
2.	Non/short assessment/levy/realisation of royalty and cess	46	8.53
3.	Penalty for underperformance	14	5.22
4.	Other cases	18	6.16
Total		136	26.19

During the course of the year, the Department accepted underassessment and other deficiencies in 145 cases of ₹ 13.62 crore, of which 116 cases involving ₹ 12.63 crore were pointed out during the year 2015-16 and the rest in earlier years. An amount of ₹ 33.25 lakh was realised in 29 cases during the year.

A few illustrative cases involving ₹ 8.91 crore are discussed in the following paragraphs.

6.4 Non/short recovery of price of brick earth

Under Section 21(5) of Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and Rule 33(5) of the West Bengal Minor Minerals (WBMM) Rules, 2002, no person is entitled to undertake mining operations without a lease or valid permit. In the event of violation, apart from other penal actions like seizure, confiscation, eviction, imprisonment etc., the authority is empowered to recover either the minerals raised unlawfully or the price thereof. By an order passed in September 1984, the Board of Revenue, West Bengal fixed the market price of brick earth at ₹ 30 per 100 cft for 1981 with an increase of ₹ 1.50 per 100 cft each year.

During scrutiny of brick field registers and files in nine⁸⁸ DL&LROs between October 2014 and September 2015, Audit observed that in 401 cases⁸⁹, 305 brick field owners had extracted 845.12 lakh cft of brick earth between 2011-12 and 2014-15 without valid permit, for which authorities were to recover ₹ 6.41 crore as price of brick earth. Audit, however, observed that in 278 cases, authorities did not recover price of brick earth of ₹ 4.44 crore from 199 brick field owners on extraction of brick earth of 583.65 lakh cft. In the remaining 123 cases, authorities had recovered ₹ one crore against the recoverable amount of ₹ 1.97 crore from 106 brick field owners on extraction of brick earth of 261.47 lakh cft. This resulted in non/short recovery of price of brick earth of ₹ 5.41 crore.

After this was pointed out, seven⁹⁰ DL&LROs accepted (between September 2014 and August 2015) audit observations in 309 cases involving ₹ 4.33 crore, but did not furnish report on realisation. In the remaining cases, DL&LROs did not furnish any/specific reply (June 2016). It may be mentioned here that out of the seven DL&LROs who accepted the audit observation, three DL&LRO⁹¹ had accepted a similar observation appearing in the Report of the Comptroller and Auditor General of India (Report No. 5 of 2015), but did not take any remedial action and the violations persisted.

Government accepted the audit observations and intimated (October 2016) realisation of ₹ 83.20 lakh in 135 cases by three⁹² DL&LROs. In the remaining cases they did not furnish specific details in respect of realisation.

⁸⁸ Burdwan (E), Burdwan (W), Dakshin Dinajpur, Hooghly, Murshidabad, Nadia, North 24 Parganas, Paschim Medinipur and South 24 Parganas.

⁸⁹ One instance of non-payment of price of earth in any year constitutes one case.

⁹⁰ Burdwan (E), Burdwan (W), Dakshin Dinajpur, Murshidabad, Nadia, Paschim Medinipur and South 24 Parganas.

⁹¹ Murshidabad, Paschim Medinipur and South 24 Parganas.

⁹² Murshidabad, Paschim Medinipur and Nadia.

6.5 Non-realisation of penalty

In terms of Rule 21(1)(e) of WBMM Rules, 2002, the lessee shall extract and dispatch a minimum quantity of mineral from the leasehold area annually, as prescribed in the lease deed. In case there is any shortfall in the extraction and dispatch of the said minimum quantity without any satisfactory reason, penalty to the extent of twice the amount of royalty, that should have accrued in respect of the shortfall in quantity, shall have to be paid by the lessee.

Audit observed (between September 2014 and December 2014) from records of three⁹³ DL&LROs that 17 lessees in 20 cases extracted 55.24 lakh cft of sand against the minimum prescribed quantity of 143.16 lakh cft as per lease deeds. Reasons for short extraction of 87.92 lakh cft of sand were not found on record. However, DL&LROs did not levy and demand any penalty on such short extraction. This resulted in non-levy of penalty to the extent of ₹ 1.75 crore and consequent non-realisation thereof.

After this was pointed out, all DL&LROs accepted (September 2014 and December 2014) the audit observations and stated that demand notices would be issued to defaulters.

The cases were reported to the Government in October 2014 and January 2015, followed by reminders issued up to November 2016; their reply has not been received.

6.6 Non/short realisation of royalty and cess on minor minerals

Rule 27(1) of the WBMM Rules, 2002 provides that the district authority or any other officer authorised in this behalf by the State Government may grant quarry permit to any person to extract any minor mineral on pre-payment of royalty at prescribed rates. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), West Bengal Primary Education Act, 1973 and West Bengal Rural Employment and Production Act, 1976, holders of quarry permits are liable to pay different types of cesses at prescribed rates on extraction of minor minerals.

During test check of records relating to brick fields, demand and collection registers and minutes of meetings of DL&LROs with the Brick Field Owners' Associations, Audit observed between September 2014 and September 2015 in seven⁹⁴ DL&LROs that in 108 cases, 60 brick field owners had extracted 175.31 lakh cft of brick earth between 2011-12 and 2014-15 without pre-payment of royalty and cess of ₹ 75.43 lakh. In other 206 cases, 149 brick field owners extracted 418.63 lakh cft of brick earth and paid royalty and cess of ₹ 70.37 lakh instead of ₹ 1.57 crore. Audit also observed in June 2014 in DL&LRO, Jalpaiguri that in 10 cases, 10 lessees of sand/stone extracted 10.71 lakh cft of sand/stone between 2011-12 and 2013-14 without pre-payment of royalty and cess of ₹ 12.32 lakh. DL&LROs did not initiate any action to realise the dues. This resulted in overall non/short realisation of royalty and cess of ₹ 1.75 crore in 324 cases from the brick field owners and the lessees of sand/stone.

⁹³ Burdwan (E), Burdwan (W) and Paschim Medinipur.

⁹⁴ Burdwan (E), Burdwan (W), Cooch Behar, Hooghly, North 24 Parganas, Paschim Medinipur and South 24 Parganas.

After this was pointed out, three⁹⁵ DL&LROs accepted (December 2014 and August 2015) audit observations in 96 cases involving ₹ 39.42 lakh and stated that concerned BL&LROs/SDL&LROs would be instructed to realise the dues. The report on recovery is awaited. In the remaining cases, DL&LROs did not furnish any/specific reply (October 2016).

Government accepted the audit observations and intimated (October 2016) realisation of ₹ 10.60 lakh in 25 cases by DL&LRO, Paschim Medinipur. In the remaining cases they did not furnish specific details in respect of realisation.

⁹⁵ Burdwan (E), Paschim Medinipur and South 24 Parganas.

CHAPTER-VII

CHAPTER VII

STATE EXCISE

7.1 Tax administration

State Excise revenue mainly comprises receipts from country spirit, foreign liquor, malt liquor, other spirits, fees and fines. The assessment and collection of excise revenue is governed by the Bengal Excise Act, 1909, the West Bengal Excise (Foreign Liquor) Rules, 1998, the Narcotic Drug and Psychotropic Substances Act, 1985, the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and the West Bengal Molasses Control Act, 1973. During 2015-16, the Excise Department was headed by the Principal Secretary who was assisted by the Excise Commissioner, Additional Excise Commissioner, Collectors of Excise and Superintendents of Excise.

7.2 Internal audit

During 2015-16, the Department had an Internal Audit Wing (IAW) under the charge of the Deputy Commissioner (Audit & Accounts). This Wing was to conduct scrutiny and detect irregularities in the levy and collection of cases of Excise Duty as well as to check different records and registers to ascertain whether internal control system as envisaged in the Acts and Rules made thereunder were properly followed. In conducting the activities of IAW during 2015-16, the Deputy Commissioner (Audit & Accounts) was assisted by one Assistant Commissioner (Audit & Accounts) against the sanctioned strength of three. No Auditor was posted in the IAW against the sanctioned strength of three.

The wing planned to audit 10 units and audited eight of 10 auditable units during the year 2015-16. IAW stated that Audit was conducted in accordance with the plan.

7.3 Results of audit

In 2015-16, test check of the records of 13 units relating to excise receipts showed underassessment of tax and other irregularities involving ₹ 4.67 crore in 99 cases which fell under the categories given in **Table 7.1**.

Table 7.1
Results of audit

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of excise duty/wastage fee on chargeable wastage of Rectified Spirit/India Made Foreign Liquor	26	2.31
2.	Non/short realisation of licence fee/renewal fee/initial grant fee/pass fee etc.	6	0.31
3.	Non-realisation of fees for change in management	10	1.04
4.	Non-realisation of composition money	6	0.29
5.	Non-realisation of regulatory fees	11	0.32
6.	Other cases	40	0.40
Total		99	4.67

During the course of the year, the Departments accepted underassessment and other deficiencies of ₹ 2.11 crore in 73 cases, of which 22 cases involving ₹ 24.20 lakh were pointed out in the year 2015-16 and the rest in the earlier years. An amount of ₹ 1.24 crore was realised in 51 cases during the year 2015-16.

A Performance Audit on “**Assessment, Levy and Collection of Excise Revenue**”, having money value of ₹ 271.00 crore, is discussed in the following paragraphs.

7.4 Performance Audit on “Assessment, Levy and Collection of Excise Revenue”

Highlights

- Absence of any departmental norms to identify the category of a hotel and non-verification of facilities/amenities available within the hotel premises in accordance with the norms prescribed by Indian Tourism Department, Government of India resulted in short realisation of revenue of ₹ 24.83 lakh.

(Paragraph 7.4.11)

- In the absence of any mechanism to cross verify utilisation of way bills shown for import of intoxicants from outside West Bengal with that shown to have been utilised to the Directorate of Commercial Taxes, West Bengal, there was evasion of excise duty of ₹ 23.89 crore.

(Paragraph 7.4.12)

- There was short disclosure of production of beer as per norms prescribed under Excise Manual, resulting in non-realisation of excise revenue of ₹ 116.04 crore.

(Paragraph 7.4.14)

- In two breweries, export passes were issued to the licensees without realisation of excise duty of ₹ 42.05 crore.

(Paragraph 7.4.15)

- Due to non-application of higher rate of excise duty prevailing in West Bengal on export of beer for civil consumption in two States, there was short realisation of excise revenue of ₹ 66.16 crore.

(Paragraph 7.4.16.1)

7.4.1. Introduction

State Excise duty is one of the most important sources of revenue of the State. Assessment, levy and collection of excise duty and other excise receipts on production, possession, sale, export, import and transport of liquor or intoxicating drugs are governed by the Bengal Excise (BE) Act, 1909, rules made thereunder and notifications issued by the Government from time to time.

In West Bengal, spirit is produced from molasses and grains. Control of production, distribution/transport, supply and storage of molasses in the State is regulated by West Bengal Molasses Control (WBMC) Act, 1973 and orders issued thereunder.

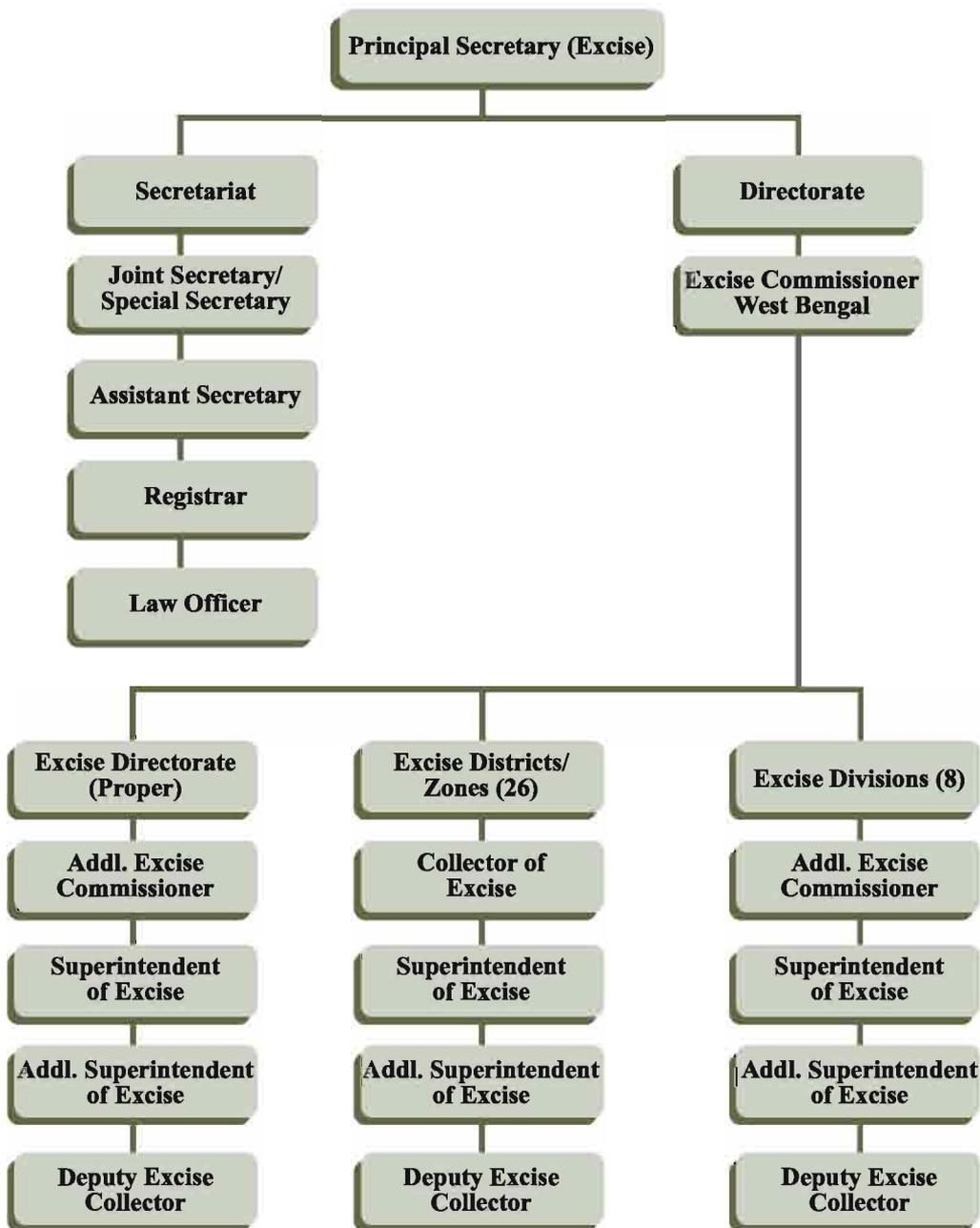
There is one distillery company⁹⁶ in the State producing rectified spirit (RS) from molasses and grains, 16 foreign liquor (FL) manufactories, 154 FL warehouses, two breweries, 30 country spirit (CS) manufactories and their 24 warehouses. There is also one chemical examination laboratory to analyse samples of intoxicants, narcotic drugs etc. Preventive divisions of the Department assist the Government in curbing excise crimes throughout the State.

7.4.2. Organisational set up

Assessment, levy and collection of excise revenue is administered by Principal Secretary, Excise Department. Excise Commissioner (EC), the head of the Excise Directorate, is assisted by Additional Commissioners of Excise, Deputy Commissioners of Excise, Superintendents of Excise (SE) and Additional SEs. At the district level, SE functions under the Collector of the concerned district except in Kolkata where the Collector of Excise is the district excise authority. Deputy Excise Collectors (DEC) under the control of SEs are posted at distilleries, bottling plants, manufactories, bonded warehouses and other units for supervision, levy and collection of excise duties and fees etc. Structure of the Excise Department is depicted in the following chart:

⁹⁶ M/s IFB Agro Industries Ltd., Noorpur, South 24 Parganas.

Organisational Chart



7.4.3 Audit Objectives

Performance Audit (PA) was conducted with a view to ascertaining:

- adequacy and sufficiency of provisions of rules to safeguard revenue;
- compliance with provisions of the acts, rules and notifications and adequacy of follow up actions in case of default; and
- efficiency and effectiveness of the internal control system of the Department.

7.4.4 Audit scope and methodology

Audit conducted the PA during the period from January 2016 to July 2016. Out of 26 Excise Districts/Zones, nine Excise Districts were selected for audit through stratified sampling, stratification being done on the average collection of revenue during the period from 2010-11 to 2014-15. On the basis of discussions in the Entry Conference, three more excise districts were also selected for the purpose of PA, besides the offices of EC, West Bengal, Deputy Commissioner of Excise (Preventive Divisions) and the Chemical Examiner. In addition to verification of records, Audit cross-verified information and data collected from other Departments / sources as well.

7.4.5 Audit Criteria

The Excise Department administers the following Acts and Rules/Notifications framed thereunder and audit criteria was derived from them:

- Bengal Excise (BE) Act, 1909 (Bengal Act V of 1909)
- West Bengal Excise (Foreign Liquor) (WBEFL) Rules, 1998
- West Bengal Excise (Country Spirit) (WBECS) Rules, 2010
- West Bengal Excise (Tourist Lodge Licensing) Rules, 2005
- West Bengal Molasses Control (WBMC) Act, 1973 (W.B. Act VI of 1973)
- Medicinal and Toilet Preparations (M&TP) (Excise Duties) Act, 1955 (Central Act 60 of 1955).

7.4.6 Trend of revenue

Actual receipts from State Excise during the years 2010-11 and 2014-15 along with the total tax receipts during the period are shown in the following table.

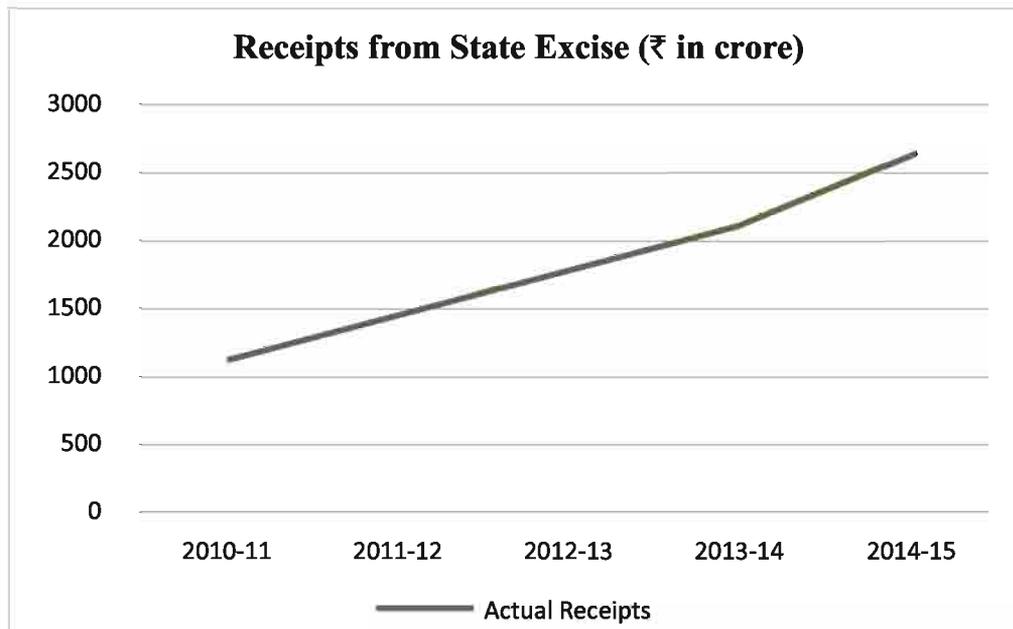
Table 7.2
Trend of revenue

(₹ in crore)						
Financial 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
2010-2011	1,759.78	1,082.94	(+)676.84	(+)38.46	21,128.74	5.13
2011-2012	2,418.83	1,443.81	(+)975.02	(+)40.31	24,938.16	5.79
2012-2013	2,786.47	1,783.34	(+)1,003.13	(+)36.00	32,808.49	5.44
2013-2014	3,202.02	2,117.04	(+)1,084.98	(+)33.88	35,830.56	5.91
2014-2015	3,810.40	2,621.43	(+)1,188.97	(+)31.20	39,411.98	6.65

*Source: Finance Accounts

Actual receipts fell short of the budget estimates substantially in each of the years during 2010-11 to 2014-15, with the percentage of variation between the budget estimates and actual receipts lying between 31 and 40 *per cent*, indicating that the budget estimates were always on the higher side and rather unrealistic. Contribution of revenues from state excise to the total tax receipts

of the State increased from 5.13 per cent to 6.65 per cent over the period. The tax receipts have been growing at an annual compound average rate of 24.73 per cent.



7.4.7 Acknowledgement

Audit acknowledges the co-operation of EC, West Bengal in providing necessary records and information. Objectives of the audit, scope, criteria and methodology etc., were discussed during an Entry Conference with the Special Secretary, Excise Department, EC, West Bengal and other representatives of the Excise Department held on 20 January 2016. Findings of the Performance Audit were forwarded to the Department in September 2016. Exit conference was held on 18 November 2016 and views of the Department have suitably been incorporated in the relevant paragraphs.

Audit findings

Adequacy and sufficiency of provisions of Rules to safeguard revenue

During test check of records of the offices under the Excise Department, Audit noticed some system deficiencies in the rules governing excise revenue. These are discussed in the succeeding paragraphs.

7.4.8 Absence of provisions for realisation of late fee in Tourist Lodge Licensing Rules

Rule 7 of the West Bengal Excise (Tourist Lodge Licensing) Rules, 2005 provides for renewal of license to the holder of a license of a Tourist Lodge for sale of liquor. The application for grant of license for the next period of settlement should be submitted to the Collector one month before the expiry of the current license along with the requisite fees.

Similarly, Rule 14 of the West Bengal Excise (Selection of New Sites and Grant of License for Retail Sale of Liquor and Certain Other Intoxicants)

Rules, 2003, provides that a licensee of FL shops may apply to the Collector for the grant of a license for the next period of settlement before expiry of the period of validity of the current license, along with requisite fees.

However, there is no provision in the West Bengal Excise (Tourist Lodge Licensing) Rules, 2005 for levy of late fee in case a licensee applies for grant of license for the next period of settlement /pays the renewal fee of FL “ON” or “OFF” shops⁹⁷ with a delay, whereas, the West Bengal Excise (Selection of New Sites and Grant of License for Retail Sale of Liquor and Certain Other Intoxicants) Rules, 2003 provides under Rule 14(5) that the Collector may grant a license for next period of settlement, if the licensee agrees to pay a late fee of ₹ 100 per day counted from the date following the date of expiry of the license.

Audit observed from renewal registers along with other relevant records of seven tourist lodge licenses in SE, Darjeeling that:

- Two licensees had applied for renewal of licenses for the next period of settlement in time but paid their respective renewal fees pertaining to the period 2008-09 to 2010-11 after delays ranging from 1,003 days to 1,747 days. Audit observed that Collector of Excise had renewed the licenses for the next period of settlement without realising renewal fee.
- Two licensees did not pay the renewal fees for the next period of settlement for the period from 2008-09 to 2010-11. Thereafter they paid the requisite renewal fees for the period from 2011-12 to 2014-15 and the Collector of Excise, Darjeeling also granted the license during the same period without realising the licenses for the earlier periods. The license fees pertaining to the period 2008-11 remained unpaid till the date of audit (July 2016).

After the cases were reported (September 2016), the Department stated that demand notices had been issued for realisation of unpaid renewal fee and furnished no specific reply in respect of late fee (November 2016).

7.4.9 Absence of provisions for renewal fee for permission for OFF shop sales of FL by ON shop licensees

Rule 4A of West Bengal Excise (Selection of new sites and grant of License for retail sale of liquor and certain other intoxicants) Rules 2003⁹⁸ provides that FL “ON” shop⁹⁹ licensee may sell FL, in fully corked/sealed/capsuled containers, for consumption “off” the premises on observance of the procedure laid down by the EC, West Bengal by necessary order.

EC, West Bengal had laid down the procedure¹⁰⁰ that Collector of the concerned district is empowered to give permission to the licensee of “ON” shops who wants to perform the sale of packaged FL from his “ON” licensed

⁹⁷ FL ‘ON’ shop means the retail sale of FL for consumption on the premises. FL ‘OFF’ shop means the retail sale of FL for consumption off the premises.

⁹⁸ As inserted vide Notification No. 1175-EX dated 03 December 2012.

⁹⁹ For onsite consumption.

¹⁰⁰ Order no. 2854 (25) E dated 12 December 2012.

premises on receipt of payment of requisite Non-refundable Application Fee (NAF) and Initial Grant Fee (IGF).

Further, Rule 4(e) of West Bengal Excise (Selection of new sites and grant of license for retail sale of liquor and certain other intoxicants) Rules, 2003 read with Rule 4 of the West Bengal Excise (Payment of Fees for the Grant of License for Retail Sale of Certain Intoxicants) Rules, 2005, provides that the licensee, who sells FL for consumption “off” the licensed premises, is required to pay the renewal fee every year.

Audit observed from Shop (License and Renewal) Registers in 10¹⁰¹ SE offices that 296 “ON” shop licensees had applied, after issue of the Notification (December 2012) as mentioned earlier, to the respective Collectors of Excise to get permission to sell fully corked/capsuled/package FL from the premises of the irrespective “ON” sites, for offsite consumption. Collectors of Excise had granted permission to these 296 “ON” shop licensees up to 31 March 2015, after realisation of NAF and IGF.

It was observed that after getting the permission, the 296 licensees above sold packaged FL from their respective premises for offsite consumption; however, they had not paid the renewal fee amounting to ₹ 1.51 crore, which became due after completion of each year till March 2015, on the ground that the sale of packaged FL was on the basis of permission from the Collectors and was not dependent upon issue of licenses from the Excise Department. Since the EC, West Bengal, in the procedure laid down vide order dated 12 December 2012 did not make any provision for renewal of the permission, the Collectors of Excise were unable to insist upon payment of renewal fee from the above licensees. The procedure for grant of permission by the Collectors of Excise was thus not in consonance with the provisions of Rule 4 of the West Bengal Excise (Payment of Fees for the Grant of License for Retail Sale of Certain Intoxicants) Rules, 2005.

On being pointed out by Audit (September 2016), the Department stated that this was not a separate license to the “ON” shop licensees but it was a permission to “OFF” shop licensees to sell sealed bottled FL in addition to their normal business. The reply is not tenable as substituting the “ON” shop licenses with a permission without any provision for renewal was in violation of Section 16 and 20 of the BE Act, 1909, which provides that no intoxicant shall be sold except under the license.

7.4.10 Loss of excise revenue due to absence of provision for time limit for approval of change in management

Rule 5 of West Bengal Excise (Change in Management) Rule, 2009 provides that after getting approval of the State Government or EC, as the case may be, the Collector shall allow change-in-management of a licensee, after realising one and a half times the Initial Grant Fee (IGF). However, the Rules do not prescribe a time limit within which the application for change in management is to be approved by the competent authority after realisation of IGF.

¹⁰¹ SE, Asansol, Alipore Zone, Barrackpore Zone, Darjeeling, Hooghly, Howrah, Jalpaiguri, Malda, Murshidabad and Nadia.

Audit observed from the application for change in management and demand notices that three licensees had applied for change in management of bonded warehouses before, respective Collectors of Excise between November 2011 and November 2013. It was observed that in all these cases, Collectors of Excise had approved the prayers of the licensees for change in management between July 2014 and March 2015, after delays ranging between 14 to 26 months from the month of their applications, as there was no time limit set in the rule for this approval.

Audit observed that the Government had discontinued with bonded warehouses with effect from 1 April 2014, replacing them with trade warehouses where duty paid FL was stored. Although the licensees had applied well before this date, the concerned Collectors did not approve the change in management of the bonded warehouses before the change of the rule, resulting in loss of possible revenue of ₹ 12.75 lakh in respect of IGF, as shown in **Appendix-II**. There could be similar losses in respect of other types of licenses, in respect of which again there was no time limit for giving approval.

After Audit reported the cases (September 2016), the Department *inter-alia* stated that setting of time limit was not possible as lots of processes and documentations etc., were involved in approving change in management, however, there was no loss of Government revenue due to procedural delays (November 2016).

Reply of the Department was not tenable as in the cases pointed out by Audit, time taken for following the procedures was excessive and the Government had suffered losses due to non-disposal of the applications in time.

7.4.11 Short realisation of IGF due to absence of Departmental mechanism to identify the category of hotel

BE Act, 1909 and Rules made thereunder do not provide any norms/basis/criteria for classification/status of hotels for the purpose of collecting application fee and initial grant fee based on classification/status of the hotel.

Rule 4(j) and 4(k) of the West Bengal Excise (Payment of fees for the Grant of License for Retail Sale of certain Intoxicants) Rules, 2005 as amended provide that application fee, IGF or fee for grant of license for the next period of settlement is realisable/payable at the rate as prescribed in these Rules, which prescribed¹⁰² for collection of higher amount of fees in case of “3 or 4 star” and “5 star and above” category of hotels than the “below 3 star” category.

While prescribing these provisions, it had not been clarified how the star category of the hotel would be fixed as obtaining the star category from Tourism Department was voluntary and not mandatory. It was observed that the Department had no mechanism of its own to determine the classification of hotels according to their star categories in cases where the hotel has not obtained such classification.

¹⁰² Table I.

From the relevant registers for the grant/renewal of license for the next period of settlement in the SEs offices at Asansol and Jalpaiguri, Audit observed that three FL “ON” shops licensees in three cases had declared themselves as “3 or 4 star category” of hotel. However, despite this declaration, these hotels were treated as “Below 3-star category” by the Department and hence charged lower rates of fee. Classification of 3 or 4 or 5-star category of hotels depends on the facilities and amenities available within the hotel premises. The Department, however, neither fixed the norms for such categorisation nor verified the facilities/amenities available within the different hotel premises by applying the norms prescribed by the India Tourism Department, Government of India. This resulted in short realisation of revenue of ₹ 24.83 lakh (including late fee ₹ 10.23 lakh) as shown in **Appendix-III**.

After Audit reported the cases, the Department *inter-alia* stated that all the three licensees had paid renewal fees according to their category of licenses and from specific dates (November 2016).

Reply of the Department is not tenable as all the licensees claimed that their facilities and amenities were equivalent to 3 or 4 star category hotels and the Department had no provisions/mechanism to determine their actual classification.

7.4.12 Evasion of excise revenue due to absence of Departmental mechanism to cross verify way bills

BE Act and Rules/Notifications, or executive instructions made thereunder, do not provide any system of verification of way bills with the Directorate of Commercial Taxes (DTC), Government of West Bengal. This is relevant as DTC is responsible for issue of way bills to dealers for import of taxable goods from outside West Bengal.

Audit found from the import permits of FL issued by the Collector, Asansol, that a company was granted 239 import permits for import of intoxicants (beer, whisky etc.) from outside West Bengal between 2010-11 and 2012-13. It was further observed that the licensee had obtained 666 way bills from the DTC for import of intoxicants under these permits and reported utilisation of 516 way bills to the DTC. However, the licensee had shown utilisation of 239 way bills to the Excise Department. As a result, the licensee did not take any permit from the Collector, Asansol on utilisation of 427 way bills issued by DTC for import of intoxicants during the said period, on which excise duty and fee amounting to ₹ 23.89 crore was leviable.

Therefore, the Government had not been able to collect excise revenue due to lack of Departmental mechanism to verify the way bills with the DTC.

After this was pointed out (September 2016) the Department accepted the observation and stated that necessary steps had been taken to verify the facts and figures with the DTC.

Compliance with provisions of Acts, Rules and Notifications thereof and whether follow up action in case of default was adequate

The Legislature of the State established Excise Department to implement provisions of BE Act, 1909 as amended. The duty and responsibility of the Department is to apply provisions of the Act. For clarification/proper implementation of the provisions of this Act, the Department may make Rules/issue notifications to ensure implementation of this Act.

During test check of records of the offices under Excise Department, Audit observed that the Government suffered losses in excise revenue due to incorrect/inconsistent application of rules/notifications. These are discussed in the succeeding paragraphs.

7.4.13 Short realisation of renewal fee due to application of pre-revised rate

Rule 22 of West Bengal Excise (FL) Rules 1998 as amended¹⁰³ with effect from 1 April 2014 provides that the application for renewal of a FL trade license is to be made within March every year, along with payment of renewal fee of ₹ 30,000.

Audit observed from renewal files of 40 FL trade licensees in seven¹⁰⁴ SE offices that all the licensees had applied to the Collector of Excise for renewal of their respective trade licenses along with renewal fee of ₹ 15,000 for the year 2014-15 and 2015-16. However, as per the above Notification, renewal fee of ₹ 30,000 was realisable for 2014-15 and 2015-16. This resulted in short realisation of renewal fee ₹ 11.85 lakh due to application of pre-revised rate.

After this was pointed out (September 2016) the Department accepted the observation and intimated realisation of revenue; however, neither the total amount recovered nor details of licensees was intimated.

7.4.14 Non-realisation of revenue due to short production of beer

Para 677(17) of the Manual of Excise and Salt Department, 1918 prescribes the norms for raw material as 15.42 Kg of malt, 14.52 Kg of rice flakes and 12.70 Kg of sugar for production of 81.823 Bulk Litres (BL) of wort¹⁰⁵. Under WBE(FL) Rules, the minimum yield of beer should be 92 *per cent* of wort.

Audit observed from relevant records of two breweries that these breweries had consumed 401 lakh Kg of malt, 232.92 lakh Kg of rice flakes and 62.23 lakh Kg of sugar and produced 3,343.60 lakh BL of wort during the period from 2010-11 to 2014-15. However, as per norms in the Excise Manual, the yield of wort should have been 3,841.28 lakh BL. Shortfall of wort by 497.68 lakh BL resulted in short yield of 473.50 lakh BL of beer¹⁰⁶. This

¹⁰³ Vide Notification No 36-Ex dated 16.01.2014.

¹⁰⁴ SE, Asansol, Darjeeling, Jalpaiguri, Malda, Murshidabad, Nadia and South 24 Parganas.

¹⁰⁵ Liquid obtained by the smashing of grain or malt or by dissolving saccharine matter intended for fermentation but in which fermentation has not visibly begun.

¹⁰⁶ Considering average distillation efficiency ranging between 94.51 *per cent* and 95.15 *per cent* as per Stock Taking Reports and Production Register.

resulted in non-realisation of excise revenue of ₹ 116.04 crore as detailed in **Appendix-IV**.

After Audit reported the case (September 2016), the Department *inter-alia* cited the judgments of Supreme Court of India in two similar cases pertaining to the years 1962 and 1976 where the Hon'ble Court had opined that since excise duty was leviable on manufacturing of goods and, in this case "the short produced spirit was neither produced nor manufactured in the plant, the excise duty could not be imposed". In their reply the Department also stated that EC WB had requested Excise Departments of 15 other states to equip him with suitable information in this regard (November, 2016).

The reply of the Department was not tenable as the judgments quoted were not applicable to the point raised in the audit observation. With regard to seeking information from other states, the Department had furnished the same reply in 2011, while responding to a similar para appeared in Report No.3 (Government of West Bengal) of Comptroller and Auditor General of India for the year ended March 2011.

7.4.15 Issue of beer under bond/without realisation of duty

Rule 133 to 138 of West Bengal Excise (FL) Rules 1998, as amended, provides that FL may be exported under bond or on payment of duty. For beer, Rule 114(1) of the said rules provides that a brewer shall pay duty on beer manufactured in the brewery only at the time of issue of beer from the brewery.

Scrutiny of two breweries under SE, Hooghly and Nadia showed that the licensees exported their manufactured beer to six states during 2010-11 to 2014-15 through 2,079 export passes. The Excise Officers-in-Charge deployed at these breweries issued export passes for export of 3.63 crore bottles (or 16.56 lakh BL of beer) under bond i.e. without realisation of duty. It was observed that these officers deducted security equivalent to excise duty from Personal Ledger Accounts of these licensees when these licensees exported beer from the brewery. However, the same amount was re-credited to the PLA of the licensees after the Officer-in-Charge of brewery received verification certificates¹⁰⁷ from the importing states of the beer. As such, no duty was realised on such exports. This resulted in non-payment of excise duty of ₹ 42.05 crore as detailed in **Appendix-V**.

After Audit reported the matter (September 2016), the Department stated that export of beer under bond was permissible as per Sub-rule (2) of Rule 132 of West Bengal Excise (FL) Rules 1998. So there was no loss of excise duty. (November 2016).

Reply of the Department was incorrect and misleading as there was no such provision in Rule 132. Department has also not addressed the issue of violation of provisions of Rule 114(1) in their reply.

¹⁰⁷ Actual quantity of beer received by importing states.

7.4.16 Short realisation of excise duty due to issue of FL at concessional rate

Rule 196 of West Bengal Excise (FL) Rules 1998 provides that the duty at the prescribed rate shall be charged on FL when such FL is imported, exported, transported or manufactured under any pass, permit or license, as the case may be, granted for the purpose.

In case of export of FL to other state/union territory, the duty prevailing in the importing state/union territory and the duty prevailing in West Bengal, whichever is higher, is to be charged.

When EC is satisfied that FL reached its destination and such liquor has been charged to requisite excise duty in the importing state/UTs, the duty already paid by exporter in West Bengal shall be refunded.

Further, FL manufactured in India when issued to a military canteen for consumption by defence personnel and/or to a border security force canteen for consumption by border security force personnel deployed in West Bengal, the concessional rate of duty is to be charged as prescribed in the Rule.

7.4.16.1 Audit observed from relevant records of two breweries under SE, Hooghly and Nadia that these breweries exported 7.18 crore bottles of beer (or 4.67 crore BL) through 4,988 export passes issued from 2010-11 to 2014-15 for civil consumption in the two importing states, Bihar and Jharkhand. The beer was exported against 4,988 Import Permits issued by Excise Departments of the two importing States viz. Bihar (3,239 import permit) and Jharkhand (1,749 permits) on realisation of excise duty of ₹ 60.33 crore. Excise Departments of Bihar and Jharkhand issued duty paid Import Permits after collecting the required excise duty as applicable in their states. The rate of excise duty applied by the Excise Departments of Bihar and Jharkhand was much lower than the rate prevailing in West Bengal and, as such, the rate prevailing in West Bengal should have been charged (**Appendix-VI**). Excise duty on the above quantities of beer chargeable at the West Bengal rate would have been ₹ 126.49 crore during the said period, whereas the duty realised from the importing states amounted to ₹ 60.33 crore. This resulted in short realisation of excise duty by ₹ 66.16 crore.

7.4.16.2 Audit observed from relevant records of one FL manufactory in Asansol and one brewery in Nadia that the licensee transported 6.72 lakh BL of FL (beer) and 0.22 lakh BL of FL (other than beer) to BSF Canteen, Kishangarh in Bihar and CSD, Ramgarh in Jharkhand during the period from 2010-11 to 2014-15. The total excise duty realised on the dispatch of the above 6.93 lakh BL of FL was ₹ 40.18 lakh, while the excise duty at the normal rate on the above FL amounted to ₹ 1.27 crore. However, concessional rate of excise duty was not applicable in these cases as the FL was not issued to the defence establishments situated in West Bengal. This resulted in short realisation of excise duty of ₹ 87.49 lakh due to issue of FL at the concessional rate.

After these cases were reported (September 2016), the Department did not furnish any specific reply (October 2016).

7.4.17 Non-realisation of import pass fee from FL manufactories

In terms of Rule 148(1) of West Bengal Excise (FL) Rules, 1998, the pass required under these rules for the transport/import of spirit, which was brought into India, from any place outside India, from a Customs Station/Licensed Warehouse/Licensed place of storage of spirit shall be granted by EC, West Bengal on payment of fees for the services rendered for the issue of such passes. Pass fee is realisable at the rate of ₹ 12 per London Proof Litre¹⁰⁸ (LPL) on the quantity of spirit advised/received, whichever is higher. However, no pass fee is leviable for transport passes issued for India Made Spirit.

Audit observed from relevant records of import permits issued to seven licensees that the licensees imported 29.25 lakh LPL of various kinds of spirits like High Bouquet Spirit (HBS)¹⁰⁹ etc., under bond from distilleries/warehouses situated outside West Bengal. This was imported under bond by the licensees through 236 Import Permits issued to them during the period between April 2010 and March 2015. Since the spirit was not India Made Spirit pass fee, as prescribed under relevant rules, was realisable. However, no such pass fee was realised till date. This resulted in non-realisation of import pass fee of ₹ 3.51 crore (29.25 lakh LPL X ₹ 12) as detailed in **Appendix-VII**.

After these cases were reported (September 2016), the Department did not furnish any specific reply (October 2016).

7.4.18 Non-realisation of fee due to non-application for de-bonding of old stock of IMFL

Sub-rule (2) of Rule 241 of West Bengal Excise (FL) Rules, 1998¹¹⁰ provides that if any bottled FL is lying unsold in any bonded warehouse after expiry of twelve months from the end of the month of manufacture, the licensee shall forthwith apply, on payment of duty, to the excise Officer-in-Charge of the bonded warehouse, for moving such stock to the adjunct trade. It is also stated in these rules that if such application is not submitted forthwith, the licensee shall pay a fee at the rate of ₹ three per BL per diem for such stock for the period from the date of expiry till the date of application to the excise Officer-in-Charge of the bonded warehouse.

Scrutiny of relevant records of five licensees in two SE offices showed that 1.90 lakh BL of FL have been lying in the bonded warehouse of two IMFL manufactories and the three FL bonded warehouses, even after expiry of 12 months from end of the month of manufacture. The above 1.90 lakh BL of FL were manufactured between August 2011 and November 2012; so the licensees were required to apply to the Officer-in-Charge of the manufactory

¹⁰⁸ "London Proof" or "proof" means the strength or proof as ascertained by means Sykes hydrometer and denotes that spirit which at the temperature of 51 degree Fahrenheit weighs exactly 12/13th part of an equal measure of distilled water.

¹⁰⁹ HBS is used for the purpose of blending so as to have typical flavor aroma. The strength of HBS does not generally exceed five degree over proof.

¹¹⁰ as substituted vide Notification No 588-Ex dated 04-05-07 and read with Notification No. 1002- Ex dated 18 July 2007.

and the bonded warehouse for de-bonding of the said FL between September 2012 and December 2013.

Audit observed that three licensees had applied for reprocessing of the above FL and the two licensees de-bonded the same in their respective trade warehouse between January 2013 and March 2014. The excise officers of the manufactories and the bonded warehouses did not realise the fee of ₹ 13.30 crore for the period of delay in application as detailed in **Appendix-VIII**.

The matter was reported (September 2016) to the Department; they did not furnish any specific reply (October 2016).

7.4.19 Non-realisation of fees on exported Beer

Rule 149 of West Bengal Excise (FL) Rules 1998, as amended, provides that fee at the rate of ₹ 0.25 per BL for export of FL (beer) is payable for the service rendered for issuing passes for export.

Scrutiny of relevant records of a licensed brewery, under SE Nadia, showed that the brewer had not paid the required fee for export of beer from brewery during the period from 2010-11 to 2014-15. The Officer-in-Charge deployed at that brewery also did not levy and collect the requisite fee. The total quantity of exported beer was 5.29 crore BL and fee ₹ 1.32 crore was realisable. However, Officer-in-Charge at the brewery did not realise the same, which resulted in non-realisation of fee amounting to ₹ 1.32 crore.

After this was reported (September 2016), the Department stated that the matter of payment of export pass fee was sub-judice in the Hon'ble Calcutta High Court and in the Hon'ble Supreme Court of India. No action could be taken until the judgment was received (November 2016).

The reply of the Department was not relevant as no details of the case were provided by the Department. Further, it was seen that despite this, the required pass fee on export of beer was collected by SE, Nadia from the said licensee during 2015-16 and from another licensee by SE, Hooghly during the period from 2010-11 to 2014-15.

7.4.20 Non-realisation of excise duty due to non-receipt of verification certificate/ pass

Rule 135, read with rule 139 of West Bengal Excise (FL) Rules 1998 as amended, provides that a pass, in triplicate, shall be prepared by the Officer-in-Charge of the manufactory, when any liquor is transported under bond or for payment of duty. The original copy of the pass shall be delivered to the transporter to accompany the consignment, the second copy shall be forwarded to the Collector of the district to which the liquor is to be taken and the third one shall be retained for record. The original pass or the second copy of the pass shall be returned to the issuing officer of the pass with verification certificate signed by the Officer-in-Charge of the receiving side, within the specified date as mentioned in the pass. If the pass/verification certificate is not received back within a maximum period of four months from the date of issue of the pass, the licensee of the manufactory shall pay the duty in respect of the entire quantity of liquor exported under the said pass.

Scrutiny of the Bond Coverage Register along with other relevant records of a FL manufactory under SE Nadia, showed that seven passes under bond were issued between 5 February 2014 and 6 March 2014 by the Officer-in-Charge of the manufactory. This was for transportation of FL (involving duty ₹ 58.79 lakh) to five bonded warehouses-cum-trade. It was observed that these passes/certificates were not returned back to the issuing officer of the manufactory, though more than 24 months from the date of issue of the pass to date of audit (July 2016), had elapsed.

As per condition of the pass and relevant rules the manufactory was liable to pay excise duty amounting to ₹ 58.79 lakh. However, no such duty was levied and collected by the Officer-in-Charge of the manufactory. This resulted in non-realisation of excise duty of ₹ 58.79 lakh.

After this was pointed out by Audit (September 2016), the Department accepted the observation and stated that out of seven passes the authority had already received five passes. Efforts were being made to collect the remaining two passes as early as possible. However, no copies of the passes were furnished to Audit (November 2016).

7.4.21 Non-realisation of late fee due delay in payment of renewal fee

Rule 14 of West Bengal Excise (Selection of New Sites and Grant of License for Retail Sale of Liquor and certain Other Intoxicants) Rules, 2003 as amended provides that the holder of a license of an existing site may make an apply to the Collector for the grant of a license for the next period of settlement, before expiry of the period of validity of the current license, along with original documents showing payment of requisite fees. Where no application for grant of license for the next period of settlement is made by an existing holder before the expiry of current period of settlement, the holder shall have no right to carry on business after the expiry of the current period of settlement.

The rules also state that the Collector may, at his discretion, grant license to a person whose right to carry on business has ceased, if such person agrees to pay a late fee of ₹ 100 per day, counted from the date following the date of expiry of license.

Audit observed from applications for grant of license for the next period of settlement along with other relevant records under SE, Asansol that the three licensees did not apply along with requisite fee for grant of licenses for the next period of settlement. However, Collector of Excise, Asansol granted the above three licenses for the next period of settlement up to 2015-16.

After Audit reported the case (September 2016) the Department stated that all the three licensees had applied for renewals along with fees within the stipulated time, but there were some shortages of fees which were recovered in latter days. The reply of the Department was not tenable as the licensees did not apply along with requisite renewal fee. Thus the applications were themselves incorrect and invalid. The Collector of the Excise had renewed the licenses on such invalid and incorrect application of the licensees.

7.4.22 Change in management

The Government published various notifications for regularisation of Change in Management of license, indicating the rates at which the application for change in management under any rule made under the Act should be charged. Under the latest such notification issued in February 2010, the rate was revised to one and a half times the initial grant fee similar to the one applicable for grant of new license of same category/area.

Audit observed instances of non/short realisation fee due to improper application of the above Notifications, as discussed in the following paragraphs:

7.4.22.1 Non-realisation of fee due to non-application for change in management

Audit observed from relevant records of a distillery cum FL manufactory and a bonded cum trade warehouse under SE, Asansol that the Board of Directors of the distillery cum FL manufactory had changed two times. The Board of Directors of the bonded warehouse cum trade also changed once during the period 2013-14 to 2014-2015. However, none of the licensees applied to SE Asansol for regularisation of the same.

Collector of Excise, Asansol did not take any action on such change in management of the company though more than two years have elapsed from date of change of directors of the company. This resulted in non-realisation of fee of ₹ 93.30 lakh due to non-application for change in management.

After this was pointed out (September 2016) the Department accepted the observation. Audit, however, found that in the case of the distillery, the Department has charged penalty of only ₹ 2 lakh, which was appealed against by the distillery, while in the other case of bonded warehouse, only an explanation was asked for. No further details were provided by the Department.

7.4.22.2 Non-realisation of fee on change in management cases due to non-sending the same to EC WB

Scrutiny of records in two SE offices¹¹¹ showed that three licensees had applied for change in management to their respective SEs between March 2009 and March 2011. SEs, however, did not send the case to Excise Commissioner, West Bengal for approval. Periods ranging from four to six years from the dates of receipt of application till date of audit, had since elapsed. Since the fee was chargeable after approval of the change in management, non-disposal of the cases resulted in non-realisation of fee amounting to ₹ 46.50 lakh.

After Audit reported the case the Department stated that the fee was realised in one case and action was being taken in the remaining two cases, for recovery. (November, 2016).

¹¹¹ SE, Barrackpur Zone and Darjeeling.

7.4.22.3 Non-realisation of IGF due to irregular disposal of change in management

Audit observed from a show-cause-notice (SCN) and Order Sheet issued in February 2012 and May 2012, respectively, by Collector of Excise, Darjeeling, to an IMFL bonded-cum-trade warehouse in Siliguri Municipal Corporation Area, that license of the IMFL bond-cum-trade warehouse was granted in May 2003 and during the period from 2003 to 2010 change in management took place four times¹¹². No approval for change in management was obtained from the Excise Department. For approval of these four changes in management, the licensee was liable to pay fees amounting to ₹ 35 lakh.

It was observed that the Collector of Excise, Darjeeling, instead of taking note of the change in management and taking action at the time of renewal of license, issued the SCN (February 2012) after nine years of the first incidence (June 2003). The Collector, while disposing of the SCN, had imposed a penalty of only ₹ 0.50 lakh (June 2012), ignoring the actual dues of ₹ 35 lakh due to irregular disposal of change in management cases.

After this was pointed out (September 2016), the Department intimated that the case had been sent to higher authorities for further approval.

7.4.22.4 Non-realisation of fees due to improper action of Collector, Jalpaiguri

Audit observed from the records of SE, Jalpaiguri that a Hotel-cum-Restaurant-Cum-Bar under Siliguri Municipal Corporation had applied in July 2006 to the Collector, Jalpaiguri for change in name and style of their hotel with effect from April 2006. During processing of the application it was noticed by the Department that the management of the hotel had also changed with effect from April 2006. Although the information about change in management was on record, Collector forwarded the application only for change of name and style of the licensee to EC for approval. No further action was found on record.

Audit observed that the licensee was liable to pay fees for the incidence of change in management but Collector, Jalpaiguri did not take any action, though this information was available. Therefore, there was non-realisation of fees amounting to ₹ 15 lakh.

After this was pointed out (September 2016) the Department stated that the proposal was sent to Government for approval in January 2011. The reply was not tenable as the proposal was only for change in name and style of the licensee and the issue of change in management was omitted.

7.4.23 Non-realisation of excise duty due to non-compliance with the rules for destruction of FL

Rule 241(3) of West Bengal Excise FL Rules, 1998 provides that any FL kept in any licensed premises found after necessary examination to be unfit for

¹¹² June 2003, July 2005, March 2010 and November 2010.

human consumption may be destroyed under the orders of the Collector with prior approval of the EC, West Bengal, after realisation of duty, if any.

The concerned records showed that Collector of Excise, Darjeeling had intimated EC, West Bengal in January 2013 for destruction of 0.11 lakh LPL of FL which was lying in the bonded warehouse for more than 12 years, and were found unfit for human consumption. Joint Commissioner of Excise (Foreign Liquor) informed the Collector of Excise, Darjeeling in February 2013 that EC, West Bengal had approved the proposal of destruction of the said old stock of 0.11 lakh LPL FL in accordance with Rule 241(3) of the rules *ibid*.

Audit observed that the said old stock of 0.11 lakh LPL of FL was destroyed in January 2014 without realisation of excise duty amounting to ₹ 20.17 lakh (₹ 186 per LPL on 0.11 lakh LPL). This resulted in non-realisation of excise duty of ₹ 20.17 lakh due to non-compliance with the extant rules.

After this was pointed out (September 2016) the Department did not furnish any specific reply.

7.4.24 Non-compliance to environmental norms

Rules 6 and 11 of West Bengal Excise (CS) Rules, 2010 provide that copy of environment pollution clearance certificate from the appropriate authority is necessary at the time of granting of CS manufactory license and at the time of renewal of manufactory license for the next period of settlement. Under Sections 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, West Bengal Pollution Control Board (PCB) issues the clearance certificate in the form of Letter of Consent to Operate. In order to keep a check on the quantity of liquid and gaseous effluents discharged, PCB fixes in the Letter of Consent, daily or monthly limit of the total quantity to be produced.

Scrutiny of license granting files along with other relevant records of nine CS manufactories in six SE offices¹¹³ showed that during the period covered under audit, eight licensees had submitted Letters of Consent of PCB along with the applications for renewal of their licenses. PCB had prescribed a limit for quantity of CS to be produced per day or per month. From the production registers, Audit observed that these licensees had violated the production limits prescribed by PCB.

In all the nine cases, the excise authorities renewed the licenses for the next period of settlement without taking into consideration the violations of environment norms in eight cases and without insisting upon compliance with WBE (CS) Rules. This action rendered the system for control of pollution caused by these manufactories a failure.

After this was pointed out (September 2016) the Department did not furnish any specific reply.

¹¹³ SEs Asansol, Barrackpore Zone, Darjeeling, Hooghly, Jalpaiguri and Malda.

7.4.25 Non-realisation of revenue due to non-renewal of distillery license

Rule 5 of Consolidated Rules framed under Section 86 of Bengal Excise Act, 1909, as amended vide notifications¹¹⁴, provide that the license for a distillery must be renewed annually. Such renewal will be granted by the Collector, subject to the approval of EC, West Bengal, on an application made before expiry of existing license, along with a deposit of ₹ one lakh per year for the years from 2003-04 to 2012-13 and ₹ 10 lakh per year from the year 2013-14 onwards. The rules also cite that if a licensee applies for renewal after the expiry of the license, the Collector may renew the license on realisation of a late fee at the rate of ₹ 600 per day, calculated from the date of expiry of the previous license in addition to renewal fee prescribed above.

Scrutiny of license renewal file of a distillery-cum-FL manufactory under SE, Asansol showed that the licensee got the distillery license renewed after payment of requisite renewal fee along with other relevant records till the financial year 2008-09. Thereafter, the licensee neither applied nor surrendered the distillery license to the competent authority till the date of audit.

However, from the stock taking report for the year 2011-12, Audit observed that during the year 21.44 lakh LPL of strong spirit was issued to distillery plant for redistillation, which was indicative of functioning of the distillery without getting the distillery license renewed and without payment of renewal fee. The Collector, Asansol did not raise any demand for renewal fee and late fee from the licensee. This resulted in non-realisation of revenue amounting to ₹ 80 lakh (renewal fee ₹ 34 lakh and late fee ₹ 46 lakh) due to non-renewal of distillery license for the period from 2009-10 to 2014-15.

After this was pointed out (September 2016), the Department stated that the licensee had moved the West Bengal Taxation Tribunal against a demand raised by the Department and the Tribunal, in an interim order, had directed the Department not to take any action for realisation of the demanded amount till the disposal of the case. The reply of the Department was not tenable as the appeal case actually pertained to a different demand for ₹ 24.06 lakh, pertaining to the dues of earlier periods (2003-05 and 2006-08), and the interim order (September 2010) did not pertain to the instant case. However, the Department had stopped collecting all dues from the licensee, which was incorrect and not intended by the interim period.

7.4.26 Sale of liquor without license

Sections 16 and 20 of Bengal Excise Act, 1909 provide that no person shall store or keep any intoxicant in any warehouse and no intoxicant shall be sold except under the authority and in accordance with the terms and conditions of a license granted in that behalf by the Collector. Rule 34 of West Bengal Excise (CS) Rules, 2010 with effect from 1 December 2010 provides the procedures to be followed to get the license of Duty paid CS warehouse.

Audit observed that in two "Duty paid CS Warehouses" in SE offices of Darjeeling and South 24 Parganas, the owners had stored and sold CS from

¹¹⁴ No 1013-EX dated 29-11-2002 and No 21-Ex dated 02-01-2013.

their respective warehouses during the years 2010-11 to 2014-15. Both the warehouses had no license for storing and selling of intoxicants during this period. The Department, however, issued transport passes for movement of intoxicants to and from these warehouses. The Department took no action either to stop the illegitimate business nor initiated any penal measures against the above warehouses. In the absence of complete details of sale, capacity of storage etc. loss of revenue could not be quantified in audit.

The Department did not furnish any specific reply to the audit observation (October 2016).

7.4.27 Other cases of non-compliance

Some other cases of non-compliance with Act/rules/notifications observed by Audit are given in **Appendix-IX**. These include instances of non-conducting of Annual Stock Taking, non-sending of samples of CS for chemical analysis, failure to take action on the CEL's report etc.

Whether the internal control system of the Department is efficient and effective

Internal control is an integral component of an organisation's management processes to provide reasonable assurance that its operations are carried out effectively, economically and efficiently. Deficiencies in the internal control mechanism are discussed in the following paragraphs:

7.4.28 Functioning of the Internal Audit Wing (IAW) of the Department

The IAW is a vital internal control mechanism which functions under the control of EC, WB and mainly is responsible for conduct of audit of the offices under the control of the EC, WB.

During test check of records of the IAW, only one Inspection Report pertaining to the year 2012-13 was made available to Audit. It was informed that 33 units were inspected by IAW during the years 2010-11 to 2014-15. In the absence of inspection reports, Audit could not check compliance with the observations made therein. Further, Audit observed that during the period from 2010-11 to 2014-15, the IAW had not inspected offices of Ranges/Divisions performing preventive functions of the Department and the duty paid CS warehouses. It was also observed that SE offices in the districts of Murshidabad, Bankura, Purulia, Purba Medinipur, Malda, Uttar Dinajpur, Dakshin Dinajpur, Coochbehar, Jalpaiguri, Alipurduar and Darjeeling were never selected for inspection by IAW.

Audit also observed that presently the deployment of staff vis-à-vis sanctioned strength of the IAW was *57 per cent*.

After this was pointed out (September 2016), the Department accepted the audit observation and stated that efforts were being made for strengthening of IAW by deployment of additional manpower.

7.4.29 Functioning of the Chemical Examination Laboratories

Chemical Examination Laboratory (CEL) is entrusted with analysis of samples of FL, country spirit etc., received from manufactories in addition to seized spirit/intoxicants related to illicit distilled liquor, fake FL, adulterated liquor,

poisoned liquor, death cases due to consumed poisoned liquor, ganja etc., under BE Act.

The reports of such analysis play an important role in prosecution of offenders and are admissible in the court of law. Excise Officers posted at the manufactories, distilleries and warehouses, assess and demand excise duty, fee etc., based on the reports of CEL, as per the provisions of the BE Act and rules made thereunder.

During scrutiny of records of the office of Chemical Examiner, Government of West Bengal (CE), it was observed that deployment of manpower remained between 75 and 67 *per cent* vis-à-vis sanctioned strength of the CEL during the years 2010-11 to 2014-15.

Audit observed that EC, WB¹¹⁵ had instructed the Chemical Examiner to destroy all types of industrial samples lying untested up to December 2013, which was complied with. It was indicative of the fact that CEL could not conduct the tests in time. Further, non-testing of these samples defeated the objectives of analysis by CEL, as the Officers-in-Charge could not determine and demand correct excise duty, fee etc.

After this was being pointed out (September 2016) the Department accepted that the process of analysis of samples suffered in the CEL due to shortage of manpower and inadequate infrastructure.

Conclusion

Audit observed a number of deficiencies in functioning of the Excise Department which impacted revenue collection. There were serious weaknesses in compliance with the extant Act/Rules/Notifications which resulted in short collection of revenue. Absence of provisions in the Acts/ Rules/Notifications, governing the functioning of the Department, adversely affected the collection of revenue and increased the number of excise crimes. The Department's internal control systems were weak, leading to weaknesses in the system for correct assessment and collection of excise revenue.

Recommendations

Government may consider

- introduction of provisions for
 - ✓ imposition of late fee in Tourist Lodge Licensing Rules;
 - ✓ collection of renewal fee from the licensees who have been given permission to sell packaged foreign liquor in uniformity with "OFF" shop licensees;
 - ✓ prescribing a limit in time taken by the Department for processing the applications for approval of change in management;
- instituting a system of its own for identification of the star category of hotels.

¹¹⁵ Memo No 1053 E dated 04.08.14.

CHAPTER-VIII

CHAPTER VIII

STATE LOTTERY

A Performance Audit on “West Bengal State Lotteries” involving ₹ 158.51 crore is discussed in the following paragraphs:

8.1 Performance Audit on “West Bengal State Lotteries”

Revenue from the State Lotteries is a non-tax receipt of the State. The proceeds derived from sale of lottery tickets organised by the Government of West Bengal and charges imposed by it on the Organising States¹¹⁶ for lottery draws are sources of revenue for the Government of West Bengal. A Performance Audit on State Lotteries was conducted to ensure that procedures laid down in the Lotteries (Regulation) Act were followed, revenue from lotteries were properly assessed and remitted to the government accounts and that internal control mechanism was adequate and effective.

Highlights

- In the absence of a system to cross-verify the records with that of Organising States, evasion of lottery charges of ₹ 79.17 crore involving 4,013 lottery draws could not be detected.
(Paragraph 8.3.1.1)
- Collection of sale proceeds of ₹ 237.68 crore against ₹ 317.02 crore due to sale of lottery tickets at prices below the face value of tickets resulted in short realisation of sale proceeds of ₹ 79.34 crore.
(Paragraph 8.3.2.1)
- Adoption of improper procedure of adjustment of departmental expenditure with the revenue receipts and delayed processing of transfer bills resulted in credit of Government revenue of ₹ 80.24 crore with delays ranging between five and 918 days.
(Paragraph 8.3.2.2)

8.1.1 Introduction

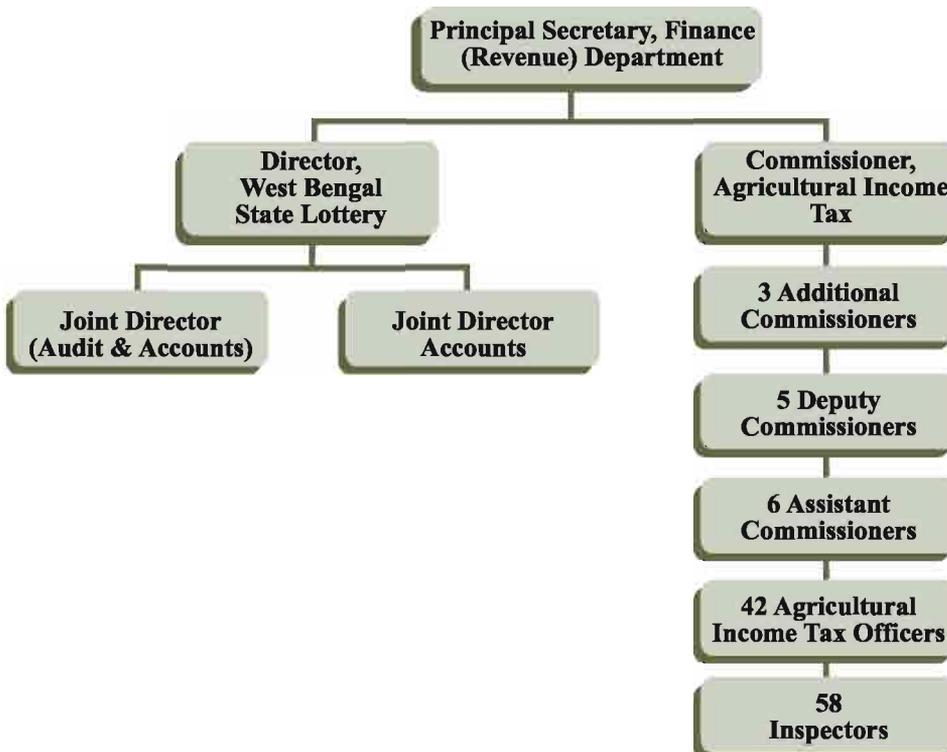
Lotteries organised by the Government of India or the Government of a State is a Union subject as per entry 40 of the List I – Union List in the seventh schedule to the Constitution of India. As per entry 62 of the List II – State List of the seventh schedule to the Constitution of India, taxes on sale of such lotteries is a State subject. Lotteries are regulated by the Lotteries (Regulation) Act, 1998 (Act) which empowers the Central Government as well as the State Governments to make rules to carry out the provisions of the Act. While the Central Government has enacted the Lotteries (Regulation) Rules, 2010, Government of West Bengal had earlier framed the “West Bengal State Lottery Rules, 1968” to regulate the lotteries in the State. Later, it framed the West Bengal Lotteries (Regulation on Payment of Charges for Draw) Rules, 2011, under the authority of the Central Act, 1998 referred to above.

¹¹⁶ “Organising State” means the State Government which conducts the lottery either in its own territory or sells its tickets in the territory of any other State.

The Directorate of State Lotteries, West Bengal (DSLWB), under the Finance (Revenue) Department is responsible for organising West Bengal State Lotteries (WBSL) and to assess and collect revenue thereof. At present, 54 draws¹¹⁷ of four schemes of lotteries viz. Bangalakshmi draw (twice in a month), Bangasree draw (monthly), Bangabhumi Super draw (monthly) and Bumper draws (six) are organised by the DSLWB in a year. Lottery tickets are printed by DSLWB through M/s Saraswaty Press Limited, a high security government press. These tickets are marketed exclusively within West Bengal through West Bengal Lottery Stockists Syndicate Pvt. Ltd. (WBLSSPL)¹¹⁸, the sole distributor of WBSL appointed for the purpose. Under Rule 5 of the West Bengal Lotteries (Regulation on Payment of Charges for Draw) Rules, 2011, Government of West Bengal provided for charges on the Organising State at the prescribed rate¹¹⁹ from 18 July 2011 onwards. The amount so charged was to be paid into the Government treasury by the Organising States and a copy of the challan evidencing payment of the amount was to be furnished to Commissioner of Agricultural Income Tax (CAIT) at least three days before the date of draw. The Commissioner of Agricultural Income Tax (CAIT), West Bengal was responsible for collection of charges for lottery draws conducted by the Organising States like Mizoram, Nagaland, Sikkim etc., including West Bengal.

8.1.2 Organisational set up

The organisational set up of the Directorate of State Lotteries, West Bengal (DSLWB) and Commissioner of Agricultural Income Tax (CAIT) is presented in the following organogram:



¹¹⁷ As per the Annual Administrative Report 2014-15 of Finance Department, Government of West Bengal.

¹¹⁸ It is a private company registered under the Companies Act, 1956.

¹¹⁹ ₹ five lakh for bumper draw and ₹ one lakh for other draws respectively which was revised to ₹ 10 lakh and ₹ five lakh respectively w.e.f. 28 November 2011.

8.1.3 Rationale for taking up audit

Rule 3(20) of the Lotteries (Regulation) Rules empowers the Central Government to conduct audit of any lottery or lottery scheme organised by any State through the Comptroller and Auditor General of India (CAG). Ministry of Home Affairs, Government of India had requested (August 2015) the CAG to conduct an audit of accounts of the last five years of the directorates of lotteries of nine states and one region¹²⁰.

A Performance Audit of the West Bengal State Lotteries for the period from April 2010 to March 2015 was conducted.

8.1.4 Audit Objectives

The audit was conducted to determine whether:

- Procedures laid down in the Lottery (Regulation) Act and Rules were complied with while organising the lotteries;
- Revenue from lotteries duly accruing to the State Government was properly assessed and remitted through the distributors/selling agents on time; and
- Internal control mechanism was adequate and effective.

8.1.5 Audit Criteria

Criteria for the Audit were derived from:

- The Lotteries (Regulation) Act, 1998;
- The Lotteries (Regulation) Rules, 2010;
- The West Bengal Lotteries (Regulation on Payment of Charges for Draw) Rules, 2011;
- Agreements made with the distributors/selling agents/printers;
- Notifications/orders issued by the Government from time to time.

8.1.6 Scope and methodology of Audit

Audit of West Bengal State Lotteries covering the period from 2010-11 to 2014-15 was conducted between January and March 2016. The methodology of audit included issue of questionnaires and examination of records/reports available with the Finance Department, DSLWB, CAIT and WBLSSPL which is the sole distributor of West Bengal State Lotteries. Besides, cross verification of records of lotteries organised by the States of Mizoram, Nagaland and Sikkim was also carried out to ascertain the correctness of payment of charges by the distributors of those States.

8.1.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Finance Department, DSLWB and CAIT in providing necessary information and records. An Entry Conference to discuss the objectives, scope

¹²⁰ Andhra Pradesh, Goa, Kerala, Maharashtra, Mizoram, Nagaland, Punjab, Sikkim, West Bengal and Bodoland (in Assam). West Bengal was included as tickets of lotteries organised by States like Arunachal Pradesh, Nagaland etc., are also sold in West Bengal.

and methodology of the Performance Audit was held in January 2016 with the Director, DSLWB and Deputy Commissioner of Agricultural Income Tax, West Bengal. Audit findings were reported to the Finance Department/Directorate in May 2016. An Exit Conference to discuss the outcome of the Performance Audit was held in November 2016 with the Director, West Bengal State Lotteries and Additional Commissioner of Agricultural Income Tax. Replies and views of the Department/Directorate, conveyed in the exit conference, have been suitably incorporated in the report.

8.1.8 Trend of receipts

Position of actual collection of charges from Organising States, actual collection of revenue of DSLWB, net revenue of DSLWB and their percentage with reference to the total non-tax revenue of the State are given in the following table:

Table 8.1

Trend of receipts

(₹ in crore)

Year	Actual receipts from charges collected by CAIT	Actual receipts from sale of WB state lotteries by DSLWB	Cost of collection of DSLWB	Net revenue of DSLWB	Total non-tax revenue	Percentage of actual receipts from charges to the total non-tax revenue	Percentage of net receipts of DSLWB to total non-tax revenue
(1)	(2)	(3)	(4)	(5)	(6)	(7) = (2) *100/(6)	(8) = (5) *100/(6)
2010-11	-	32.39	23.51	8.88	2,380.49	-	0.37
2011-12	77.38	45.20	36.81	8.39	1,340.25	5.77	0.63
2012-13	95.60	71.35	46.50	24.85	1,918.15	4.98	1.30
2013-14	99.45	68.09	45.40	22.69	2,022.72	4.92	1.12
2014-15	93.05	66.78	38.94	27.84	1,626.66	5.72	1.71

Source: Annual Administrative Reports of the Finance Department, Govt. of West Bengal

Analysis of the above data indicates that the percentage of net revenue of DSLWB ranged between 0.37 and 1.71 of the total non-tax receipts of state during the year 2010-11 to 2014-15, while the percentage of charges collected by CAIT during 2011-12 to 2014-15 ranged between 4.92 and 5.77 of the total non-tax revenue. As such, the contribution of lotteries to non-tax revenue of the state was negligible. Collection of charges in 2014-15 decreased due to banning of online lotteries by the Government of West Bengal from May 2013 and conduct of lesser number of draws by the organising state of Sikkim.

Audit Findings

Audit Objective 1: Procedures laid down in the Lottery (Regulation) Act and Rules were complied with while organising the lotteries

8.2.1 Purpose for which lotteries were organised not notified

Under Rule 3(2) of the Lotteries (Regulation) Rules, 2010, the State Government may organise lotteries by issuing a notification in the official gazette outlining the purpose, scope, limitations and methods thereof, along with other information.

In 270 draws of the lotteries conducted by DSLWB during the period of audit, it was observed that before conduct of each lottery, notification was issued by the Finance Department outlining the scope of such lottery. Audit further observed that the purpose for which lotteries were organised by the State was not outlined in any of the notifications issued. As such, the revenue generated from lotteries was being deposited in the state exchequer but not directed at welfare/development projects, as envisaged in the Lotteries (Regulation) Rules, 2010.

The Directorate of Lotteries, in the Exit Conference stated (November 2016) that lotteries were organised for raising additional revenue of the State and the purpose was also notified in the official gazette. This reply needs to be seen in the light of the fact that the said notification was issued in 1968 which was prior to the introduction of the Lotteries (Regulation) Act and Rules and, thus, cannot be construed to be issued in pursuance of the Lotteries (Regulation) Rules, 2010. Further, the specific purpose for which lotteries were to be organised was not mentioned in the official gazette.

8.2.2 Printing and distribution of lottery tickets

DSLWB gets lottery tickets printed by M/s Saraswaty Press Limited, a Government high security printing press with the cost of printing of tickets being borne by the Department. Maximum retail price of each ticket, including date and time of draws, were clearly mentioned on each lottery ticket. The procedure for claiming of prize money and other terms and conditions were also clearly mentioned in the back of each lottery ticket. Through an agreement executed in April 2011, WBLSSPL was appointed as the sole marketing agent of DSLWB for two years. The agreement was extended from time to time till December 2013. In January 2014, revised agreement was executed for further period of three years.

Scrutiny of records of DSLWB and WBLSSPL relating to the distribution of lottery tickets showed some deficiencies which are discussed in the succeeding paragraphs:

8.2.2.1 Delayed issue of lottery tickets to the distributor

As per the marketing/sale agreement executed between DSLWB and WBLSSPL, lottery tickets are to be issued to the distributor at least four to six weeks ahead of date of draw.

Scrutiny of records of DSLWB showed that after executing the marketing agreement, 216 draws were conducted by DSLWB between April 2011 and March 2015. From the scrutiny of delivery challans of lottery tickets, it was found that in 155 draws (72 per cent) the minimum time frame of four weeks (28 days) for delivery of tickets to the distributor was not adhered to by DSLWB. Delay in issue of tickets was attributable to the delayed delivery of lottery tickets by the printing press. Due to non-adherence to the time frame for issue of tickets by DSLWB, the distributor did not get ample time for marketing. This was the main reason for 86.36 lakh tickets remaining unsold, involving revenue of ₹ 4.38 crore as shown in the following table:

Table 8.2

Delayed issue of lottery tickets to the distributor

(₹ in lakh)

No of days before which the tickets issued from the draw date	No of cases	No of unsold tickets	Revenue involved
Upto 10 days	1	2,50,000	3.75
Between 11 and 20 days	55	37,67,996	142.65
Exceeding 20 but less than 28 days	99	46,17,840	291.14
Total	155	86,35,836	437.54

After this was pointed out, the Department accepted the audit observation and stated (November 2016) that concerted efforts had been initiated involving the printing press, distributor and government so that the tickets of lottery were marketed well ahead of the dates of the draws.

8.2.2.2 Absence of a system of monitoring and review of marketing of lottery tickets

As per clause 5(i) of agreement executed between DSLWB and WBLSSPL in April 2011, the distributor was required to furnish a district-wise report of lifting and marketing of tickets by sub-stockists/agents to DSLWB within 15 days from the draw date to facilitate monitoring and review of marketing in respect of each draw. However, this clause was omitted in the agreement executed in January 2014.

From scrutiny of records of DSLWB it was found that WBLSSPL had never submitted a district-wise report of lifting and marketing of tickets by sub-stockists/agents to DSLWB between April 2011 and January 2014. As a result, the Directorate was totally unaware of the status of distribution and marketing of lotteries and could not ascertain whether the required distribution of tickets as per demand had been made by WBLSSPL throughout the State. Consequently, DSLWB could not decide on increase/decrease in the printing of tickets based on such statistical data. DSLWB also did not have any system of conducting a market survey for this purpose. Due to the absence of any system for monitoring and review of marketing process, DSLWB was solely dependent upon WBLSSPL regarding enhancement/reduction of the scheme-size of the lotteries.

After this was pointed out, the Department stated (November 2016) that DSLWB maintained liaisons with the agents/sellers throughout the year in this regard. The Department further stated that market survey was last conducted in 2012 to assess the market trend. The reply did not address the issue

regarding regular monitoring and market review as no periodicity was prescribed by the Department for such market surveys to keep track of the latest trends. Such periodical reports/returns would have also facilitated the Department in taking more informed decisions regarding increase/decrease in printing of tickets.

8.2.3 Draw process and publication of results

Audit observed that in all the lotteries conducted by DSLWB, date and time of the draw were clearly mentioned on the back of each ticket. The draws were held at a fixed venue through an electro-mechanical device based on random technology, under the supervision of judges appointed by the Finance Department. The lists of unsold tickets submitted by the distributor were handed over to the judges before the draws, to ensure that draws were being held on sold tickets only. After the draw process, official result sheets were signed by the judges present for the draw. Under Rule 3(12) of Lotteries (Regulation) Rules, 2010 the Organising State was to publish the result of draws in at least one National and two State level newspapers, out of which one was to be in English, as well as in its official gazette.

Audit observed that after completion of the draw processes, official result sheets were being forwarded to the Information and Cultural Affairs Department (I&CA), Government of West Bengal for publication of results in newspapers, the cost of which was borne by Finance Department. However, the names of the newspapers in which such results were being published was not furnished to audit by DSLWB. Thus, audit could not assess whether provisions of the Lotteries (Regulation) Rules, 2010 relating to publication of results were properly followed by DSLWB. Audit also observed that the results were neither published in the official gazette of the State Government nor in the official website of the Finance Department. Apart from the fact that this was in violation of the Lotteries (Regulation) Rules, 2010, this affected transparency of the entire process.

After this was pointed out, the Department accepted (November 2016) the audit observation and stated that the official website of the Finance Department was being reoriented to provide all such information.

8.2.4 Co-ordination with other States

Under Rule 5 of the Lotteries (Regulation) Rules, 2010 if a State Government is of the opinion that the Organising State or their distributors/selling agents are organising lotteries in violation of the provisions of the Act/Rules, it shall immediately bring the violations to the notice of the Organising States concerned along with the details of such violations or irregularities noticed and the Central Government shall also be apprised of such violations/irregularities simultaneously. The Organising State is required to send suitable response on the reported violations within 30 days of the receipt of such communication. If the State Government concerned is not satisfied with the response or the Organising State does not take any action, it shall bring to the notice of the Central Government all relevant details of violations or irregularities along with the recommendations relating to the action to be taken including banning of the lottery scheme in the geographical limits of its

State. Thus, a strong co-ordination mechanism with other States is essential to detect the illegalities in the organisation of lotteries by those States.

Audit observed that the Government of West Bengal had not devised any mechanism of detecting illegalities, if any, relating to lotteries organised by other States by way of putting a strong monitoring cell/internal audit to monitor/detect illegal sale of both paper and online lotteries. This was in dilution of the mandate provided under Rule 5 of the Lotteries (Regulation) Rules, 2010. It was observed that DSLWB or CAIT was not empowered to inspect or verify accounts of distributors of any Organising State, operating within its territory. Audit also observed that in the absence of suitable provisions in the West Bengal Lotteries (Regulation on Payment of Charge for Draw) Rules 2011, CAIT, responsible for collection of charges for conducting draws by Organising States, had never cross verified records with the other Organising States to ascertain correctness of charges paid by their distributors. As a result, evasion of payment of charges by distributors of other Organising States could not be detected by the Department as mentioned in paragraph 8.3.1.1.

After this was pointed out, the Department stated (November 2016) that no such provision of coordination with other States was prescribed in the Act/ Rules. The reply was not tenable as Rule 5 of the Lotteries (Regulation) Rule, 2010 clearly provided the mandate for such coordination among the Organising States to track violations.

Audit Objective 2: Revenue from lotteries duly accruing to the State Governments was properly assessed and remitted through distributors/selling agents

Assessment of revenues from lotteries

DSLWB is responsible for ensuring that revenue derived from the sale of lottery tickets are paid by the distributor in full and the same are remitted in government accounts within the specified time frame. Similarly, CAIT is responsible for ensuring that the charges per draw levied by the State are properly assessed and paid by the distributors of other Organising States. Scrutiny of records of the CAIT and DSLWB relating to assessment and collection of revenue showed the following deficiencies:

8.3.1 Absence of authority to monitor sale of lotteries by Organising States

Under Section 12 of the Lotteries (Regulation) Act, 1998, the State Government may, by notification in the official gazette, make rules to carry out the provisions of the Act.

Audit observed that Government of West Bengal had empowered CAIT for collection of charges from Organising States by way of enactment of the West Bengal Lotteries (Regulation on Payment of Charges for Draw) Rules, 2011. In order to ensure correctness of payment of charges by Organising states, CAIT might require to examine the accounts, registers, documents or records including electronic records in the possession of distributors/selling agents/sub-agents of Organising States. Audit however found that CAIT

could not examine the records of the distributors of Organising States in the absence of specific provisions in the said Rules. Thus, monitoring on the part of CAIT was absent.

In absence of such monitoring, the Department could not detect evasion of tax by distributors of other Organising States as discussed below:

8.3.1.1 Evasion of lottery charges by distributors of other Organising States

Under Rule 5 of the West Bengal Lotteries (Regulation on Payment of Charges for Draw) Rules, 2011, Government of West Bengal had levied charge on Organising States at the prescribed rate¹²¹ from 18 July 2011 onwards. The amount charged was to be paid into the Government treasury by the Organising States and a copy of challan evidencing payment of the amount was to be furnished to CAIT at least three days before the date of draw or beginning of sale of tickets whichever is earlier. Further, under Rule 7 of the said Rules, a person authorised to act on behalf of the Organising State shall submit a monthly return in Form-A within 10 days after completion of each such month to the CAIT.

From the information received from the lottery departments of Mizoram, Nagaland and Sikkim, it was observed that M/s Future Plus Enterprises Pvt. Ltd. was appointed as the distributor of paper lotteries of those States while M/s T.S. Distributors was appointed as the distributor for marketing online lotteries of Nagaland in West Bengal during the period covered under audit. As per the information received from lottery departments of the aforesaid Organising States, it was found that the said distributors had sold tickets of 12,698 lottery draws (both paper and online), conducted by those States, in West Bengal between 18 July 2011 and 31 March 2015. Thus, the distributors were liable to pay charges of ₹ 399.76 crore against those lottery draws. Cross-verification of the above information with the weekly statements/monthly returns submitted by the distributors to CAIT, however, showed that the distributors had paid charges amounting to ₹ 320.59 crore only against the disclosed figure of 8,685 lottery draws conducted during the same period in their returns. Thus, the distributors did not disclose the actual number of lottery draws conducted and tickets marketed in West Bengal in the returns, resulting in evasion of charges amounting to ₹ 79.17 crore in respect of 4,013 lottery draws as shown in the following table:

¹²¹ ₹ five lakh for bumper draw and ₹ one lakh for other draws respectively which was revised to ₹ 10 lakh and ₹ five lakh respectively from 28 November 2011.

Table 8.3

Evasion of lottery charges by distributors of other Organising States

(₹ in crore)

Name of the Organising States	Name of the distributors	Nature of lottery	Actual number of lottery draws conducted	Amount of charges payable	Number of draws disclosed in returns	Amount of charges paid	No of draws not disclosed in returns	Evasion of charges
Mizoram	M/s Future Plus Enterprise Pvt. Ltd.	Paper	1,371	68.85	811	40.85	560	28.00
Nagaland	M/s Future Plus Enterprise Pvt. Ltd.	Paper	618	19.10	529	18.21	89	0.89
	M/s T.S. Distributors	Online	4,563	45.63	1,615	16.15	2,948	29.48
Sikkim	M/s Future Plus Enterprise Pvt. Ltd.	Paper	6,146	266.18	5,730	245.38	416	20.80
Total			12,698	399.76	8,685	320.59	4,013	79.17

In the absence of detailed information of online lotteries from the DSL of Mizoram, Sikkim and Goa, evasion, if any, by lottery draws conducted in these States could not be verified. Due to non-conduct of cross-verification of records with the Organising States such evasion, as well as possible illegal sale of lotteries without payment of charges, remained undetected.

After this was pointed out, the Department stated (November 2016) that action had been initiated with the Organising States to reconcile the difference pointed out by audit. However, the issue of cross-verification of records of the distributors of other Organising States, which could have provided an effective mechanism to stop such illegal sale of lotteries, was not addressed by the Department.

8.3.2 Sale proceeds

DSLWB is responsible for assessment and collection of revenue from sales of lottery tickets. The Directorate is required to ensure that proceeds from sales of lottery tickets are duly received from the distributor and are paid into government account. Audit found deficiencies in assessment and collection of sale proceeds and their remittance in government account which are discussed in the succeeding paragraphs.

As per the agreement between DSLWB and the distributor, i.e., WBLSSPL, the latter was allowed to lift the total number of tickets printed for each draw on credit, against bank guarantee submitted by it. The sale proceeds of all the tickets were required to be paid by WBLSSPL within eight weeks from the date of lifting of tickets or seven days after the date of draw, whichever was earlier.

8.3.2.1 Short realisation of sale proceeds due to sale of tickets below face value

As per Rule 2(1)(h) of the Lotteries (Regulation) Rules, 2010, sale proceeds mean the amount payable by the distributor to the Organising State in respect of sale of tickets calculated at the face value printed on each ticket in respect of a particular draw. Further, as per Rule 3(17) of the Lotteries (Regulation) Rules, 2010, read with the direction of the Ministry of Home Affairs,

Government of India, the Organising State shall ensure that the entire proceeds from the sale of lottery tickets, as received from the distributors or selling agents or any other source, are first deposited in the Consolidated Fund of the State without any deduction. Payment of commission to distributors/agents and other sundry payables, if any, should be made from the budget allocations.

Scrutiny of records showed that the Finance Department had issued notifications for conducting draws of various lotteries between April 2010 and March 2015. In these notifications the Finance Department had fixed the face value (MRP) of the tickets to be printed on each ticket. In violation of the provisions of Rule 2(1)(h) of the Lotteries (Regulations) Rules, 2010, the Finance Department also fixed the sale value which was less than MRP/face value and this was to be collected from WBLSSPL.

During the period under audit, WBLSSPL lifted 49.04 crore tickets of paper lotteries pertaining to 270 draws conducted by DSLWB. WBLSSPL sold 47.40 crore tickets¹²² and paid sale proceeds of ₹ 237.68 crore to DSLWB, calculated at the sale value which was below the face value printed on the tickets, as against the payable amount of ₹ 317.02 crore, calculated on the face value of tickets. This resulted in short realisation of sale proceeds of ₹ 79.34 crore, as detailed in the following table:

Table 8.4

Short realisation of sale proceeds due to sale of tickets below face value

(₹ in crore)

Name of lottery	Total no. of draws	No. of tickets printed	Actual No of tickets on which revenue was payable	Actual sale proceeds realised on sale value	Actual sale proceeds realisable on face value	Short-realisation of sale proceeds
Bangabhumi Super	60	7,92,50,000	7,48,54,969	28.82	37.43	8.61
Bangasree Super	60	7,18,50,000	6,66,26,600	49.14	66.63	17.49
Bangalakshmi	120	25,70,00,000	25,11,76,070	37.68	50.23	12.56
Bumper	30	8,23,47,500	8,13,63,110	122.04	162.73	40.68
Total	270	49,04,47,500	47,40,20,749	237.68	317.02	79.34

After this was pointed out, the Department stated (November 2016) that the tickets were sold to the distributor at a pre-determined price below MRP or face value, as specified in the approved scheme by the Government of West Bengal. The reply was not tenable as Rule 2(1)(h) provided for collection of sale proceeds calculated at the face value printed on each ticket. As such, the notifications issued by the Department approving the draws were flawed and violated the provisions of the Lotteries (Regulation) Rules, 2010. This was also not in line with directions issued by Ministry of Home Affairs which stated that the entire proceeds from the sale of lottery tickets were to be deposited in the Consolidated Fund of the State.

¹²² As per the agreement executed between DSLWB and WBLSSPL, the distributor was required to pay for a minimum guaranteed sale of 90 per cent of the printed tickets. Hence, in cases where distributor sold less tickets, value of 90 per cent of the printed tickets has been taken into account.

8.3.2.2 Delayed credit of sale proceeds in the government account

Rule 3.01 of the West Bengal Treasury Rules, 2005 and explanation given thereunder prescribes that all moneys received by or tendered to Government employees on account of the revenues of the State shall, without undue delay i.e. within the next working day at the latest, be paid in full into the treasury linked bank or any other bank authorised by the Finance Department and shall be included in the Government Account.

As per agreement, WBLSSPL was required to pay sale proceeds of the tickets printed by DSLWB at sale prices fixed by Finance Department within eight weeks from the date of lifting of lottery tickets or seven days after a particular draw, whichever was earlier. As per the agreement, prize money up to ₹ five thousand was paid to prize winners by WBLSSPL and it was required to submit claim for reimbursement to DSLWB within 120 days from the date of draw. DSLWB was required to reimburse such prize money from the budget allotment received from the Finance Department. It was however, observed that instead of reimbursement of the prize money from the expenditure head of account, DSLWB adjusted the same against the value payable for the tickets (revenue) issued on the subsequent occasions. Since, payment of prize money was adjusted with revenue, a transfer bill was drawn by DSLWB for debiting the expenditure head and crediting the revenue head by the prize money simultaneously on receipt of budget allotment.

It was observed during scrutiny of transfer bills register maintained by DSLWB that 244 bills for reimbursement of prize money amounting to ₹ 80.24 crore was submitted by WBLSSPL. These were adjusted with the value of the lottery tickets lifted by WBLSSPL during the period between March 2009 and March 2015. It was seen that the transfer bills for the aforesaid adjustments were drawn by DSLWB between June 2010 and March 2015 with delays ranging between five and 918 days from the date of adjustment of revenue as shown below:

Table 8.5

Delayed credit of sale proceeds in the government account

(₹ in crore)

Range of delay	No of cases	Amount involved
5 to 180 days	75	30.30
181 to 365 days	58	18.62
366 to 730 days	101	29.11
Exceeding 730 days	10	2.21
Total	244	80.24

Scrutiny of records further showed that the delay in processing of transfer bills was due to want of adequate budget allotment. Thus, a large amount of government revenue was kept out of government account for a considerable time, in violation of Treasury Rules. Moreover, delayed deposit of revenue had an adverse impact on Wages and Means Advances availed of by the Government.

After this was pointed out, the Department stated (November 2016) that there was backlog in the drawal of adjustment bills in 2010-11, for want of allotment of funds by the Finance Department; however, with the increased allotments from the government in the subsequent years, the accumulation has been cleared and that, from 2013-14 onwards, the drawal of transfer bills for adjustment was being done regularly without any delay. The reply was not tenable as 83 out of 244 pending cases pointed out by Audit pertained to the period from 2013-14 onwards, involving delays ranging from five to 918 days.

8.3.3 Payment of prize money

Audit observed that the prize money from winning of lottery tickets exceeding ₹ five thousand were paid by the Finance Department. Winners of prize money were required to submit the prize winning tickets, along with their claims for the prizes to DSLWB, through nationalised banks within a period of 30 days from the date of draw. After verification of the prize winning tickets, the prize money was paid by DSLWB into the bank accounts of the prize winners, while prize moneys up to ₹ five thousand are paid by the distributor on behalf of DSLWB. The distributor was required to settle accounts with DSLWB within a period of 120 days from the date of draw. Scrutiny of records of DSLWB and WBLSSPL showed the following deficiencies:

8.3.3.1 Repeated winning of prizes by a group of families

During scrutiny of records relating to payment of prize money by DSLWB, it was observed by audit that members of three families, residing at three different households, had repeatedly won major prize money¹²³ aggregating ₹ 93.60 lakh in 32 lottery draws conducted between May 2010 and September 2013. Audit also observed that one of the families was engaged in selling of lottery tickets as an agent of WBLSSPL. This is an indicator of the possibilities of fraudulent practices being indulged in claiming of prizes.

After this was pointed out, the Department stated (November 2016) that the Directorate did not have any authority to restrict repeated winnings and deny the prize money to a person if original prize winning tickets were produced. The reply did not address as to how members of the same family were the recipients of such benefits repeatedly.

Audit Objective 3: Adequacy and effectiveness of the internal control mechanism

Internal control is an integral component of an organisation's management process established in order to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. Evaluation of internal control mechanism in the administration of lotteries by the DSLWB showed deficiencies in operational and monitoring controls, as discussed in the succeeding paragraphs:

8.4.1 Non-conducting of inspection of the records of the distributor

As per clause 14 of agreements executed between DSLWB and WBLSSPL in April 2011 and January 2014, DSLWB or its representative is authorised to inspect the books of accounts of the distributor. As per clause 2.3 the marketing agreement of January 2014, the distributor or any of his family members/business partners shall not be associated in any manner with any

¹²³ Prize money in excess of ₹ five thousand.

other company/firm/body associated or engaged in lottery business conducted or organised by other government or its agents.

It was observed that the records of WBLSSPL had never been inspected by DSLWB or its authorised representative. Further, no report, returns are submitted by the distributor to DSLWB. Due to non-inspection of records of the distributor, the violation of the Rules and breach of conditions of agreement by the distributor could not be detected by the Department and consequently remedial action could not be taken by it as discussed below:

- Audit observed that the Board of WBLSSPL, a company registered under the Companies Act, 1956, had three directors. From the website of the Ministry of Corporate Affairs, Government of India, it was seen that one of the directors of WBLSSPL and the son of another director were engaged in the sale of other states lottery viz. Mizoram, Nagaland and Sikkim. Thus, from the records it was evident that the director of WBLSSPL and their family members were closely associated with companies engaged in lottery business conducted or organised by other Governments or their agents, in violation of clause 2.3 of the agreement of January 2014.
- From the sale/marketing agreement executed between DSLWB and WBLSSPL it was observed that WBLSSPL comprised eight stockists. From the enquiry report of the Inspector of the Directorate of Agricultural Income Tax (DAIT) in March 2016 it was, however, observed that two agents of WBLSSPL were also engaged in the sale of lottery tickets of the State of Mizoram and Nagaland, which was detrimental to the interest of State Government. This violated clause 2.3 of the agreement of January 2014 and was thus, illegal.

After this was pointed out, the Department stated (November 2016) that the distributor had been requested to furnish its reply in this regard. However, the Department did not furnish any reply for non-conduct of periodical inspection of the records of the distributor.

8.4.2 Other deficiencies

Audit observed that DSLWB did not have an internal audit wing (IAW) of its own. The IAW of Finance Department was responsible for conducting the internal audit of the directorate. From records of DSLWB audit found that internal audit of Directorate was conducted only once (April 2010) during the period covered by audit. A strong IAW could have prevented the occurrence of the kind of irregularities highlighted in this report.

After this was pointed out, the Department did not furnish any reply (October 2016).

8.5 Conclusion

The Performance Audit on the West Bengal State Lotteries showed a number of deficiencies relating to the organisation and monitoring of State Lotteries. The purpose of organisation of State lotteries has not yet been notified by the Department. DSLWB organised lotteries to raise additional revenue. However, the net revenue mobilised through organisation of State Lotteries

was very low compared to the total non-tax revenue of the State and the same was not utilised by the Department for specific development activities as envisaged in the Lotteries (Regulation) Rules, 2010. The Department could not ensure realisation of full amount of revenue from the distributor as per Lotteries (Regulation) Rules, 2010 and their timely credit in the government account due to adoption of improper accounting procedures. The Department also did not have any effective co-ordination system with the other Organising States.

The monitoring mechanism of the Department in respect of other State lotteries was deficient, which resulted in sale of tickets of other State lotteries without payment of charges. Internal control mechanism as well as internal audit system of the Department was inadequate, rendering the whole process of organisation of lotteries mostly inefficient.

8.6 Recommendations

Seventeen States¹²⁴ of India have discontinued the organising of lottery in their territory on account of higher social costs. Considering the insignificant revenue generated in West Bengal from State Lotteries and deficiencies in organisation of State Lotteries stated above, the Government may consider discontinuance of West Bengal State Lotteries in its current form.

Kolkata

(NAMEETA PRASAD)
Accountant General
(Economic and Revenue Sector Audit),
West Bengal

Countersigned

New Delhi

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

¹²⁴ Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Madhya Pradesh, Odhisa, Rajasthan, Tamil Nadu, Telengana, Tripura, Uttar Pradesh and Uttarakhand.

APPENDICES

Appendix-I
Units planned and audited in 2015-16

Category/Nature of Audit	Total number of units	Audit planned	No. of units audited
Value Added Tax			
Sales Tax/VAT units consisting of Corporate Division; DCT; Charge offices; Cess on Petrol, diesel etc. and Check Posts	109	46	46
Other receipts			
State Excise (Receipt cum expenditure)	37	13	13
Stamp Duty and Registration Fees including Non-Judicial Stamp (Receipt cum expenditure)	271	59	59
Motor Vehicles Tax	27	17	17
Amusement Tax	22	8	8
Profession Tax	35	10	10
Land Revenue	22	11	11
Minor Minerals and Mining Receipts	28	14	14
Electricity Duty	21	6	6
Departmental Receipts	1	0	0
Total	573	184	184

Appendix-II

Loss of excise revenue due to absence of provision for time limit for approval of change in management

(₹ in lakh)

Sl. No.	Name of the SE/ Collector of excise	Premises for which application was made	Date of application for change in management	Date of approval of change in management	Delay in approval	Fee payable (Both the licensed premises) (₹)	Fee paid on approval for trade premises only (₹)	Loss of excise revenue (₹)
1.	SE, Jalpaiguri	FL Bonded Warehouse and FL Trade Warehouse	20-11-2013	10-02-2015 (only trade warehouse)	14 months	3.75 (Panchayet Area)	1.50	2.25
2.	SE, Darjeeling	Do	12-12-2012	04-03-2015 (only trade warehouse)	26 months	10.50 (Siliguri Municipal Corporation)	4.50	6.00
3.	Collector of Excise Kolkata (South)	Do	16-11-2011	25-07-2014 (only trade warehouse)	19 months	10.50 (Kolkata Municipal Corporation)	6.00 GRN No 19-201415-001917689-1	4.50
Total								12.75

Appendix-III

Short realisation of initial grant fee due to absences of Departmental Mechanism to identify the proper category of hotel

(₹ in lakh)

Name of the Excise District	Declaration of the category of hotel with date	Category considered by the Excise Department	Actual category	Initial Grant Fee/Renewal Fee realisable on (₹/Date)	Initial Grant Fee/ Renewal Fee realised	Short realisation of initial grant fee, renewal fee or late fee (₹)
1.Durgapur Municipal Corporation (DMC), Asansol	Licensee declared on 18-12-12	Below 3 Star Category	3 Star Category with effect from 23-11-2006	3.00 on 23-11-2006	1.75	1.25
-do- (For Additional Bar)	Granted by the Collector of Excise, Asansol on 14-08-14	-do-	-do-	5.00 on 24-09-2014	3.50	1.50
-do-	-do-	-do-	-do-	0.50 only renewal fee	NIL for the year 2015-16	0.50
2. DMC, Asansol	Licensee declared to the authority of Durgapur Steel plant with intimation to SE in 2008.	-do-	3 Star Category with effect from 2008-09	18.00 on 29-09-2010	8.75	9.25
3.Jalpaiguri Municipality, Jalpaiguri. (For Hotel including one additional bar)	Licensee declared on 18-12-12 to the SE during 2011-12 to 2015-16.	Below 3 Star Category	4 Star Category with effect from 2011-12	7.30	5.20	2.10 (as initial grant fee) 10.22 (as late fee)
Total				33.80	19.20	24.83

Appendix-IV
Short production of beer

(₹ in lakh)

Brewery with Excise District	Malt (Kg)	Rice Flakes (Kg)	Sugar (Kg)	Wort Produced (BL)	Wort as per norms (BL)	Short production of wort (BL)	Efficiency (%)	Short production of beer (BL)	Excise Revenue (₹)
Brewery in Hooghly.	50.49	66.03	11.00	704.21	710.90	6.69	94.51	6.33	168.31
Brewery in Nadia.	350.51	166.89	51.23	2,639.39	3,130.38	490.98	95.15	467.17	11,436.33
Total	401.00	232.92	62.23	3,343.60	3,841.28	497.67		473.50	11,604.64

Appendix-V
Issue of beer under bond without realisation of duty

(₹ in lakh)

Brewery with Excise District	Nature of FL	No of bottles	Quantity in BL	No of export passes	Name of the importing state	Non realisation of duty (₹)
Brewery in Hooghly.	Beer	298.95	123.87	1,358	Meghalaya, Sikkim, Tripura, Arunachal Pradesh.	3,279.62
Brewery in Nadia.	Beer	64.22	41.75	721	Meghalaya, Arunachal Pradesh, Assam and Nagaland .	925.43
Total		363.17	165.62	2,079		4,205.05

Appendix-VI
Export of FL including beer at concessional rate

(₹ in lakh)

SE office	Nature of FL	No of bottles	Quantity in BL	No of Passes	Name of the exporting state	CSD/Civil	Excise duty in WB(₹)	Excise duty in importing state(₹)	Short-realisation of excise duty (₹)
SE, Hooghly	Beer	4.69	3.05	34	Jharkhand	Civil	72.91	30.50	42.42
SE, Nadia	Beer	713.38	463.69	4,954	Bihar and Jharkhand	Civil	12,576.90	6,003.04	6,573.86
Total		718.07	466.74	4,988			12,649.81	6,033.53	6,616.28

Appendix-VII
Non-realisation of import pass fee

(₹ in lakh)

SE office	Licensee	Quantum of spirit imported in LPL	No of import Permits	Import Pass fee realisable @₹ 12/LPL	One of the brands in which such imported spirit is used
SE Howrah	Licensee A	7.10	57	85.16	McDowell's No 1 Platinum Select Whiskey
SE Hooghly	Licensee B	7.58	48	91.01	Signature Rare Aged Whiskey
	Licensee C	5.86	34	70.35	Signature Royal Stag Classic Whiskey
	Licensee D	0.84	19	10.03	Officer's Choice Blue Rare Grain Whiskey
	Licensee E	0.26	5	3.09	8 PM whiskey
SE Jalpaiguri	Licensee F	2.25	22	26.95	Mc Dowell's No 1 Reserve Whiskey
SE Asansol	Licensee G	5.37	51	64.41	Signature Rare Aged Whiskey
Total		29.25	236	351.00	

Appendix-VIII

Non-realisation of fee due to non-application for de-bonding of old stock of IMFL

(₹ in lakh)

SE Office	Brand name of the FL and Measures.	Month/Year of manufacture.	Quantity in BL.	12 month expired in the Month/year	Date application for de-bonding the same	Date of de-bonding	Delay in de-bonding	Fee @ ₹ 3 per BL per day realisable (₹)
SE Asansol A bonded warehouse	Magic Moment Orange Vodka 375 and 180 ML	10/11	1,050.48	10/2012	Not applied	12-01-2013	01-11-2012 to 11-01-2013 = 416 days	12.79
SE, Asansol An IMFL Plant	Gold Medal Whisky 750 ML	02-02-2012	4,266.00	02/2013	28-01-2014 for re-processing	From 28-02-2014 re-processed.	01-03-2013 to 27-01-2014 = 333 days	42.62
	Do-750 and 180 ML	03-02-2012	2,508.48	Do	-Do-	-Do-	01-03-2013 to 27-01-2014 = 333 days	25.06
	-Do-375 and 180 ML	01-04-2012	22,671.72	04/2013	-Do-	-Do-	01-05-2013 to 27-01-2014 = 272 days	185.00
	-Do- 375 ML	02-05-2012	8,172.00	05/2013	-Do-	-Do-	01-06-2013 to 27-01-2014 = 242 days	59.33
	-Do- 750 375 and 180 ML	02-11-2012	20,898.36	11/2013	-Do-	-Do-	01-12-2013 to 27-01-2014 = 58 days	36.36
	Gold Medal Rum 750, 375 and 180 ML	02-03-2012	9,376.56	03/2013	-Do-	-Do-	01-04-2013 to 27-01-2014 = 302 days	84.95
	-Do-	01-05-2012	30,573.00	05/2013	-Do-	-Do-	01-06-2013 to 27-01-2014 = 242 days	221.96

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SE Office	Brand name of the FL and Measures.	Month/Year of manufacture.	Quantity in BL	12 month expired in the Month/year	Date application for de-bonding the same	Date of de-bonding	Delay in de-bonding	Fee @ ₹ 3 per BL per day realisable (₹)
	Haywards Fine Whiskey 500 and 180 ML	02-05-2012	10,147.20	05/2013	-Do-	-Do-	01-06-2013 to 27-01-2014= 242 days	73.67
	Heyward XXX Rum 500 and 180 ML	01-04-2012	2,956.80	04/2013	-Do-	-Do-	01-05-2013 to 27-01-2014= 272 days	24.13
	-Do- 1000, 500 and 180 ML	02-05-2012	25,883.16	05/2013	-Do-	-Do-	01-06-2013 to 27-01-2014= 242 days	187.91
	-Do- 500 and 180 ML	03-05-2012	23,541.60	05/2013	-Do-	-Do-	01-06-2013 to 27-01-2014= 242 days	170.91
SE Asansol, An IMFL Plant	Cariba Rum 375 and 180 ML	Dec 2011	14,196.60	12/2012	Applied for re-processing on 11-07-2013	Re-processed after 19-09-2013	01-01-2013 to 10-07-2013 = 191 days	81.35
SE Asansol, A Bonded Warehouse	Arctic Plain Vodka 750 ML	08/2011	40.50	08/2013	Not applied	De-bonded vide requisition and TP No 367 dt 31-03-2014	01-09-2013 to 30-03-2014= 212 days	0.26
	-Do-	03/2012	2,362.50	03/2013	-Do-	-Do-	01-06-2013 to 30-03-2014= 364 days	25.80
	-Do- 180 ML	08/2011	486.00	08/2013	-Do-	-Do-	01-09-2013 to 30-03-2014= 211 days	3.08
	Arctic Orange Vodka 180 ML	08/2011	25.92	08/2013	-Do-	-Do-	01-09-2013 to 30-03-2014= 211 days	0.16
	-Do- 750 ML	03/2012	526.50	03/2013	-Do-	-Do-	01-04-2013 to 30-03-2014= 364 days	5.75
	Arctic Apple Vodka 180 ML	08/2011	38.88	08/2012	-Do-	-Do-	01-09-2012 to 30-03-2014= 211 days	0.25
	-Do- 750 ML	03/2012	648.00	03/2013	-Do-	-Do-	01-04-2013 to 30-03-2014= 364 days	7.08
	Sikkim XXX Prize Rum 180 ML	02/2012	4,665.60	02/2013	-Do-	-Do-	01-03-2013 to 30-03-2014= 395 days	55.29
SE Darjeeling, A Bonded Warehouse	Heyward Fine Whiskey and 500 ML	04/2012	1,608	April 2013	Applied for reprocessing 12-05-2014	28.01.2014	01.05.2013 to 27.01.2014= 272 days	13.12
	-Do- and 180 ML	04/2012	2,782.08	April 2013	Applied for reprocessing 12-05-2014	28.01.2014	01.05.2013 to 27.01.2014= 272 days	22.70
	Gold Medel Whiskey	04/2012	72	April 2013	Applied for reprocessing 12-05-2014	28.01.2014	01.05.2013 to 27.01.2014= 272 days	0.59
Total			1,89,497.94					1,340.12

Appendix-IX
Other cases of non-compliance

Name of the office	Number of cases/ licensees	Relevant Provisions	Non-compliance	Results of non-compliance	Response of the Department (November 2016)/ Audit's view
SE, South 24 Parganas	One	Rule 28(A) and 38A of the Consolidated Rules framed under section 86 of BE Act, 1909 as amended	Stock taking was not done, Storage and Transit wastage were not determined during 2010-11 to 2014-15.	Total transaction of CS, wastage therein and wastage fee could not be ascertained.	There is no provision for stock taking of the duty paid warehouse. <i>Department did not consider the provisions of Rules quoted by Audit.</i>
SE, South 24 Parganas	One	Rule 13(B) (3) of the Consolidated Rules framed under Section 86 of the BE Act 1909	Consignment wise actual yield of alcohol from grains used was not considered for calculation of short production.	Collection of fee at the rate of ₹ 15.00 per LPL chargeable on the short quantity of Rectified Spirit produced per consignment could not be ascertained.	No reply.
SE, Jalpaiguri	Three	Rule 22 of the West Bengal Excise (CS) Rules 2010	Samples of produced CS had not been sent for determination of true strength and fitness for human consumption	Quantum of spirit issued on bottled CS and realisation of duty could not be ascertained in all cases.	No specific reply.
SE, Jalpaiguri	One	Rule 38 of the Consolidated Rules Made Under Section 86 of the BE Act, 1909	Annual stock taking for the year 2013-14 was not conducted.	Excess handling wastage and subsequent realisation of wastage fee could not be ascertained.	Annual stock taking for the year 2013-14 of the licensee was done in April 2014. <i>No documents found on record during audit.</i>
SE, Asansol	One	Rule 22 of the West Bengal Excise (CS) Rules 2010	Samples of produced CS had not been sent for determination of true strength and fitness for human consumption	Quantum of spirit issued on bottle CS and realisation of duty could not be ascertained.	Samples were being sent to the CE, WB from December 2015.
SE, Asansol	One	Rule 139 and 141 of the West Bengal Excise (FL) Rules 1998	Batch Nos. and manufacturing date of FL were not mentioned in Requisition forms and Transport passes issued in March 2014.	Legal sources of FL could not be ascertained	Missing of Batch No. and manufacturing date was an inadvertent clerical mistake.
SE, Darjeeling	One	Rule 22 of the West Bengal Excise (CS) Rules 2010	No action was taken on the Chemical Examiner's report showing excess strength of alcohol in bottled CS	Loss of revenue due to non-levy of duty on excess strength of alcohol.	Steps had been taken to make the process regular.
SE, Malda	One	Rule 38 of the Consolidated Rules made under Section 86 of the Bengal Excise Act, 1909	Annual stock taking for the year 2010-11 to 2014-15 and quarterly stock taking for the 3 rd quarter of 2011-12, 1 st , 2 nd , 3 rd quarter of 2012-13, 2 nd quarter of 2013-14 were not conducted.	Excess handling wastage and subsequent realisation of wastage fee could not be ascertained.	Non-specific reply.
SE, Murshidabad	One	Paragraph 8 as inserted vide Notification No 01-Exc dated 16-04-2008 of the West Bengal Molasses Control (Regulation, Storage and Transport) Notified Order 1986	Annual stock taking for the years 2010-11 to 2014-15 was not conducted for determination of actual consumption of molasses.	Whether the licensee actually used the molasses could not be ascertained	Action has been taken and stock taking started from the year 2015-16.
SE, Murshidabad	One	Rule 28(A) and 38A of the Consolidated Rules framed under section 86 of BE Act, 1909 as amended	Stock taking for the year 2010-11 to 2014-15 was not conducted.	Total transaction of CS, wastage therein and payable wastage fee could not be ascertained	There is no provision for stock taking of the duty paid warehouse. <i>Department did not consider the provisions of Rules quoted by Audit.</i>

GLOSSARY

Glossary of Abbreviations

Abbreviation	Full form
AA	Assessing Authority
AC	Air Conditioned
ADM	Additional District Magistrate
ADSR	Additional District Sub-Registrar
AG	Accountant General
ARA	Additional Registrar of Assurance
ARTO	Additional Regional Transport Officer
BE Act	Bengal Excise Act
BIL	Bata India Limited
BL	Bulk Litre
BL&LRO	Block Land and Land Reforms Officer
BPDR Act	Bengal Public Demands Recovery Act
C&I Department	Commerce and Industries Department
CAG	Comptroller and Auditor General of India
CAIT	Commissioner of Agricultural Income Tax
CCT	Commissioner of Commercial Taxes
CEL	Chemical Examination Laboratory
CF	Certificate of Fitness
CMV Rules	Central Motor Vehicles Rules
CORD	Computerisation of Registration of Documents
CS	Country Spirit
CST Act	Central Sales Tax Act
CTO	Commercial Tax Officer
CTP	Contractual Transfer Price
DAIT	Directorate of Agricultural Income Tax
DCT	Directorate of Commercial Taxes
DEC	Deputy Excise Collector
DI	Directorate of Industries
DIGR	Deputy Inspector General of Registration
DL&LRO	District Land and Land Reforms Officer
DLR&S	Director of Land Records and Surveys

DMM	Director of Mines and Minerals
DP	Draft Paragraph
DR	District Registrar
DSLWB	Directorate of State Lotteries, West Bengal
DSR	District Sub-Registrar
EC	Eligibility Certificate
EC	Excise Commissioner
FL	Foreign Liquor
FLA Collector	First Land Acquisition Collector
GVW	Gross Vehicle Weight
HBS	High Bouquet Spirit
I&WD	Irrigation & Waterways Department
IAW	Internal Audit Wing
IGF	Initial Grant Fee
IGR	Inspector General of Registration
IGR&CSR	Inspector General of Registration & Commissioner of Stamp Revenue
IMFL	India Made Foreign Liquor
IR	Inspection Report
IR Act	Indian Registration Act
IS Act	Indian Stamp Act
ITC	Input Tax Credit
JCSR	Joint Commissioner of Stamp Revenue
JIGR	Joint Inspector General of Registration
L&LR Department	Land and Land Reforms Department
LLDPE	Linear Low Density Polyethylene
LPL	London Proof Litre
LRC	Land and Land Reforms Commissioner
LTU	Large Taxpayers Unit
MMDR Act	Mines and Minerals (Development and Regulation) Act
MRP	Maximum Retail Price
MT	Metric Ton
MV	Motor Vehicles

NHAI	National Highway Authority of India
NIC	National Informatics Centre
PA	Performance Audit
PAC	Public Accounts Committee
PCB	Pollution Control Board
PVD	Public Vehicles Department
RA	Registering Authority
RC	Registration Certificate
RS	Rectified Spirit
RDPL	Riverbank Developers Private Limited
RTA	Regional Transport Authority
RTO	Regional Transport Office
SCN	Show Cause Notice
SE	Superintendent of Excise
SDL&LRO	Sub-divisional Land and Land Reforms Officer
SJDA	Siliguri Jalpaiguri Development Authority
SR	State Register
Sr. JCCT	Senior Joint Commissioner of Commercial Taxes
STA	State Transport Authority
STDS	Sales Tax Deducted at Source
TCTP	Taxable Contractual Transfer Price
TDR	Tax Demand Register
TDS	Tax Deducted at Source
TOS	Turnover of Sales
TRO	Tax Recovery Officer
VAT	Value Added Tax
WBAT & OTMV Act	West Bengal Additional Tax & One-time Tax on Motor Vehicles Act
WBE (FL) Rules	West Bengal Excise (Foreign Liquor) Rules
WBL&LR Manual	West Bengal Land and Land Reforms Manual
WBLSSPL	West Bengal Lottery Stockists Syndicate Pvt. Ltd.
WBLR Act	West Bengal Land Reforms Act
WBMC	West Bengal Molasses Control
WBMM Rules	West Bengal Minor Minerals Rules

WBMV Rules	West Bengal Motor Vehicles Rules
WBMVT Act	West Bengal Motor Vehicles Tax Act
WBREP Act	West Bengal Rural Employment and Production Act
WBSEDCL	West Bengal State Electricity Distribution Company Limited
WBSL	West Bengal State Lotteries
WBST Act	West Bengal Sales Tax Act
WBT Rules	West Bengal Treasury Rules
WBTIDCL	West Bengal Transport Infrastructure Development Corporation Limited
WBVAT Act	West Bengal Value Added Tax Act

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