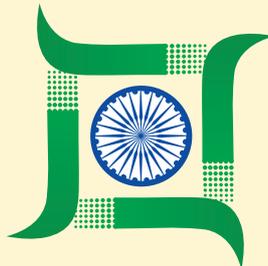




सत्यमेव जयते

**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector**

**for the year ended 31 March 2017**



झारखण्ड सरकार

**Government of Jharkhand**  
*Report No. 1 of the year 2018*



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Comptroller and Auditor General of India  
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Revenue Sector  
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## PREFACE

This Report of the Comptroller and Auditor General of India for the year ended March 2017 has been prepared for submission to the Governor of Jharkhand under Article 151 of the Constitution of India.

The Report contains significant findings of audit of Receipts and Expenditure of major revenue earning departments under the Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2016-17 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 2016-17 have also been included, wherever necessary.

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

The Report contains the following significant findings:

1. Budget estimates prepared by the concerned administrative departments were unilaterally increased in meetings chaired by the Chief Secretary/ Finance Department without assigning reasons, resulting in wide variations between the budget estimates and actual receipts of tax and non-tax revenues.
2. Failure of concerned departments to respond to 851 Inspection Reports issued between 2008-2017 resulted in non-realisation of potential revenues of as much as ₹ 12,985.32 crore.
3. The efficiency of tax-collection from sales, trade etc., (constituting 79 per cent of tax revenues) by Jharkhand in 2015-16 and 2016-17 is higher than neighbouring States and the all-India average. Similarly, the efficiency of collection of mining receipts (constituting 77 per cent of non-tax revenues) by Jharkhand is higher than neighbouring States.
4. Shortage of manpower in critical cadres in Commercial Taxes (51.37 per cent), Mines and Geology (58.52 per cent), Transport (66.53 per cent), and Excise and Prohibition (74.10 per cent) Departments affected the performance of these departments.
5. Failure of departmental officers to cross-verify the returns filed by assesseees/ lessees with other records available with the department itself and records available with Central/ State Government departments resulted in underassessment of revenues amounting to ₹ 475.72 crore (Commercial Taxes Department), ₹ 133.42 crore (Mines and Geology Department) and ₹ 7.73 crore (Registration Department).
6. Non-levy of penalty of ₹ 213.32 crore for extraction in excess of quantity permitted in the environmental clearance certificate/ permission from Pollution Control Board.
7. Non-prescription of a comprehensive checklist for finalisation of assessment by the Commercial Taxes Department, led to concealment of

sale/ purchase by 108 dealers which was not detected by the assessing authorities resulting in underassessment of tax and penalty of ₹ 405.37 crore.

8. *VAHAN* software in Transport Department suffered from deficient mapping of provisions of Act and Rules leading to levy of tax from date of registration instead of date of possession of vehicles and transport vehicles (ambulances) were registered as non-transport vehicles, and input control deficiencies in registered laden weight field.
9. Mineral resources (constituting 77 per cent of non-tax revenues) of Jharkhand continued to be exploited on *ad hoc* basis without a State Mineral Policy.
10. The Mining Department, without enquiring about the source of procurement of minerals, accepted an amount of ₹ 777. 69 crore, deducted and transferred by Works divisions during 2011-16 from the bills of contractors for non-submission of Forms 'O' and 'P' required to be submitted to ascertain the source of procurement of minerals consumed.

**Impact of Audit:**

- In response to audit observations highlighted in this Report, the departments have effected recovery of ₹ 8.19 crore (Excise and Prohibition Department) and ₹ 88.06 lakh (Transport Department); Transport Department has rectified input control deficiencies in *VAHAN* software.
- The Mines and Geology Department has effected recovery of ₹ 448.41 crore against the audit observations that had featured in the previous Audit Report of 2015-16.

# OVERVIEW



## OVERVIEW

This Report contains a Performance Audit on “Mining Receipts in Jharkhand State”, an audit on “Implementation of Value Added Tax and preparedness of the Department for Goods and Services Tax” and 15 paragraphs relating to taxes on sales, trade etc., state excise, taxes on vehicles, stamps and registration fees and taxes and duties on electricity. The total financial implication of the Report is ₹ 1,651.44 crore which constitutes 8.85 *per cent* of tax and non-tax revenue of the year 2016-17. Out of the above, the concerned departments accepted audit observations involving ₹ 1,586.57 crore (96.07 *per cent* of observations). Some of the major findings are summarised below:

### I. General

The total receipts of the Government of Jharkhand for the year 2016-17 were ₹ 47,053.93 crore. The revenue raised by the State Government was ₹ 18,650.66 crore (39.64 *per cent* of the total receipts). The share of receipts from the Government of India amounting to ₹ 28,403.27 crore (60.36 *per cent* of the total receipts) comprised of State’s share of divisible Union taxes of ₹ 19,141.92 crore (40.68 *per cent* of the total receipts) and grants-in-aid of ₹ 9,261.35 crore (19.68 *per cent* of the total receipts). The State’s share in central taxes after the implementation of the 14<sup>th</sup> Finance Commission has increased. There was an increasing trend in the tax revenue collected by the State. Till 2014-15, both the State’s own tax revenue and the State’s share in central taxes increased at the same rate. From 2015-16 onwards, the State’s share in central taxes increased at a faster rate than the State’s own taxes. Audit observed that the wide variations between the budget estimates and actual receipts were due to the Finance Department unilaterally increasing the estimates of the Administrative departments without assigning reasons.

**Audit recommends that the Finance Department may use the inputs provided by the Administrative departments while finalizing the budget estimates and record written reasons for deviations.**

(Paragraph 1.2)

Arrears of revenue as on 31 March 2017 in respect of taxes on sales, trade etc., taxes on vehicles and state excise amounted to ₹ 4,455.53 crore, of which ₹ 2,200.92 crore was outstanding for more than five years.

**Audit recommends that departments may create a database of outstanding arrears and introduce a mechanism to monitor the progress of arrears and to assess the reasons for accumulation of arrears.**

(Paragraph 1.3)

### II. Taxes on sales, trade etc.

An audit on “Implementation of Value Added Tax and preparedness of the Department for Goods and Services Tax” revealed the following:

- The acute shortage of officers (42.37 *per cent*) and supporting staff (54.97 *per cent*) severely affected the performance of the Commercial Taxes Department, resulting in 31,187 assessments pending finalisation as on 31 March 2017.

**Audit recommends that the Government may expedite the recruitment process and focus on legacy issues relating to the Value Added Tax regime so that pending assessments and recovery of arrears do not become time barred.**

**(Paragraph 2.2.8 and 2.2.13)**

- Concealment of sales/ purchase turnover of ₹ 1,306.34 crore was not detected due to non-formulation of a comprehensive checklist for finalisation of assessment, leading to under assessment of tax of ₹ 405.37 crore including penalty of ₹ 270.26 crore in the case of 108 dealers registered in 24 commercial taxes circles.

**Audit recommends that the Department may comply with the orders of the Chief Secretary, prepare a comprehensive checklist for scrutiny of returns applicable in both, Value Added Tax and Goods and Services Tax regimes, and enforce their use by assessing authorities in the scrutiny of returns.**

**(Paragraph 2.2.15.1)**

- Non-formulation of norms by the Commercial Taxes Department for scrutiny of returns led to incorrect determination of taxable turnover of ₹ 418.11 crore and consequential under assessment of tax of ₹ 41.71 crore in respect of 27 dealers/ contractors for the period 2010-11 and 2012-13.

**Audit recommends that the Department may direct assessing authorities not to rely merely on the returns filed by dealers when determining gross turnover/ taxable turnover, but to cross verify the returns using all relevant documents and records available with them/ furnished to them. The Department may also issue norms for verification of records in this regard.**

**(Paragraph 2.2.15.2)**

- Failure of the Department to evolve a mechanism to check allowance of incorrect exemption allowed by assessing authorities resulted in under assessment of tax of ₹ 15.43 crore in the case of 64 dealers/ contractors for the period 2010-11 to 2013-14.

**Audit recommends that the Department may formulate a mechanism to prevent large scale irregular allowance of exemptions that are contrary to the Act.**

**(Paragraph 2.2.15.3)**

- Short levy of tax of ₹ 14.71 crore due to incorrect classification of goods resulted in application of incorrect rate of tax in case of 27 dealers registered in 14 commercial taxes circles.

**Audit recommends that the Department may correctly classify commodities in the schedules appended to the Act.**

**(Paragraph 2.2.15.4)**

- Failure of the Department to introduce a procedure to levy interest, as per the Act, on the tax assessed due to disallowance of exempted/ concessional turnover, resulted in non-levy of interest of ₹ 142 crore on 62 dealers registered in 19 commercial taxes circles.

**Audit recommends that the Department may issue instructions to levy interest on disallowed exemptions/ concessions or incorrect adjustment of input tax credit.**

**(Paragraph 2.2.15.7)**

- Cross verification of data from different Central/ State Government Departments with the assessment records of the 87 dealers/ contractors led to detection of suppression of turnover of ₹ 2,311.95 crore between 2010-11 and 2015-16 and consequent under assessment of tax of ₹ 474.37 crore including penalty of ₹ 343.46 crore.

**Audit recommends that the Department may consider proposing appropriate amendments to the Jharkhand Goods and Services Tax Act to constitute a Bureau of Investigation or Enforcement wing. The Department may also evolve a mechanism for collection of data from different departments of Central/ State Government/ Public Sector Undertakings etc., and their cross verification with the turnover of the dealers under the Jharkhand Goods and Services Tax Act.**

**(Paragraph 2.2.17)**

### **III. State excise**

The Government was deprived of excise revenue of ₹ 79.72 crore due to non-settlement of 111 shops for the period 2015-16 in four excise districts.

**(Paragraph 3.5)**

Absence of system for periodical monitoring of lifting of liquor against minimum guaranteed quota, by the Department, in 12 excise districts, resulted in short lifting of liquor by 695 vendors during 2015-16 and consequential non-levy of penalty equivalent to loss of excise duty of ₹ 23.20 crore.

**Audit recommends that the Department may introduce a mechanism to ensure that revenue loss arising out of short lifting of minimum guaranteed quota is minimised.**

**(Paragraph 3.6)**

### **IV. Taxes on vehicles**

Non-raising of demands, inadequate functioning of enforcement wing and weak internal controls led to non-realisation of tax and penalty of ₹ 57.73 crore from 14,604 defaulting vehicles, for the period between January 2011 and March 2017 in 17 transport offices.

**(Paragraphs 4.4)**

Input control deficiencies in VAHAN software led to recording of lesser registered laden weight of vehicles resulting in short levy of taxes of ₹ 1.15 crore in District Transport Office, Hazaribag.

**(Paragraphs 4.5)**

Improper mapping of Acts/ Rules in VAHAN software allowed registering of ambulances as personalised vehicles instead of transport vehicles resulting in short levy of tax.

**Audit recommends that the Government should ensure that all vehicles registered as ambulances in the VAHAN database are categorized as transport vehicles and taxed and tested for fitness appropriately. The Department may formulate specifications for different types of ambulances, and tax them appropriately.**

(Paragraphs 4.9)

## **V. Other tax receipts**

### **Stamp duty and registration fees**

Failure of mechanism to ensure that leases are registered on the basis of verification of the average annual royalty projected in the approved mining plan, as required under the law and rules, resulted in incorrect valuation of documents and consequential short levy of stamp duty and registration fees of ₹ 3.85 crore in eight district sub-registrar offices.

**Audit recommends that the Department may introduce a system to ensure that lease deeds are registered on the basis of the average annual royalty projected in the approved mining plan, as required under the law and rules.**

(Paragraph 5.4)

Absence of system for inter-departmental exchange of data/ information resulted in failure to ensure presentation of documents relating to two toll contracts and leases executed by circle offices and local bodies for registration and consequential non-levy of stamp duty and registration fee of ₹ 3.88 crore in eight district sub-registrar offices.

**Audit recommends that the Department may introduce a mechanism (preferably electronic) to ensure that data/ information relating to lease of government property (including tolls) is shared by all departments, so that there is no leakage of revenue through failure to register documents.**

(Paragraph 5.5)

### **Taxes and duties on electricity**

Failure of the assessing authorities to levy higher electricity duty on mining activity in terms of the amended Act, and failure of the Department to introduce software applications to implement its orders to make e-filing of taxes mandatory, resulted in short levy of electricity duty of ₹ 2.12 crore and interest of ₹ 3.36 crore in four commercial taxes circles.

**Audit recommends that the Department may suitably instruct the assessing authorities to levy electricity duty on mining activity at higher rates in terms of amended Jharkhand Electricity Duty Act and immediately develop the software application required to make e-filing of returns mandatory.**

(Paragraph 5.8)

## VI. Mining receipts

The Performance Audit on “Mining Receipts in Jharkhand State” contained the following observations:

- More than 30 minerals *viz.*, coal, iron ore, bauxite, copper, lime stone, kyanite, quartz, mica, graphite, building stone etc., are found in Jharkhand and constitute 40 *per cent* of India’s total mineral resources. Mining receipts constitute the second largest receipts of the State and ranged between 24 and 27 *per cent* of the total receipts during last five years.

(Paragraph 6.2.1)

- The State Government is yet to finalise a State Mineral Policy, seven years after the Government of India circulated a model policy. Consequently, the mineral resources of the State continued to be exploited on *ad hoc* basis.

(Paragraph 6.2.10)

- Significant shortage of District Mining Officers/ Assistant Mining Officers (59 *per cent*), Mining Inspectors (48 *per cent*) and other supporting staff (61 *per cent*) coupled with inadequate inspections by the departmental higher officers and negligible frequency of internal audits rendered internal control systems of the department inefficient, resulting in recurrence of irregularities.

(Paragraph 6.2.11)

- The Department failed to perform the annual assessment of lessee records as required under the Rules. Only 42 records were assessed out of 6,359 assessable during 2011-12 to 2015-16. Assessment of 1,350 records pertaining to the period 2011-12, became time barred due to failure to fill up vacancies in critical cadres.

(Paragraph 6.2.11.2)

- Failure of departmental officers to verify the current price notified by Coal India Limited and Indian Bureau of Mines on coal and iron ore respectively, and the Jharkhand Minor Mineral Concession Rules on royalty on stone resulted in loss of revenue of ₹ 6.65 crore in eight leases due to application of incorrect rate of royalty on despatch of 4.17 lakh MT of coal and iron ore and 4.81 lakh m<sup>3</sup> of stone during 2015-16.

**Audit recommends that the Department may initiate measures to ensure that departmental officers verify the current prices notified by Coal India Limited and Indian Bureau of Mines on coal and iron ore respectively, and the Jharkhand Minor Mineral Concession Rules on royalty on stone.**

(Paragraph 6.2.11.3)

- Failure of the mining officer to cross verify monthly returns filed by the lessee with data/ information of the Commercial Taxes Department resulted in undervaluation of basic sale value of by-product of washed coal and short levy of royalty of ₹ 56.85 crore and interest thereon of ₹ 13.64 crore.

**Audit recommends that the Department should ensure that District Mining Officers invariably cross verify the data/ information of other**

**departments/ organisations with the data/ information available in the Mining Department to detect such cases of leakage of revenue.**

**(Paragraph 6.2.12.1)**

- The Mining Department, without enquiring about the source of procurement of minerals, accepted an amount of ₹ 777.69 crore, deducted and transferred by Works divisions during 2011-16 from the bills of contractors for non-submission of Forms 'O' and 'P' required to be submitted to ascertain the source of procurement of minerals consumed.

**Audit recommends that the Department may coordinate with the Works Department to ensure submission of Forms 'O' and 'P' so that minerals are not procured by works contractors through illegal sources.**

**(Paragraph 6.2.13.2)**

- Absence of system to restrict extraction of mineral to the quantity permitted in environmental clearance led to non-levy of penalty equal to price of mineral amounting to ₹ 212.57 crore for excess extraction of 29.97 lakh MT of coal over the quantity permitted in environmental clearance noticed in District Mining Office, Chatra.

**Audit recommends that the Department should ensure that no mineral is extracted in excess of limits prescribed in the environment clearance certificate.**

**(Paragraph 6.2.14.1)**

# **CHAPTER-I**

## **GENERAL**



## CHAPTER – I: GENERAL

### 1.1 Introduction

This chapter presents the overview of trend of receipts raised by the Government of Jharkhand and arrears of taxes pending collection against the backdrop of audit findings.

### 1.2 Trend of receipts

**1.2.1** The tax and non-tax revenue raised by the Government of Jharkhand, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during 2016-17 and the corresponding figures for the preceding four years are presented in **Table – 1.1**.

**Table – 1.1**  
**Trend of revenue receipts**

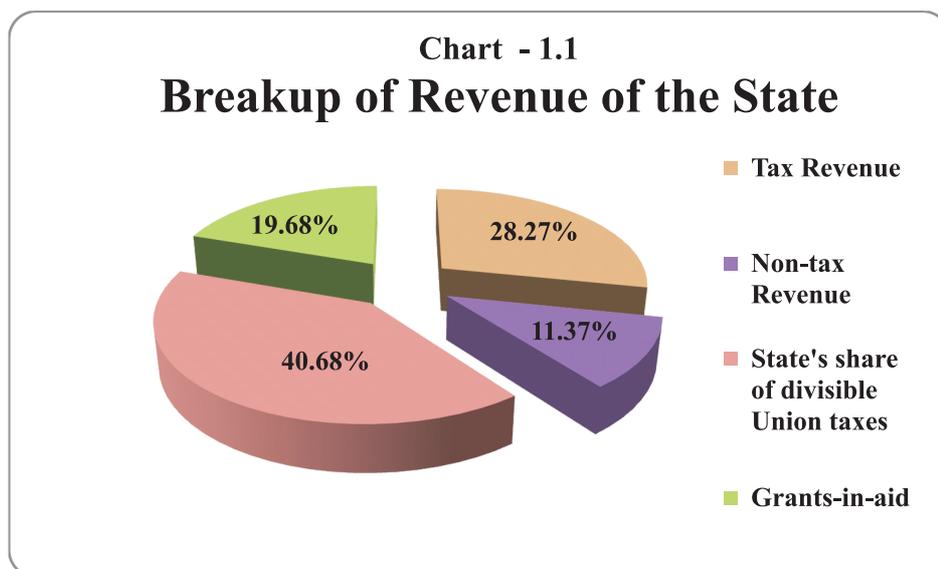
		(₹ in crore)				
		2012-13	2013-14	2014-15	2015-16	2016-17
<b>1</b>	<b>Revenues raised by the State Government</b>					
	• Tax revenue	8,223.67	9,379.79	10,349.81	11,478.95	13,299.25
	• Non-tax revenue	3,535.63	3,752.71	4,335.06	5,853.01	5,351.41
	<b>Total</b>	<b>11,759.30</b>	<b>13,132.50</b>	<b>14,684.87</b>	<b>17,331.96</b>	<b>18,650.66</b>
<b>2</b>	<b>Receipts from the Government of India</b>					
	• State's share of divisible Union taxes	8,188.05	8,939.32	9,487.01	15,968.75	19,141.92 <sup>1</sup>
	• Grants-in-aid	4,822.20	4,064.97	7,392.68	7,337.64	9,261.35
	<b>Total</b>	<b>13,010.25</b>	<b>13,004.29</b>	<b>16,879.69</b>	<b>23,306.39</b>	<b>28,403.27</b>
<b>3</b>	<b>Total receipts of the State Government (1 &amp; 2)</b>	<b>24,769.55</b>	<b>26,136.79</b>	<b>31,564.56</b>	<b>40,638.35</b>	<b>47,053.93</b>
<b>4</b>	<b>Percentage of 1 to 3</b>	<b>47</b>	<b>50</b>	<b>47</b>	<b>43</b>	<b>40</b>

Source: Finance Accounts of the Government of Jharkhand.

The State's share in central taxes increased after the implementation (from 2015-16) of the recommendations of the 14<sup>th</sup> Finance Commission to increase the State's share by 10 *per cent* (from 32 to 42 *per cent*).

The breakup of revenue receipts of the State for the year 2016-17 in terms of percentage is shown in **Chart - 1.1**.

<sup>1</sup> For details, please see Statement No. 14 - Detailed statement of revenue and capital receipts by minor heads in the Finance Accounts of the Government for the year 2016-17. Figures under the major heads 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0028 - Other taxes on income and expenditure (except Minor Head - 107- Taxes on Professions, Trades, Callings and Employments), 0032 - Taxes on wealth, 0044 - Service tax, 0037 - Customs, 0038 - Union excise duties and 0045 - Other taxes and duties on commodities and services- Minor Head - 901 - Share of net proceeds assigned to State booked in the Finance Accounts under "A-Tax revenue" have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.



**1.2.2** Details of tax revenue raised during the period 2012-13 to 2016-17 are given in **Table - 1.2**.

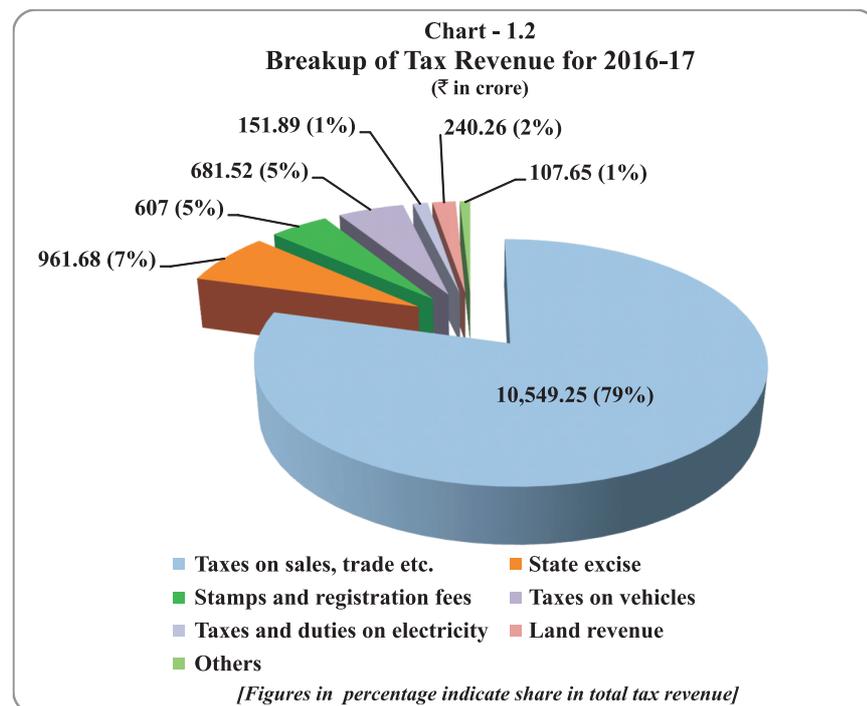
**Table – 1.2**  
**Details of Tax Revenue**

(₹ in crore)

Sl. No.	Head of revenue		2012-13	2013-14	2014-15	2015-16	2016-17	Percentage of increase (+) or decrease (-) in 2016-17 over 2015-16
1	Taxes on sales, trade etc.	BE	6,650.00	7,874.50	9,267.95	11,180.02	12,703.00	(+) 13.62
		Actual	6,421.61	7,305.08	8,069.72	8,998.95	10,549.25	(+) 17.23
2	State excise	BE	650.00	700.00	1,931.84	1,200.00	1,500.00	(+) 25.00
		Actual	577.92	627.93	740.16	912.47	961.68	(+) 5.39
3	Stamps and registration fees	BE	490.00	568.00	680.48	800.00	900.00	(+) 12.50
		Actual	492.40	502.61	530.67	531.64	607.00	(+) 14.18
4	Taxes on vehicles	BE	550.00	639.40	836.33	900.76	1,100.00	(+) 22.12
		Actual	465.36	494.79	660.37	632.59	681.52	(+) 7.73
5	Taxes and duties on electricity	BE	142.00	161.00	193.82	200.00	250.00	(+) 25.00
		Actual	110.72	145.79	175.40	125.68	151.89	(+) 20.85
6	Land revenue	BE	82.00	95.00	300.14	300.00	400.00	(+) 33.33
		Actual	96.38	229.84	83.54	164.35	240.26	(+) 46.19
7	Taxes on goods and passengers - Tax on entry of goods into local areas	BE	20.00	Not fixed	0.15	5.00	7.00	(+) 40.00
		Actual	0.51	1.08	0.28	0.17	0.01	(-) 94.12
8	Other taxes and duties on commodities and services	BE	28.00	34.50	41.91	35.00	40.00	(+) 14.29
		Actual	15.28	22.76	32.57	30.22	39.94	(+) 32.16
9	Taxes on professions, trades, callings and employments	BE	65.00	80.00	61.38	80.00	150.00	(+) 87.50
		Actual	43.49	49.91	57.11	82.88	67.69	(-) 18.33
<b>Total</b>		BE	<b>8,677.00</b>	<b>10,152.40</b>	<b>13,314.00</b>	<b>14,700.78</b>	<b>17,050.00</b>	<b>(+) 15.98</b>
		Actual	<b>8,223.67</b>	<b>9,379.79</b>	<b>10,349.81</b>	<b>11,478.95</b>	<b>13,299.25</b>	<b>(+) 15.86</b>

Source: Finance Accounts of the Government of Jharkhand and revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand.

The breakup of tax revenue for the year 2016-17 is shown in **Chart - 1.2**.



**1.2.3** Details of non-tax revenues raised during the period 2012-13 to 2016-17 are indicated in **Table - 1.3**.

**Table - 1.3**  
**Details of Non-Tax Revenue**

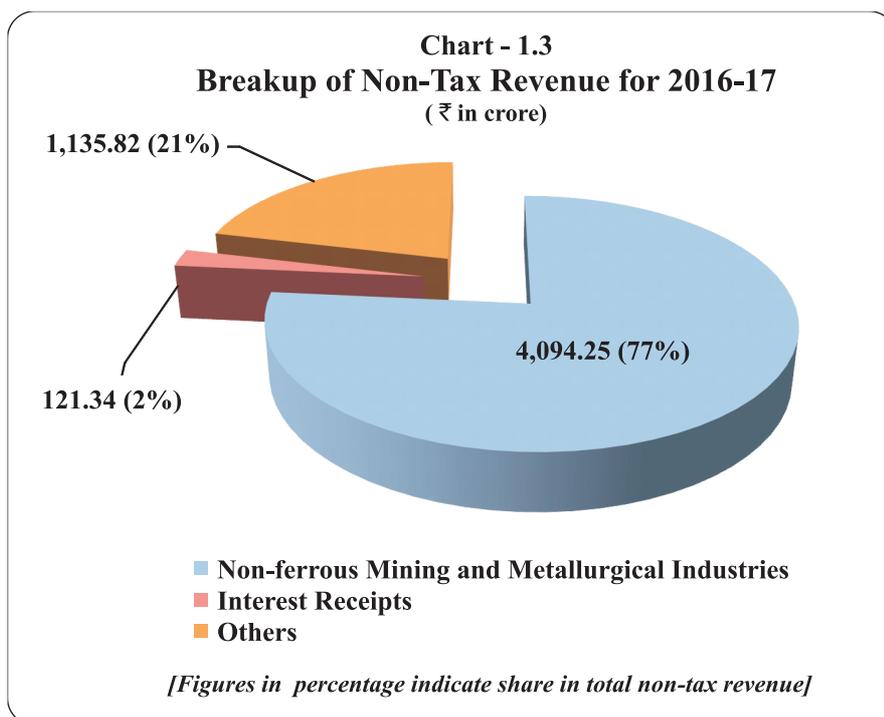
(₹ in crore)

Sl. No.	Head of revenue		2012-13	2013-14	2014-15	2015-16	2016-17	Percentage of increase (+) or decrease (-) in 2016-17 over 2015-16
1	Non-ferrous mining and metallurgical industries	BE	3,209.92	3,500.00	4,699.47	5,500.00	7,050.00	(+) 28.18
		Actual	3,142.47	3,230.22	3,472.99	4,384.43	4,094.25	(-) 6.62
2	Forestry and wild life	BE	4.80	5.25	4.18	10.39	6.00	(-) 42.25
		Actual	4.22	5.17	3.66	4.13	4.48	(+) 8.48
3	Interest receipts	BE	65.00	115.00	243.36	90.00	275.00	(+) 205.56
		Actual	72.23	69.48	143.04	122.44	121.34	(-) 0.90
4	Social security and welfare	BE	19.00	20.00	3.62	10.00	6.00	(-) 40.00
		Actual	20.48	5.24	4.16	3.73	36.79	(+) 886.33
5	Others <sup>2</sup>	BE	542.37	703.40	742.39	693.64	1,088.76	(+) 56.96
		Actual	296.23	442.60	711.21	1,338.28	1,094.55	(-) 18.21
<b>Total</b>		BE	<b>3,841.09</b>	<b>4,343.65</b>	<b>5,693.02</b>	<b>6,304.13</b>	<b>8,425.76</b>	<b>(+) 33.65</b>
		Actual	<b>3,535.63</b>	<b>3,752.71</b>	<b>4,335.06</b>	<b>5,853.01</b>	<b>5,351.41</b>	<b>(-) 8.57</b>

Source: Finance Accounts of the Government of Jharkhand and budget estimates as per the Statement of Revenue and Receipts of Government of Jharkhand.

The breakup of non-tax revenue for the year 2016-17 is shown in **Chart - 1.3**.

<sup>2</sup> Dividend and Profits, Economic Services (excluding non-ferrous mining and metallurgical industries and forestry and wild life), General Services, Other Fiscal Services, Social Services (excluding social security and welfare).



Audit noted the continually wide variations between budget estimates prepared by the Finance Department and actual revenues (Tables 1.2 and 1.3 refer). The Bihar Financial Rules, Vol. I (as adopted by the Government of Jharkhand) stipulate that the Finance Department is required to prepare budget estimates on the basis of details obtained from the Administrative department, which is responsible for the correctness of the material. Audit examination of files of the Administrative and Finance Departments, revealed however, that in violation of the Financial Rules, estimates communicated by the Administrative departments were unilaterally increased during meetings chaired by the Chief Secretary without assigning reasons. Consequently, the estimates are fixed by the Finance Department without considering the actual trend of receipts. This fact has been confirmed by the Administrative Departments.

**Recommendation:**

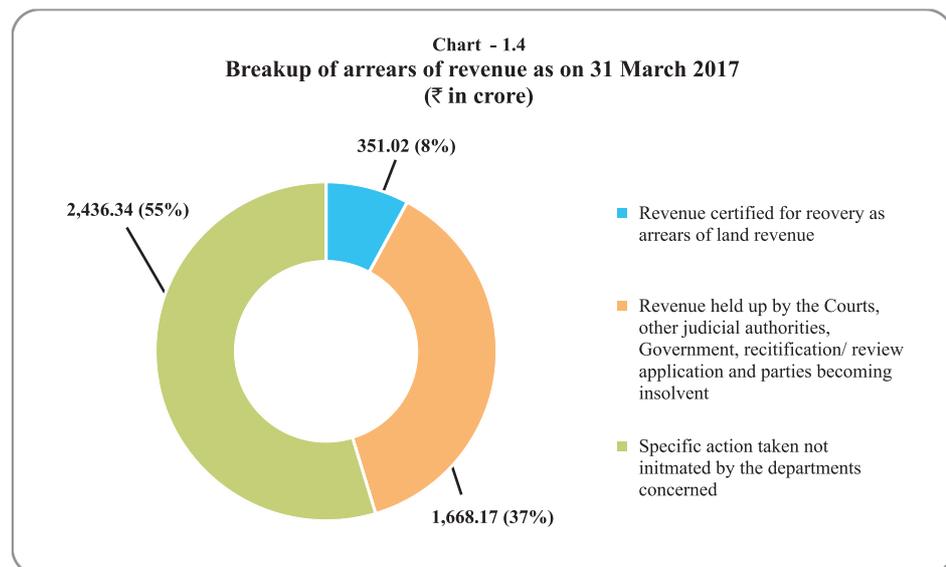
**The Finance Department may use the inputs provided by the Administrative departments while finalizing the budget estimates and record written reasons for deviations.**

**1.3 Analysis of arrears of revenue**

Arrears of revenue as on 31 March 2017 in respect of some principal heads of revenue amounted to ₹ 4,455.53 crore<sup>3</sup>, of which ₹ 2,200.92 crore<sup>4</sup> was outstanding for more than five years. Details as provided by the concerned departments are given in **Chart – 1.4**.

<sup>3</sup> Taxes on Sales, Trade etc.: ₹ 4,154.70 crore; Taxes on Vehicles: ₹ 270.27 crore; State Excise: ₹ 30.56 crore.

<sup>4</sup> Taxes on Sales, Trade etc.: ₹ 2,020.87 crore; Taxes on Vehicles: ₹ 169.05 crore; State Excise: ₹ 11.00 crore.



Audit examined the files and records of departments concerned to ascertain the reasons for pendency in collection of arrears. The departments intimated pendency at different stages, but individual records relating to outstanding arrears were not produced to Audit for examination. Audit, however, test checked the arrears of revenue of ₹ 919.71 crore out of ₹ 2,396.26 crore of the Commercial Taxes Department involved in other cases in respect of three commercial taxes circles<sup>5</sup>. It was noticed that the accumulation of arrears of revenue was due to cases pending with different appellate authorities for the period 2006-07 to 2013-14.

It was further observed that there was no mechanism to monitor the progress of collection of arrears or to assess reasons for accumulation of arrears. The departments do not have a database of outstanding arrears. Figures of outstanding arrears were compiled each year, at the instance of Audit, from the data furnished by field units. The departments also accepted that there was no system in place to monitor the arrears at department level.

#### **Recommendation:**

**The departments may create a database of outstanding arrears and introduce a mechanism to monitor the progress of arrears and to assess the reasons for accumulation of arrears.**

### **1.4 Follow up on Audit Reports – summarised position**

In terms of the Public Accounts Committee (PAC) notification (December 2002) departments are required to initiate action on the audit paragraphs contained in the Report of the Comptroller and Auditor General of India (CAG) within three months of their laying in the Legislative Assembly, and Government shall submit action taken explanatory notes (ATN) thereon for consideration by the PAC. Significant delays were observed, however, in submission of explanatory notes itself (reply of the departments), with average delays of three months in respect of 144 paragraphs (including performance audit) appearing in the CAG's Revenue Audit Reports for the years ended 31 March 2012, 2013, 2014, 2015 and 2016 placed before the State Legislative

<sup>5</sup> Ranchi East, Ranchi South and Ranchi West.

Assembly between July 2013 and February 2017. Details of pending explanatory notes pertaining to various departments<sup>6</sup> are given in **Table – 1.4**.

**Table - 1.4**

Sl. No.	Audit Report ending on	Date of presentation in the legislature	No. of paragraphs	No. of paragraphs where explanatory notes received	No. of paragraphs where explanatory notes not received
1	31 March 2012	27.07.2013	25	8	17
2	31 March 2013	04.03.2014	27	12	15
3	31 March 2014	26.03.2015	28	20	8
4	31 March 2015	15.03.2016	32	3	29
5	31 March 2016	02.02.2017	32	2	30
<b>Total</b>			<b>144</b>	<b>45</b>	<b>99</b>

Audit examined the files of the departments to ascertain reasons for the same type of irregularities occurring year after year even though these had repeatedly been pointed out by Audit. It was observed that though the departments initiated action for recovery of revenue, corrective measures to prevent persistent irregularities were not addressed by the departments at any level.

The PAC discussed 16 selected paragraphs pertaining to the Audit Reports for the years 2011-12 to 2015-16 and gave its recommendations on five paragraphs and two sub-paragraphs relating to Mines and Geology Department incorporated in the Report (2009-10) on which only one ATN has been received from the Department (September 2016).

**Recommendation:**

**The State government may initiate action to address the shortcomings and system defects pointed out by Audit, to plug the leakage of revenue, and also ensure that all departments promptly prepare ATNs on recommendations of PAC.**

**1.5 Response of the Departments/ Government towards Audit**

On completion of audit of Government departments and offices, Audit issues Inspection Reports (IRs) to the concerned heads of offices, with copies to their superior officers for corrective action and their monitoring. Serious financial irregularities are reported to Heads of the Departments and the Government.

Review of IRs issued for the years 2008-09 to 2016-17 revealed that 8,336 paragraphs relating to 851 IRs remained outstanding at the end of June 2017. The potentially recoverable revenue as brought out in these IRs is as much as ₹ 12,985.32 crore whereas the total revenue collection of the State is ₹ 18,650.66 crore. Department wise details relating to the revenue sector of the State government are given in **Table - 1.5**.

<sup>6</sup> Commercial Taxes (46 paragraphs); State Excise and Prohibition (13 paragraphs); Transport (19 paragraphs); Revenue, Registration and Land Reforms (8 paragraphs) and Mines and Geology (13 paragraphs).

**Table - 1.5**  
**Department-wise details of Inspection Reports**

(₹ in crore)

Sl. No.	Names of Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1	Commercial Taxes	Taxes on sales, trade etc.	212	4,598	6,707.55
		Entry tax	5	5	9.55
		Electricity duty	12	66	100.07
		Entertainment tax etc.	1	2	0.12
2	Excise and Prohibition	State excise	136	738	812.64
3	Revenue and Land Reforms	Land revenue	59	590	3,290.20
4	Transport	Taxes on motor vehicles	155	965	331.02
5	Registration	Stamps and registration fees	125	591	36.59
6	Mines and Geology	Non-ferrous mining and metallurgical industries	146	781	1,697.58
<b>Total</b>			<b>851</b>	<b>8,336</b>	<b>12,985.32</b>

Even the first replies, required to be received from the heads of offices within one month from the date of issue of the IRs, were not received for 147 IRs issued from 2008-09. Department wise details are given in **Table – 1.6** below:

**Table - 1.6**  
**Details of Inspection Reports pending first reply**

(₹ in crore)

Sl. No.	Names of Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1	Commercial Taxes	Taxes on sales, trade etc.	32	701	649.28
		Entry tax	4	4	9.97
		Electricity duty	8	18	16.30
		Entertainment tax etc.	1	1	0.10
2	Excise and Prohibition	State excise	7	67	9.25
3	Revenue and Land Reforms	Land revenue	33	400	2,152.74
4	Transport	Taxes on motor vehicles	31	229	91.82
5	Registration	Stamps and registration fees	13	56	9.68
6	Mines and Geology	Non-ferrous mining and metallurgical industries	18	96	123.75
<b>Total</b>			<b>147</b>	<b>1,572</b>	<b>3,062.89</b>

**Recommendation:**

**The State government may introduce a mechanism to ensure that departmental officers respond to IRs promptly, take corrective action, and work closely with Audit to bring about early settlement of IRs.**

## 1.6 Results of audit

### Position of local audit conducted during the year

The audit covered five departments<sup>7</sup> of the State Government and test checked the records of 132 out of 548 auditable units (24 per cent) relating to taxes on sales, trade etc., state excise, taxes on vehicles, land revenue, stamps and registration fees, taxes and duties on electricity and mining receipts during the year 2016-17. Further, this was a test audit. In five departments revenue of ₹ 15,460.08 crore was collected during 2015-16, out of which the 132 audited units collected ₹ 14,772.58 crore (96 per cent). In the 132 audited units, records were test checked on the basis of turnover/ tax payments and cross-verification of data collected from other departments which revealed under-assessment/ short levy/ loss of revenue aggregating ₹ 2,487.73 crore (17 per cent of revenue collected by units) in 29,688 cases. The departments concerned accepted under assessment and other deficiencies of ₹ 1,817.84 crore (73 per cent) in 26,662 cases pointed out by audit. The Departments effected recovery of ₹ 9.51 crore in 507 cases.

#### Recommendation:

**The State may evolve a mechanism to ensure that departments recover all under-assessments/ short levies pointed out by Audit and accepted by the departments.**

## 1.7 Coverage of this Report

This Report contains 15 selected paragraphs from the local audits conducted during the year and those of earlier years which could not be included in the previous reports, a Performance Audit on “**Mining Receipts in Jharkhand State**” and an audit on “**Implementation of Value Added Tax and preparedness of the Department for Goods and Services Tax**”, involving financial effect of ₹ 1,651.44 crore.

Most of the audit observations are of a nature that may reflect similar errors/ omissions in other units of the State Government departments, but not covered in the test audit.

The Departments/ Government may therefore like to internally examine all the other units by them with a view to ensuring that they are functioning as per requirement and rules.

The Department/ Government have accepted audit observations involving ₹ 1,586.57 crore and recovered ₹ 9.22 crore. These are discussed in succeeding Chapters II to VI.

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<sup>7</sup> Commercial Taxes, Excise and Prohibition, Transport, Revenue, Registration and Land Reforms and Mines and Geology.

**CHAPTER-II**

**TAXES ON SALES,  
TRADE ETC.**



## CHAPTER-II: TAXES ON SALES, TRADE ETC.

### 2.1 Results of audit

During 2016-17, Audit test checked the records of 27<sup>1</sup> out of 44 auditable units (61 *per cent*) of the Commercial Taxes Department. The Department collected ₹ 8,998.95 crore revenue during 2015-16 of which the audited units collected ₹ 8,829.90 crore (98 *per cent*). Audit identified irregularities amounting to ₹ 1,780.30 crore in 750 cases (of which ₹ 452.77 crore involving 67 cases relates to three commercial taxes circles<sup>2</sup>) as detailed in **Table –2.1**.

**Table – 2.1**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)	Share in <i>per cent</i> to the total objected amount
1	<b>Implementation of Value Added Tax and preparedness of the Department for Goods and Services Tax</b>	1	1,020.95	57.35
2	Non/ short levy of tax due to suppression of turnover	239	258.30	14.51
3	Non/ short levy of interest	189	68.30	3.83
4	Short levy of tax due to incorrect determination of turnover	53	146.65	8.24
5	Irregular allowance of exemption from tax	72	33.43	1.88
6	Irregular/ incorrect allowance of input tax credit	72	12.51	0.70
7	Application of incorrect rate of tax	51	127.06	7.14
8	Other cases	73	113.10	6.35
<b>Total</b>		<b>750</b>	<b>1,780.30</b>	

The Department accepted under assessment and other deficiencies of ₹ 1,096.27 crore in 120 cases pointed out by Audit and recovered ₹ 17 lakh in 14 cases.

This chapter discusses 113 cases worth ₹ 1,105 crore including an audit on **“Implementation of Value Added Tax and preparedness of the Department for Goods and Services Tax”** having financial implication of ₹ 1,020.95 crore. Some of these irregularities continue to persist, despite similar cases having been repeatedly reported during the last five years as detailed in **Table – 2.2**.

<sup>1</sup> Offices of Deputy Commissioner of Commercial Taxes/ Assistant Commissioner of Commercial Taxes, Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahibganj, Singhbhum and Tenughat and Commissioner, Commercial Taxes, Ranchi.

<sup>2</sup> Offices of Deputy Commissioner of Commercial Taxes, Adityapur, Jamshedpur and Ramgarh.

**Table – 2.2**

(₹ in crore)

Nature of observations	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount								
Non registration of dealers	-	-	21	1.13	21	12.57	70	4.84	277	37.65	389	56.19
Concealment of sale/purchase turnover	22	72.64	28	245.11	44	222.28	69	169.03	18	284.10	181	993.16
Incorrect determination of gross turnover	1	0.19	6	13.51	9	30.95	24	11.43	18	10.22	58	66.30
Incorrect allowance of exemption	1	0.06	1	0.59	74	30.00	33	44.72	14	11.57	123	86.94
Excess allowance of input tax credit	6	1.04	5	27.71	16	2.35	28	6.05	11	4.47	66	41.62
Application of incorrect rate of tax	19	24.17	5	1.11	51	37.76	22	6.96	22	15.44	119	85.44
Non-levy of purchase tax	-	-	-	-	-	-	2	0.96	2	0.44	4	1.40
Non-levy of penalty for excess collection of tax	-	-	-	-	-	-	4	33.80	-	-	4	33.80
Mistakes in computation	3	2.71	2	0.06	8	0.53	3	0.62	-	-	16	3.92
Non-levy of interest on disallowed exemption/concessions	-	-	13	5.64	46	60.02	52	72.58	19	119.92	130	258.16
Results of cross verification	-	-	6	11.72	175	257.87	33	47.28	131	1,173.11	345	1,489.98

The repetitive nature of irregularities makes it evident that the State Government and the Commercial Taxes Department have taken no measures to address the persistent irregularities pointed out year after year by Audit.

**Recommendation:**

**The State Government may initiate measures to address the irregularities to avoid their repetition year after year.**

**2.2 Implementation of Value Added Tax and preparedness of the Department for Goods and Services Tax**

**2.2.1 Introduction**

The Government of Jharkhand repealed the Jharkhand Finance Act 2001 and enacted the Jharkhand Value Added Tax (JVAT) Act effective from 1 April 2006. The Value Added Tax system is a destination/ consumption based tax, with provisions to set-off tax paid on the previous purchases, and seeks to address the problems of double taxation, multiplicity of taxes, surcharge, additional sales tax, etc., in the sales tax structure that had cascading tax burden. Under the JVAT Act, the goods were categorised ‘vatable’ and ‘non-vatable’. Vatable goods were mentioned in Schedule II (Part –A, B, C, D & F), and were taxable at different rates. Non-vatable goods were enumerated in Schedule II (Part –E) of the Act.

The Jharkhand Goods and Services Tax (JGST) Act has been implemented with effect from 1 July 2017 after repealing of the JVAT Act 2005. It is also a tax on goods and services with value addition at each stage having comprehensive and continuous chain of set-off mechanisms from the producer’s/ service provider’s point to the retailer’s level where only the final consumer should bear the tax. Under the Goods and Services Tax (compensation to States) Act 2017, the base year revenue for a State shall be the sum of the revenue collected by the State and the local bodies during the base year, on account of the taxes levied by the State and net of refunds, with

respect to the taxes, imposed by the State, which are subsumed into Goods and Services Tax. The compensation under this Act shall be payable to any State during the transition period.

### **2.2.2 Organisational set up**

The levy and collection of Value Added Tax (VAT) and Central Sales Tax are governed by the Jharkhand Value Added Tax (JVAT) Act 2005, the Central Sales Tax (CST) Act 1956 and Rules made thereunder. The Secretary-cum-Commissioner of Commercial Taxes (CCT) is responsible for administration of these Acts and Rules in the Commercial Taxes Department (CTD) and is assisted by an Additional Commissioner and Joint Commissioners of Commercial Taxes (JCCT), Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB), Vigilance and Monitoring, along with other Deputy/ Assistant Commissioners of Commercial Taxes.

The State is divided into five commercial taxes divisions<sup>3</sup>, each under the charge of a Joint Commissioner (Administration) and 28 circles<sup>4</sup>, each under the charge of a Deputy/ Assistant Commissioner of Commercial Taxes (DCCT/ACCT). The DCCT/ ACCT of the circle, who is responsible for levy and collection of tax due to the Government, besides survey, is assisted by Commercial Taxes Officers. A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of headquarters in each division.

Under the Goods and Services Tax (GST) regime, there is no change in the organisational set-up, except change in designations from Commercial Taxes to State Tax.

### **2.2.3 Audit objectives**

Audit was conducted with a view to ascertain and evaluate:

- compliance to the provisions of the JVAT Act and Rules made thereunder in safeguarding the revenue of the State;
- adequacy and effectiveness of the system and procedure in place to ensure the correctness of the assessment, levy and collection of VAT in implementation of value added scheme;
- adequacy and effectiveness of internal control mechanism in preventing any leakage of revenue; and
- preparedness of the State for GST.

### **2.2.4 Audit criteria**

- Jharkhand Value Added Tax Act 2005;
- Jharkhand Value Added Tax Rules 2006;
- Notifications/ instructions issued by CCT from time to time; and

<sup>3</sup> Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Pargana.

<sup>4</sup> Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahibganj, Singhbhum and Tenughat.

- Records related to GST and Goods and Services Tax Network (GSTN) at CCT office.

### 2.2.5 Audit scope and coverage

The audit, covered the assessments/ scrutiny of returns/ records done during the period 2012-13 to 2016-17 and was conducted between November 2016 and July 2017. Fifteen commercial taxes circles<sup>5</sup> covering 85.94 per cent of total revenue of the State were selected, out of 28 circles, using simple random sampling without replacement method on the basis of revenue generated during the period 2011-12 to 2015-16 by each circle categorizing them into high<sup>6</sup>, medium<sup>7</sup> and low<sup>8</sup> risks. Besides, similar observations noticed during compliance audit in other commercial taxes circles were also included.

### 2.2.6 Audit methodology

- Entry and Exit conferences were held, on 29 March and 26 September 2017 respectively, with the Principal Secretary-cum-Commissioner of Commercial Taxes Department, Jharkhand in which the audit objectives, scope and methodology, findings, conclusion and recommendations were discussed in detail. The response of the Government/ Department has been suitably incorporated in the Report.
- Scrutiny of top 200 assessed records of each circle were selected on the basis of turnover/ tax payments maintained in the selected commercial taxes circles for verifying compliance under JVAT Act/ Rules.
- Scrutiny of periodical returns, VAT Audit Report in Form JVAT-409, utilisation certificates of declarations in Form 'C' and 'F' utilisation of road permits in JVAT-504G and 504B, declarations in Form JVAT-404 for input tax credit, Form-JVAT-506 for intra-State branch transfer and Form JVAT-400 for tax deducted at source.
- Analysis of role of Bureau of Investigation (IB) in levy and collection of VAT.
- Data collected from the following departments/ offices was cross verified with the records of CTD:

Sl. No.	Names of the Departments	Data/ Information procured for cross-verification
1	Directorate of Systems, Central Excise and Customs, New Delhi	CIF <sup>9</sup> value of goods imported by the dealers of Jharkhand from outside the country.
2	Director General, Central Excise Intelligence, Jamshedpur	Demand notice issued for concealed central excise duty to the manufacturers detected during raids.

<sup>5</sup> Adityapur, Bokaro, Chaibasa, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi West, Singhbhum and Tenughat.

<sup>6</sup> ₹ 2,000 crore and above.

<sup>7</sup> Between ₹ 400 crore and ₹ 2,000 crore.

<sup>8</sup> Below ₹ 400 crore.

<sup>9</sup> Cost, insurance and freight charges.

Sl. No.	Names of the Departments	Data/ Information procured for cross-verification
3	Women, Child Development and Social Security Department, Government of Jharkhand	Amount received by the suppliers against supply of 'ready to eat' supplementary foods to <i>aanganwadis</i> .
4	Central Excise and Service Tax Department	Half yearly service tax return in Form ST-3 and annual financial statement in Form ER-4 filed in Bokaro Commissionerate.

### 2.2.7 Acknowledgement

The co-operation of the Commercial Taxes Department in providing necessary information and records for audit is acknowledged.

### 2.2.8 Human resources

Overall position of officers and other supporting staff of the CTD as on June 2017 is depicted in **Table – 2.3**.

**Table -2.3**

Nature of the post	Sanctioned strength <sup>10</sup> (SS)	Additional strength <sup>11</sup> assessed by the department	Required strength	Working strength	Shortage (against SS)	Shortage against required strength
Officers	387	135	522	223	164	299
Officials	966	464	1,430	435	531	995
<b>Total</b>	<b>1,353</b>	<b>599</b>	<b>1,952</b>	<b>658</b>	<b>695</b>	<b>1,294</b>

The acute shortage of officers (42.37 per cent) and supporting staff (54.97 per cent) severely affected the performance of the CTD, resulting in 31,187 assessments pending finalisation as on 31 March 2017. The chronic shortage of officers and staff had been pointed out in previous Audit Reports also.

The Finance Department had approved (June 2017) the proposal of CTD (April 2017) for an additional 599 officers and staff for implementation of GST, better tax administration, recovery of arrears and to prevent tax evasion. The proposal is pending with the *prasashi padvarg samiti*<sup>12</sup> (March 2018).

The CTD requisitioned (September 2016) Jharkhand Public Service Commission (JPSC) to recruit 104 CTOs against existing vacancies. The CTD also requisitioned (between January and June 2017) the Department of Personnel, Administrative Reforms & Rajbhasa (DOPAR) for recruitment of 126 LDCs. The DOPAR, in turn, requisitioned (between March and June 2017) Jharkhand Staff Selection Commission (JSSC) for 52 posts of LDC and returned to CTD the request for filling the remaining 74 vacancies, citing the criteria of filling one third of existing vacancies at a time. The matter is pending with JPSC and JSSC.

<sup>10</sup> For implementation of VAT, CST, Entry Tax, Electricity Duty, Luxury Tax, Entertainment Tax and Professional Tax Acts.

<sup>11</sup> For implementation of GST/ Electricity Duty and Professional Tax Acts.

<sup>12</sup> The committee authorized to create posts of different category under the chairmanship of Chief Secretary with Development Commissioner, Jharkhand, Additional Chief Secretary, Planning cum Finance Department, Jharkhand, Principal Secretary, Personnel, Administrative Reforms and Rajbhasa Department, Jharkhand as members.

**Recommendation:**

1. The *prasashi padvarg samiti* may expedite decision on the proposal for the additional 599 posts, duly examining the extent to which introduction of GST would affect the work of the CTD.
2. The JPSC and JSSC may expedite recruitment.

**2.2.9 Internal control mechanism**

The Finance (Audit) Department (FAD) is the internal auditor of the CTD and is required (order of May 1960) to conduct 100 *per cent* audit of all assessments finalised, examining *inter-alia* assessment orders, issue of demand notices, amount of tax collected and verification of deposit of amount in treasury. Audit observed, however, that no internal audit had either been planned for, or conducted, in any of the offices or circles of the CTD over the past five years, primarily because of acute shortage of audit staff (137 vacancies) in the FAD. The FAD had belatedly (November 2017) requisitioned DOPAR for recruitment of 110 senior auditors, which is pending with JSSC (March 2018). Failure to perform internal audit adversely impacts the performance of the CTD through under assessments and under recoveries of tax and may result in failure to check instances of corruption, fraud and misappropriation in the CTD.

**2.2.10 Trend of revenue**

Details of budget estimates (BEs) and actual receipts of the Commercial Taxes Department in respect of VAT/ CST during the period 2012-13 to 2016-17 are given in **Table – 2.4**.

**Table- 2.4**

Year	BEs proposed by CTD (₹ in crore)	BEs fixed by Finance Department (₹ in crore)	Actual receipts (₹ in crore)	Shortfall (-) (₹ in crore)	Percentage of variation
2012-13	6,650.00	6,650.00	6,421.61	(-) 228.39	(-) 3.43
2013-14	7,762.00	7,874.50	7,305.08	(-) 569.42	(-) 7.23
2014-15	8,753.00	9,267.95	8,069.72	(-) 1,198.23	(-) 12.93
2015-16	9,674.00	11,180.02	8,998.95	(-) 2,181.07	(-) 19.51
2016-17	11,647.00	12,702.99	10,549.25	(-) 2,153.74	(-) 16.95

Source: Finance Accounts and the revised estimates as per the statement of revenue and receipts of Government of Jharkhand.

Audit noted the differences between the BEs proposed by the CTD and fixed by the Finance Department, and observed that the estimates of the CTD tended to be more accurate than the estimates of the Finance Department. The Bihar Finance Rules, Vol. I (adopted by the Government of Jharkhand) stipulate that, the Finance Department is responsible for preparing BEs of revenue receipts, based on inputs from the Administrative Departments, who are responsible for the correctness of the material.

Audit examination of the BEs preparation files of the CTD and Finance Department revealed that while the CTD prepared estimates in terms of the procedure contained in the Finance Rules, the basis on which the Finance Department decided to vary from the CTD estimates was not on record.

The CTD attributed (November 2017) the shortfall for the period 2014-15 to 2016-17 to negative growth rate in iron and steel, iron ore, coal, motor parts and low growth rate in petroleum products, tobacco, coal, electronic items and medicines, along with no collection of revenue under entry tax which was declared *ultra vires* by the Apex court; no reasons for shortfall in 2012-13 and 2013-14 were furnished. Audit examination of records found non-implementation of additional resource measures like levy of taxes on sugar, textiles and food grains etc., also contributed to the shortfalls in 2014-15 and 2015-16.

#### Recommendation:

1. **The Finance Department may prepare more realistic estimates, and record on file the reasons for decisions to vary from the estimates of the concerned Administrative Department.**
2. **Finance Department may examine the feasibility of additional resource measures including widening of tax base by bringing new dealers into the tax net.**

#### 2.2.11 Cost of collection

Details of gross collection from taxes on sales, trade etc., by the State and cost of collection by the State and in comparison to neighbouring States, during 2012-13 to 2016-17, are given in **Table-2.5**.

**Table-2.5**

Year	Collection (₹ in crore)	Expenditure on collection of revenue (₹ in crore)	Percentage of expenditure on collection				All-India average percentage of the preceding year
			Jharkhand	Bihar	Chhattisgarh	Odisha	
2012-13	6,421.61	36.50	0.57	0.70	0.54	0.67	0.83
2013-14	7,305.08	47.29	0.65	0.53	0.47	0.73	0.73
2014-15	8,069.72	47.29	0.59	0.70	0.58	0.70	0.88
2015-16	8,998.95	47.39	0.53	0.57	0.57	0.65	0.91
2016-17	10,549.25	49.20	0.47	0.64	0.57	0.75	0.66

Source: Finance Accounts of the Government of Jharkhand, Bihar, Chhattisgarh and Odisha.

The efficiency of tax collection is the highest in Jharkhand for the years 2015-16 and 2016-17 when compared to neighbouring States and the all India average.

#### 2.2.12 Arrears of revenue

During the period 2012-13 to 2016-17, arrears of revenue increased by over 169 *per cent*, whereas recoveries stagnated. This adverse situation can be attributed to the acute shortage of over 42 *per cent* of the officers and of nearly 55 *per cent* supporting staff in the CTD. Details of arrears of revenue are depicted in **Table – 2.6**.

**Table – 2.6**

(₹ in crore)

Period	Opening balance	Addition during the year	Total	Recoveries during the year	Closing balance	Percentage of recovery
2012-13	1,250.72	268.58	1,519.30	402.07	1,117.23	26.46
2013-14	1,117.23	348.41	1,465.64	376.45	1,089.19	25.69
2014-15	1,089.19	589.80	1,678.99	315.99	1,363.00	18.82
2015-16	1,363.00	1,359.27	2,722.27	337.86	2,384.41	12.41
2016-17	2,384.41	1,383.13	3,767.54	406.13	3,361.41 <sup>13</sup>	10.78

Source: Information furnished by Commercial Taxes Department.

Stage wise details of arrears of revenue as on 31 March 2017 as intimated by the department are given in **Table-2.7**.

**Table -2.7**

Sl. No.	Stages of action	Amount (₹ in crore)
1	Demands covered by recovery certificates	292.97
2	Recoveries stayed by high courts and other judicial authorities	916.06
3	Recoveries stayed at Government level	615.35
4	Recoveries held up due to rectification/review of applications	70.44
5	Recoveries held up due to dealer/party becoming insolvent	16.44
6	Amount likely to be written off	41.90
7	Other cases	2,201.54 <sup>14</sup>
<b>Total</b>		<b>4,154.70</b>

The CTD attributed (September 2017) the accumulation of arrears to disallowance of input tax credit under section 18(4) (iii) by assessing authorities with effect from 1 April 2015 in the light of the notification dated 23 September 2015, which revised the effective date to 23 September 2015.

As intimated above, the CTD furnished two different figures for arrears of revenue (₹ 3,361.41 crore and ₹ 4,154.70 crore). The difference has not been reconciled. Audit further test checked the arrears of revenue of ₹ 919.71 crore out of ₹ 2,201.54 crore involved in other cases in respect of three commercial taxes circles<sup>15</sup>, and noticed that the accumulation of arrears of revenue was due to cases pending at the level of different appellate authorities for the period 2006-07 to 2013-14 i.e., prior to the period of issue of the aforesaid notification regarding disallowance of input tax credit. This indicates that the department did not effectively monitor realisation of those arrears that had not been stayed by the judicial authorities.

<sup>13</sup> Figures of closing balance for the year 2016-17 differ from total arrears of revenue (₹ 4,154.70 crore) as on 31 March 2017 by ₹ 793.29 crore as reported by CTD.

<sup>14</sup> Out of ₹ 2,201.54 crore involved in other cases; some illustrative cases are as follows:

Sl. No.	Name of the dealer (M/s)/TIN	Period	Amount involved (₹ in crore)	Remarks
1	Abhijeet Project Ltd/ 20720306092	2010-11 to 2012-13	758.86	Pending with Board for Industrial and Financial Reconstruction (BIFR)
2	Monte Carlo Ltd./ 20370106410	2011-12	34.54	Demand notice have been issued
3	Essar Projects Co. Ltd/ 20820206683	2010-11 to 2012-13	17.73	Recovery under process of hearing.

<sup>15</sup> Ranchi East, Ranchi South and Ranchi West.

### 2.2.13 Arrears in assessments

The acute shortage of officers and staff also increased the arrears in assessments as depicted in **Table-2.8**.

**Table -2.8**

Year	Opening balance	New cases due for assessment	Total assessments due	Cases assessed during the year	Balance at the end of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
2012-13	31,244	58,087	89,331	53,385	35,946	40.24
2013-14	33,505	63,903	97,408	63,519	33,889	34.79
2014-15	37,983	68,303	1,06,286	65,464	40,822	38.41
2015-16	39,652	72,761	1,12,413	64,999	47,414	42.18
2016-17	33,051 <sup>16</sup>	69,075	1,02,126	70,939	31,187	30.54

Source: Commercial Taxes Department, Government of Jharkhand.

The CTD stated (September 2017) that as per notification dated 4 November 2016 the assessment cases of the dealer whose gross turnover is upto ₹ two crore shall be deemed to be assessed. Efforts would be made to segregate high gross turnover cases for early finalization of assessment. However, the department did not furnish any plan to assess the cases having gross turnover above ₹ two crore.

#### **Recommendation:**

**CTD may focus on legacy issues relating to the VAT regime to ensure that pending assessments and recovery of arrears do not become time barred.**

#### **Audit findings**

Audit evaluated the system of implementation of VAT and preparedness for GST and noticed deficiencies in compliance to provisions prescribed in the JVAT Act/Rules that resulted in non-registration of dealers, suppression of turnover, incorrect determination of gross turnover, application of incorrect rate of tax, incorrect allowance of input tax credit (ITC) and non-levy of interest on disallowed exemptions/ concessions having financial implication of ₹ 1,104.65 crore in 432 cases including observation noticed in other circles of CTD. Primary reasons for these irregularities were inherent flaws in the system of finalisation of assessment which were inadvertently utilised by the assessing officers. Audit findings, system lapses and remedial measures are discussed in the following paragraphs.

### 2.2.14 Registration of dealers

The JVAT Act empowers the circles in-charge to conduct surveys of dealers to assess eligible dealers to tax, and levy penalty equivalent to the amount of tax assessed or ₹ 10,000 whichever is greater.

<sup>16</sup> The CTD had previously reported 47,114 cases as closing balance for the year ending 31 March 2016.

### 2.2.14.1 Survey of unregistered dealers

The status of survey and registration of dealers along with additional revenue generated in selected commercial taxes circles during 2012-13 to 2016-17 is given in **Table -2.9**.

**Table- 2.9**

Period	No. of surveys conducted	No. of dealers registered	Additional revenue generated (₹ in lakh)
2012-13	424	194	Nil
2013-14	997	335	Nil
2014-15	1,625	533	3.65
2015-16	727	187	205.77
2016-17	438	142	19.17
<b>Total</b>	<b>4,211</b>	<b>1,391</b>	<b>228.59</b>

Source: Information furnished by the Commercial Taxes Department.

The 1,421 surveys and registration of 529 dealers in 2012-13 and 2013-14, were entirely unfruitful, while the 1,625 surveys and registration of 533 dealers in 2014-15 realised only marginal revenue. Such surveys unnecessarily waste departmental resources, and violate the JVAT Act which stipulates that only dealers who are liable to pay tax should be surveyed.

#### **Recommendation:**

**CTD may issue suitable instructions to ensure that the survey exercise complies with the provisions of the JVAT Act.**

### 2.2.14.2 Works contractors/ dealers not registered

**Non-execution of mechanism of inter/ intra-departmental exchange of data by the assessing authorities resulted in non-levy of tax of ₹ 3.20 crore including penalty in the case of 14 unregistered dealers/ contractors in four commercial taxes circles.**

The JVAT Act prescribes that dealers/ contractors are liable to get themselves registered when their turnover exceeds ₹ 25,000 during twelve consecutive months.

The Audit Reports for the years 2012-13 to 2015-16 had highlighted non-observance of these provisions by dealers and pointed out non-levy of tax of ₹ 56.19 crore on 389 dealers. Consequently, the CTD had directed (May 2015) assessing authorities (AAs) to collect data from treasury, mines and labour departments, banks etc., and cross verify them with the records of the dealers. To evaluate the action taken by the AAs, Audit test checked the assessment records of selected units and noticed that three works contractors in three commercial taxes circles<sup>17</sup> had made payments of ₹ 5.11 crore during 2012-13 to nine sub-contractors. However, as seen from the CTD database, these sub-contractors were not registered by the CTD, even though their turnovers had crossed the threshold limit. Thus, the CTD failed to implement its orders on cross-verification of records resulting in non-levy of tax including penalty of ₹ 1.43 crore on the contractors/ sub-contractors in the test cases selected in audit.

<sup>17</sup> Bokaro, Jamshedpur and Ranchi South.

Similarly, Audit cross-verification of records of the District Mining Office, Hazaribag with those of Hazaribag commercial taxes circle revealed that five lessees who had dispatched/ sold 2.43 lakh m<sup>3</sup> of stone chips valued at ₹ 6.33 crore during the period 2011-12 to 2013-14 were not registered with the CTD resulting in evasion of tax including penalty of ₹ 1.77 crore.

The reply (September 2017) of the State government and CTD did not clarify on why the concerned AAs did not comply with orders to cross-verify records.

**Recommendation:**

**CTD may reiterate its orders to AAs to cross-verify records, including checking tax deducted at source (TDS) details<sup>18</sup> available in CTD's own assessment records.**

### 2.2.15 Non-observance/ compliance of the provisions of Acts/ Rules

The JVAT Act stipulates *cent per cent* scrutiny of returns by the AA. Audit verification of assessment records of Value Added Tax (VAT) revealed several instances of non-scrutiny by AAs, resulting in non-levy of tax amounting to ₹ 625.98 crore from 297 dealers, are discussed in the succeeding paragraphs. It is further observed that the CTD has taken no steps to enforce the provisions of the Act relating to *cent per cent* scrutiny by AAs, despite such irregularities being routinely pointed out by Audit every year.

#### Under assessment of tax

##### 2.2.15.1 Concealment of purchase/ sales turnover

**The Department did not formulate a comprehensive checklist for finalisation of assessments, leading to concealment of actual turnover and consequential under assessment of tax and penalty of ₹ 405.37 crore.**

The JVAT Act empowers AAs to impose penalty equivalent to twice (increased to thrice, from July 2014) the amount of the tax assessed on the turnover concealed by the dealer.

Consequent to successive Audit Reports for the years 2011-12 to 2015-16 highlighting the failure of AAs to effectively scrutinize dealers' returns leading to short levy of tax of ₹ 993.16 crore on 181 dealers, the CTD ordered (May 2015) AAs to ensure non-recurrence of similar type of audit observations. Further, the Chief Secretary also instructed (July and September 2016) the CTD to ascertain the reasons of tax evasion by dealers, and to prepare and issue a checklist to all the circles in order to reduce audit observations. In order to evaluate the action taken by the department, Audit test checked the assessment records of 3,000 dealers out of 54,791 dealers

<sup>18</sup> A certificate in Form JVAT 400, issued by the person to the contractor, evidencing deduction of advance tax from the contractor for execution of works contract during a particular period.

registered in 15 commercial taxes circles<sup>19</sup>. It was noticed that 91 dealers, dealing in various goods<sup>20</sup> had filed their returns for gross purchases/ sales of ₹ 17,075.99 crore for the period from 2011-12 to 2014-15. However, documents available with the department indicated that these dealers had actually purchased/ sold goods valued at ₹ 18,247.02 crore, resulting in non-detection of concealment of turnover of ₹ 1,171.03 crore and consequential under assessment of tax of ₹ 368.73 crore including penalty of ₹ 245.84 crore. It was observed that at the time of assessment (between December 2014 and November 2016), AAs failed to scrutinize the returns with reference to records already available with the CTD, and merely accepted the returns furnished by the dealers owing to the Department not preparing a comprehensive checklist as instructed by the Chief Secretary.

Similar irregularities were also noticed in other nine commercial taxes circles<sup>21</sup>, where 17 dealers had concealed turnover of ₹ 135.31 crore on sale/ purchase of goods for the period 2011-12 to 2013-14 (assessed between March 2015 and July 2016), which resulted in under assessment of tax of ₹ 36.64 crore including penalty of ₹ 24.42 crore.

The CTD accepted (September 2017) the audit observations.

**Recommendation:**

**CTD may comply with the orders of the Chief Secretary, prepare a comprehensive checklist for scrutiny of returns applicable in both, VAT and GST regimes, and enforce their use by AAs in the scrutiny of returns.**

**2.2.15.2 Incorrect determination of gross turnover**

**Non-formulation of norms for scrutiny of records led to incorrect determination of gross turnover by the AAs and resulted in under assessment of tax of ₹ 41.71 crore.**

The JVAT Act defines gross turnover (GTO) as the aggregate of all amounts received and receivable by a selling dealer during any given period, and requires AAs to assess the tax by determining the correct value of GTO on the basis of returns and documents on record.

The Audit Reports for the years 2011-12 to 2015-16 had highlighted the non-observance of the above provisions by the AAs, resulting in under assessment of tax of ₹ 66.30 crore in case of 58 dealers. Consequent to this, the CTD had instructed (May 2015) the AAs to prevent evasion of tax by taking into account the method adopted by Audit. However, the department did not formulate norms for scrutiny of records, resulting in continuation of irregularities, as discussed below.

<sup>19</sup> Adityapur, Bokaro, Chaibasa, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi West, Singhbhum and Tenughat.

<sup>20</sup> Aurvedic medicines, biscuits, cement, chemicals, coal and coke, computer and computer parts etc.

<sup>21</sup> Chirkunda, Deoghar, Godda, Hazaribag, Katras, Koderma, Pakur, Ranchi Special and Sahibganj.

Test check of assessment records of 1,800 dealers out of 25,944 dealers registered in nine commercial taxes circles<sup>22</sup> indicated that the GTO of 24 dealers was determined (between April 2015 and January 2017) as ₹ 3,003.57 crore for the period 2012-13. Audit observed that the AAs had limited their examination to the annual returns filed by the dealers and did not scrutinize other relevant records<sup>23</sup> available with CTD to arrive at the correct value of GTO. Based on cross-verification with these records, Audit estimated that the correct GTO of these 24 dealers was ₹ 3,418.68 crore, resulting in under estimation of GTO by ₹ 415.11 crore, and under assessment of tax of ₹ 41.20 crore by the AAs.

Similarly, Audit scrutiny of records in other three commercial taxes circles<sup>24</sup> revealed that the AAs had determined (between March 2014 and May 2015) the taxable turnover (TTO), of three contractors, for the period 2010-11 and 2012-13, at ₹ 2.57 crore instead of the correct TTO of ₹ 5.57 crore resulting in short determination of TTO by ₹ three crore and consequential under assessment of tax of ₹ 51.44 lakh.

The CTD accepted (September 2017) the audit observations.

#### **Recommendation:**

**CTD may direct AAs not to rely merely on the returns filed by dealers when determining GTO/ TTO, but to cross verify the returns using all relevant documents and records available with them/ furnished to them. The CTD may also issue norms for verification of records in this regard.**

#### **2.2.15.3 Incorrect allowance of exemption**

**Failure of CTD to evolve a mechanism to check allowance of incorrect exemption by AAs resulted in under assessment of tax of ₹ 15.43 crore.**

The JVAT Act stipulates that any trade discount or incentive, whether in terms of quantity in goods or otherwise allowed by dealer, shall be deemed to be a taxable sale. Further, labour costs are to be deducted before determining taxable turnover for works contracts.

The Audit Reports for the years 2011-12 to 2015-16 had highlighted failure of AAs in complying with the above mentioned provisions and consequential grant of incorrect exemptions to 123 dealers, resulting in short levy of tax of ₹ 86.94 crore. The CTD, however, failed to take remedial measures, resulting in continuance of similar lapses/ irregularities as described in the following paragraphs.

Test check of assessment records of 1,400 dealers out of 28,308 dealers registered in seven commercial taxes circles<sup>25</sup>, revealed that the AAs irregularly granted (between July 2014 and May 2016) 16 registered dealers exemption from tax on incentive, trade discount, price difference and subsidy,

<sup>22</sup> Adityapur, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Ranchi East, Ranchi South, Singhbhum and Tenughat.

<sup>23</sup> JVAT 409, road permits in Form 504 B, 504 P, annual report of the company.

<sup>24</sup> Chirkunda, Hazaribag and Sahibganj.

<sup>25</sup> Giridih, Jamshedpur, Palamu, Ranchi East, Ranchi South, Ranchi West and Singhbhum.

rebate, service charge, loss etc., amounting to ₹ 35 crore resulting in under assessment of tax of ₹ 5.53 crore for the period 2011-12 to 2013-14.

Replying (September 2017) to the audit observation, the CTD tried to justify these exemptions, which however, cannot be accepted since these are contrary to the provisions of the Act.

Test check of assessment records of 1,800 dealers out of 31,552 dealers registered in nine commercial taxes circles<sup>26</sup> revealed that the AAs irregularly allowed (between February 2015 and April 2016) excess exemption on labour charges for the period 2012-13 to 2013-14 to 14 contractors, resulting in under assessment of tax of ₹ 5.75 crore. Similar test check of assessment records in six commercial taxes circles<sup>27</sup> revealed that the AAs had irregularly allowed (between October 2013 and March 2016) exemption of ₹ 35.01 crore during 2010-11 to 2013-14 to 34 assesseees when the allowable exemption for labour charges was ₹ 5.27 crore. This resulted in allowance of excess exemption of ₹ 29.74 crore and consequential under assessment of tax of ₹ 4.15 crore.

The CTD accepted (September 2017) the audit observations.

**Recommendation:**

**CTD may formulate a mechanism to prevent large scale irregular allowance of exemptions that are contrary to the Act.**

**2.2.15.4 Application of incorrect rate of tax**

**The AAs levied tax at incorrect rate on sale of bus/ tipper bodies, soap, paints, auto parts, excavator parts, extra neutral alcohol, biscuits etc., resulting in short levy of tax of ₹ 14.71 crore.**

The JVAT Act 2005 and schedules appended thereunder, prescribes levy of tax on bus/ truck bodies, soap, paints, excavator parts, biscuits etc., at the rate of 14 *per cent* and motor parts at the rate of 10 *per cent*. It has been judicially held<sup>28</sup> that the bus/ tipper body forms an integral part of a motor vehicle.

The Audit Reports for the year 2011-12 to 2015-16 had highlighted application of incorrect rates of tax by the AAs resulting in under assessment of tax of ₹ 85.44 crore in case of 119 dealers. Consequent to this the CTD had instructed (August 2015) the AAs to furnish action taken reports. However, the department did not take specific action to prevent recurrence of incorrect application of rates resulting in continuation of irregularities as discussed below.

Test check of assessment records of 2,000 dealers out of 30,641 dealers registered in 10 commercial taxes circles<sup>29</sup> indicated that the AAs levied tax (between January 2015 and March 2016) of ₹ 15.10 crore in case of 21 dealers

<sup>26</sup> Adityapur, Giridih, Jamshedpur, Jamshedpur Urban, Palamu, Ramgarh, Ranchi East, Ranchi South and Ranchi West.

<sup>27</sup> Deoghar, Dumka, Godda, Pakur, Ranchi Special and Sahibganj.

<sup>28</sup> Apex court judgment in case of Annpurna Carbon Industries Co. vs. State of Andhra Pradesh [1976] 37 STC 378(SC) & Ambala Coach Builders vs. State of Haryana & others [1977] 39 STC 44 PH.

<sup>29</sup> Adityapur, Chaibasa, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Palamu, Ranchi South and Tenughat.

instead of correct amount of ₹ 26.17 crore for the period between 2011-12 and 2013-14 due to application of incorrect rate of tax. Details are given in **Table-2.10**.

**Table- 2.10**

(₹ in crore)

Sl. No.	Names of the circles No. of dealers	Commodities	Value of commodities	Rate of tax leviable levied (in percentage)	Short levy of tax
1	<u>Adityapur</u> Three	Tipper/ bus body	94.77	$\frac{14}{10}$	3.79
2	<u>Jamshedpur</u> Three	Motor/ auto parts	60.38	$\frac{10}{5}$	3.02
3	<u>Jamshedpur</u> One	Excavator parts	3.53	$\frac{14}{10}$	0.14
4	Adityapur, Dhanbad Urban, Jamshedpur, Palamu, Ranchi <u>South and Tenughat</u> Nine	Works contract	41.32	$\frac{14}{5}$	3.72
5	Chaibasa, Giridih, <u>Jamshedpur</u> Three	Biscuits, explosives, paints	3.74	$\frac{14}{5}$	0.34
6	<u>Jamshedpur Urban</u> One	Platinum	0.08	$\frac{14}{1}$	0.01
7	<u>Dhanbad</u> One	Biscuits, soap, snacks etc.	0.48	$\frac{14}{0}$	0.05
<b>Total</b>			<b>204.30</b>		<b>11.07</b>

The leakage of revenue occurred due to incorrect classification of goods falling under Schedule-II Part-D (taxable at the rate of 14 *per cent*) to Part- B (taxable at the rate of five *per cent*). This resulted in under assessment of tax of ₹ 11.07 crore.

Audit further noticed similar irregularities in four other commercial taxes circles<sup>30</sup> where the AAs levied (between January 2015 and March 2016) tax of ₹ 2.76 crore, in the case of six dealers, at the rate of five and 14 *per cent* on sale of motor cycle, extra neutral alcohol or disallowed turnover of labour charges instead of ₹ 6.40 crore at the rate of 14 and 20 *per cent* as per the schedule of rates. This resulted in under assessment of tax of ₹ 3.64 crore.

The CTD accepted (September 2017) the audit observations.

**Recommendation:**

**CTD may correctly classify commodities in the schedules appended to the Act.**

<sup>30</sup> Chirkunda, Dumka, Koderma and Ranchi Special.

### 2.2.15.5 Irregularities in grant of input tax credit

**The AAs allowed dealers to wrongly claim input tax credit of ₹ 4.51 crore.**

The JVAT Act 2005 and the JVAT Rules 2006 provides for allowing input tax credit (ITC) to a registered purchasing dealer on tax paid by him in the State on production of Form JVAT-404<sup>31</sup> issued by the preceding selling dealer. ITC is proportionately allowed in case of stock transfer of goods outside the State. However, no ITC is admissible on inter-State sale to unregistered dealers, goods disposed otherwise than by way of sale or where the value of taxable sale is less than five *per cent* of GTO.

The Audit Reports for the years 2011-12 to 2015-16 had highlighted the short levy of tax of ₹ 41.62 crore in case of 66 dealers, due to failure of the AAs to observe the above provisions. Though, the State Government has assured (August 2015) that remedial measures would be taken, the CTD did not take any appropriate action, resulting in continuance of similar lapses/ irregularities as described below.

Audit test checked the assessment records of 2,200 dealers out of 35,895 dealers registered in 11 commercial taxes circles<sup>32</sup> and noted that, the AAs had allowed (between September 2015 and July 2016) 26 dealers to adjust ITC of ₹ 43.12 crore for the period between 2012-13 and 2014-15. Audit observed, however, that the AAs had irregularly allowed ITC for ineligible categories like sale to unregistered dealers, inter/ intra State stock transfer, job work, loss and where taxable sale is less than five *per cent* of the turnover etc., resulting in allowance of excess ITC of ₹ 3.36 crore.

Audit further noticed similar irregularities in four other commercial taxes circles<sup>33</sup>, where the AAs had allowed (between March 2015 and March 2016), eight dealers to adjust ITC of ₹ 9.32 crore for the period between 2012-13 and 2013-14. However, these dealers were actually entitled to ITC amounting to ₹ 8.17 crore only. This resulted in allowance of excess ITC of ₹ 1.15 crore.

The CTD accepted (September 2017) the audit observations.

#### **Recommendation:**

**CTD may take effective steps to ensure that AAs are educated about the different categories eligible and ineligible for ITC.**

### 2.2.15.6 Mistakes in computation of tax

**The AAs levied tax of ₹ 128.49 crore instead of ₹ 130.74 crore due to arithmetical mistakes which resulted in short levy of tax of ₹ 2.25 crore.**

The Audit Reports for the years 2011-12 to 2014-15 had highlighted the short levy of tax of ₹ 3.92 crore on 16 dealers due to mistakes in computation.

<sup>31</sup> Form of declarations required to prove tax paid within the State on purchase point for availing ITC.

<sup>32</sup> Bokaro, Chaibasa, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi South, Ranchi West and Singhbhum.

<sup>33</sup> Godda, Hazaribag, Katras and Pakur.

Consequent to this, the CTD assured (August 2015) corrective action. The CTD, however, did not take corrective measures resulting in continuance of similar lapses/ irregularities as described below.

Test check of assessment records of 1,000 dealers out of 17,081 dealers registered in five commercial taxes circles<sup>34</sup> revealed that the AAs levied (between May 2014 and March 2016) tax of ₹ 128.49 crore, instead of correct amount of ₹ 129.86 crore in case of six dealers for the period between 2011-12 and 2012-13 due to mistakes in computation. This resulted in short levy of tax of ₹ 1.37 crore.

Audit further noticed similar irregularities in the commercial taxes circle, Ranchi Special, where, the AA did not levy (February 2016) tax at the rate of two *per cent* amounting to ₹ 87.80 lakh on inter-State sale of ₹ 43.90 crore for the period 2012-13.

The CTD accepted (September 2017) the audit observations and instructed the AAs to initiate recovery on cases where demand notice has been issued.

**Recommendation:**

**CTD may evolve a mechanism to check the arithmetical accuracy of tax calculation at the time of finalization of assessment.**

**2.2.15.7 Non-levy of interest on disallowed exemptions and concessions**

**The Department failed to introduce a procedure to levy interest, as per the Act, on the tax assessed due to disallowance of exempted/ concessional turnover. As a result, AAs of 19 circles did not levy interest of ₹ 142 crore on 62 dealers.**

The JVAT Act 2005 provides for levy of simple interest at two *per cent* per month when the AAs disallow input tax credit, exemptions, deductions and any other concessions or rebates not supported by requisite evidence.

The Audit Reports for the years 2012-13 to 2015-16, highlighted non levy of interest amounting to ₹ 258.16 crore on 130 dealers on disallowed concessions/ exemptions. Following the department's assurance (August 2015) to take corrective action, Audit test checked the assessment records of 2,400 dealers out of 36,067 dealers registered in 12 commercial taxes circles<sup>35</sup>, and found that though the AAs disallowed (between March 2015 and October 2016) claims of 50 dealers for exemptions, concessions and adjustment of ITC of ₹ 1,369.08 crore for the period 2011-12 to 2013-14, the AAs failed to levy penal interest amounting to ₹ 111.17 crore on the disallowed claims. It was observed that the levy of interest on disallowed exemptions, concessions or incorrect adjustment of ITC in course of assessment was not being levied uniformly in all commercial taxes circles.

<sup>34</sup> Dhanbad Urban, Giridih, Jamshedpur Urban, Ranchi South and Ranchi West.

<sup>35</sup> Adityapur, Bokaro, Chaibasa, Dhanbad, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South, Ranchi West, Singhbhum and Tenughat.

Similar test check of records in seven commercial taxes circles<sup>36</sup> revealed that though the AAs disallowed (between January 2015 and January 2017) claims of 12 dealers for exemptions on turnover valued at ₹ 5,911.78 crore for the periods 2012-13 and 2013-14, the AAs failed to levy penal interest amounting to ₹ 30.83 crore.

The CTD accepted (September 2017) the audit observation and assured to take appropriate action.

**Recommendation:**

**CTD may issue instructions to levy interest on disallowed exemptions/ concessions or incorrect adjustment of ITC.**

**2.2.16 Working of Bureau of Investigation**

The JVAT Act 2005 provides for a Bureau of Investigation (IB) to function under the control and supervision of the CCT. In terms of CCT orders (August 2009), each division of the IB is required to:

- Verify the additional place of business and their entries in the registration certificate for the dealers making inter-State stock transfers, collect data regarding purchases/ imports made by big manufacturers from State/ Central undertakings, railway godowns, transporters and commercial banks.
- Obtain the data of purchase/ receipt in respect of big manufacturers/ undertakings/ dealers and cross-verify the same with their returns in order to check the evasion/ avoidance of tax.
- Submit working plans to CCT for all inspections to be carried out on monthly basis.

Work done by the IB for the period 2012-13 to 2016-17 furnished by five divisional IBs<sup>37</sup> is depicted in **Table-2.11**.

**Table-2.11**

Names of the divisions	Period	No. of dealers of whom data/ information collected	No. of dealers of whom data/ information were cross verified	Additional revenue generated (₹ in lakh)	Remarks
Dhanbad	2012-13 to 2016-17	Nil	Nil	Nil	
Hazaribag	2012-13 to 2016-17	Nil	Nil	Nil	
Jamshedpur	2012-13	30	05	33.25	Cross verification of data collected by the IB was not done as these dealers were not registered in the divisions.
	2013-14	27	02	1.32	
	2014-15	68	43	0.21	
	2015-16	18	07	14.00	
	2016-17	25	07	6.53	
Ranchi	2012-13	83	83	19.98	
	2013-14	306	132	149.28	
	2014-15	434	434	87.08	

<sup>36</sup> Chirkunda, Deoghar, Hazaribag, Jharia, Katras, Koderma and Ranchi Special.

<sup>37</sup> Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Pargana.

**Table-2.11**

Names of the divisions	Period	No. of dealers of whom data/ information collected	No. of dealers of whom data/ information were cross verified	Additional revenue generated (₹ in lakh)	Remarks
	2015-16	82	82	97.08	
	2016-17	113	37	42.66	
Santhal Pargana	2012-13 to 2016-17	Nil	Nil	Nil	
<b>Total</b>		<b>1,186</b>	<b>832</b>	<b>451.39</b>	

Audit found that the officers and staff posted to the Dhanbad, Hazaribag and Santhal Pargana IBs had been diverted to check posts, resulting in non-performance of these three divisional IBs. Audit further found that none of the divisional IBs submitted working plans on inspections to the CCT as required; nor did they conduct inspections; and the CCT did not insist on these or issue instructions in this regard.

**Recommendation:**

1. CTD may ensure that the divisional IBs are fully manned so that these IBs can perform as per their mandate.
2. CTD may instruct the JCCTs to ensure that divisional IBs carry out regular inspections and for this purpose, submit working plans.

**2.2.17 Results of cross-verification**

**Failure of IB to cross-verify dealer returns with other databases**

The Audit Reports for the years 2012-13 to 2015-16 had highlighted non-execution of the work of data collection and their cross verification with the assessment records maintained in the circle, by the IB resulting in non-detection of actual turnover in case of 345 dealers and consequent short levy of tax of ₹ 1,489.98 crore. Following the Government/ Department assurance (August 2016) to take appropriate action, and to evaluate the efficiency of IB, Audit collected data from different Central/ State Government departments and cross-verified with the records/ returns of 234 dealers in CTD and found leakage of revenue of ₹ 474.37 crore as discussed in succeeding paragraphs:

(i) Cross verification of records of 11 commercial taxes circles,<sup>38</sup> with data/ information obtained from Central Government departments<sup>39</sup> revealed that though 44 dealers had shown turnover of ₹ 1,075.31 crore during the period between 2010-11 and 2014-15 (assessed between July 2012 and March 2017), their actual turnover as seen from related data was ₹ 1,681.05 crore, resulting in concealment of turnover of ₹ 605.74 crore and under assessment of tax and penalty of ₹ 122.23 crore.

<sup>38</sup> Adityapur, Bokaro, Giridih, Hazaribag, Jamshedpur, Jamshedpur Urban, Ranchi East, Ranchi South, Ranchi Special, Ranchi West and Singhbhum.

<sup>39</sup> Directorate of Systems, Central Excise and Customs, New Delhi, Directorate General of Goods and Service Tax Intelligence, Jamshedpur and O/o the Commissioner of Central Excise Bokaro.

(ii) Cross verification of records of nine commercial taxes circles<sup>40</sup> with data/information obtained from the above Central and State<sup>41</sup> Government departments revealed that, though 19 dealers had shown purchase/ sale of ₹ 495.89 crore in 2014-15 and 2015-16, their actual turnover as seen from related data was ₹ 2,163.21 crore, resulting in concealment of turnover of ₹ 1,667.32 crore, and under assessment of tax and penalty of ₹ 343.95 crore.

(iii) Cross verification of records of two contractors registered in Bokaro commercial taxes circle for the period 2011-12 and 2013-14 (assessed between March 2015 and March 2017) with their service tax return (ST-3 form) filed with the Commissioner of Central Excise and Service tax, Bokaro revealed that though the AAs allowed exemption on account of labour and services of ₹ 39.35 crore, these dealers declared only ₹ 10.27 crore as labour and service charges in their ST-3 form, resulting in excess allowance of exemption of ₹ 29.08 crore by the AAs and consequential under assessment of ₹ 4.07 crore as tax.

(iv) Cross verification of records of three commercial taxes circles<sup>42</sup> with data/information obtained from three works divisions<sup>43</sup> and District Mining Office (DMO), Hazaribag, relating to payment of contractors and despatch of stone chips, revealed that though four mining lessees and 18 works contractors had shown turnover of ₹ 1.07 crore during the period between 2011-12 to 2013-14 in their returns (assessed between July 2013 and June 2016), their actual turnover as seen from the data furnished by the three work divisions and DMO was ₹ 10.88 crore, resulting in concealment of turnover of ₹ 9.81 crore, and under assessment of tax and penalty of ₹ 4.12 crore.

Audit further reviewed the provisions of Jharkhand Goods and Services Tax Act, 2017 and noticed that there was no specific provision for IB or Enforcement Wing as provided in section 69 of the repealed JVAT Act 2005. Section 67 of JGST Act deals with the power of inspection, search and seizure by a proper officer, corresponding to Section 70 and 72 of the repealed Act (but not section 69).

The CTD accepted (September 2017) the audit observations.

**Recommendation:**

- 1. CTD may consider proposing appropriate amendments to Jharkhand Goods and Services Tax (JGST) Act to constitute a Bureau of Investigation or Enforcement wing.**
- 2. CTD may evolve a mechanism for collection of data from different departments of Central/ State Government/ Public Sector Undertakings, etc., and their cross verification with the turnover of the dealers under the JGST Act.**

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<sup>40</sup> Adityapur, Bokaro, Jamshedpur, Koderma, Ramgarh, Ranchi East, Ranchi South, Ranchi West and Singhbhum.

<sup>41</sup> Women, Child Development and Social Security Department, Government of Jharkhand.

<sup>42</sup> Hazaribag, Pakur and Sahibganj.

<sup>43</sup> Road Construction Division, Sahibganj, Rural Development Department, Works Division, Pakur and Rural Development Special Division, Pakur.

### 2.2.18 Response of the Department to the audit observations

The JVAT Act 2005 stipulates that where an objection or observation relating to either in fact or in law, has been made by the Comptroller and Auditor General of India, in respect to an assessment or re-assessment made or on scrutiny of any return filed under the Act, the prescribed authority shall proceed to re-assess the dealer with respect to whose assessment or re-assessment or scrutiny, as the case may be, the objection or observation has been made.

Audit had over the years highlighted significant under assessments, and the department had assured action thereon. It was observed however, that the action taken by the CTD was inadequate, as evidenced by the fact ₹ 3,116.91 crore remained to be recovered, and there is little evidence that the AAs had re-assessed the concerned dealers. The CTD had also not introduced any system to check the leakages of revenue pointed out in audit.

#### Recommendation:

1. The State Government may initiate measures to monitor the re-assessment of returns of dealers found by Audit to have under reported taxes, and fix responsibility on departmental authorities who fail to carry out such re-assessments.
2. The CTD may introduce systems to check the leakages of revenue pointed out in audit.

### 2.2.19 Preparedness for Goods and Services Tax

The Jharkhand Goods and Services Tax, Act, 2017 was notified on 19 June 2017, and implemented from 1 July 2017.

#### 2.2.19.1 Initiative taken by the department for implementation of GST

The CTD informed (December 2017) Audit that the following steps have been taken for implementation of GST:

- (i) Training on GST Act and GST portal as below has been imparted to officers and staff:

Table -2.12

Categories	Working strength	Master trainers (trained at Chennai)	Trainees	
			Enrolled	Trained
Officers	223	25	195	195
Staff	435	0	181	181
<b>Total</b>	<b>658</b>	<b>25</b>	<b>376</b>	<b>376</b>

181 tax assistants were imparted GST training. The remaining 254 staff who are Grade IV/ working on contract/ external source have not been imparted any training.

- (ii) M/s. Tata Consultancy Services (TCS) is the IT implementation partner in GST regime for development of software system at a cost of ₹ 1.62 crore.
- (iii) M/s Pricewaterhouse Coopers has been engaged to facilitate transition into GST regime at a cost of ₹ 78.30 lakh.

- (iv) Connectivity of data centre with the GSTN has been completed. 220 tax officials have been nominated to access the GST system. PAN based digital signature certificate (DSC) have been procured for tax officials.
- (v) GST Advisory Committee for smooth roll out of GST has been formed at the divisional office and State levels comprising officers from the Commercial Tax, Central Excise and Service Tax Departments, trade associations including chamber of commerce, tax professionals and other stakeholders.

### 2.2.19.2 Migration of dealers under GST regime

Details of migration of dealers under GST regime (State jurisdiction) are given in **Table – 2.13**.

**Table – 2.13**

Details of migration	No. of dealers
Total provisional ID issued by GSTN to State jurisdiction	1,00,615
Total provisional ID migrated by State	71,910
Provisional IDs cancelled by GSTN	10,613
Application for new registrations with existing PAN in VAT	1,881
One PAN multiple TIN cases where dealer has already taken at least one registration with same PAN	1,144
GTO less than ₹ 20 lakh in 2016-17	1,906
Actual dealers not migrated	13,161

Detailed analysis of non-migration of aforesaid 13,161 dealers indicated that gross turnover of 12,503 dealers under state jurisdiction could not be determined due to non-filing of returns for the Financial Year 2016-17.

### 2.2.19.3 Incorrect computation of compensation claim under GST

The Department of Revenue (DOR), Ministry of Finance, Government of India had requested (October 2016) the concerned State Accountants General to send the audited figures of revenues being subsumed for the financial year 2015-16, after taking exclusions into account, as per Section 5 of the GST (compensation to states) Act, 2017. Accordingly, Audit obtained the revenue figures of non-GST commodities (petrol, diesel, ATF and alcoholic liquor for human consumption) of ₹ 2,617.34 crore for the period 2015-16 from the CTD, which was to be excluded for calculation of base year revenue. It was further verified from e-register VIII of the concerned dealers that the actual revenue collection was ₹ 2,618.43 crore from these non-GST commodities. This resulted in excess claim of ₹ 1.09 crore by the Department.

The Department accepted (June 2017) the audit observation. DOR also confirmed (August 2017) the audited figures of base year revenue.

## 2.3 Other audit observation

### 2.3.1 Under-assessment under CST Act

**Test check of records showed failure to segregate the tax amount and taxable turnover covered by the declarations in Form 'C' resulting in grant of excess allowance of concessional rate of tax and consequent under assessment of tax.**

The CST Act 1956 and the CST Rules 1957 provide that every registered dealer shall be liable to pay tax at concessional rate of two *per cent* in the course of inter-State sale of goods to a registered dealer. Such sale shall be supported by declaration in Form 'C' issued by the purchasing dealer. Where sale is not supported by declaration in Form 'C', tax is leviable at the rate applicable on sale of such goods in the seller's State.

The Audit Reports for the years 2011-12 to 2015-16 had highlighted failure of the AAs to observe the aforesaid provisions while finalizing the assessments of 18 dealers and consequent short levy of tax of ₹ 48.64 crore. The Department accepted (August 2015) the audit observations and assured appropriate action. Following the assurances, Audit test checked (February 2017) assessment records of Katras Commercial Taxes Circle. Audit found that while assessing (December 2016) the return of a dealer for the period 2013-14, the AA levied concessional rate of tax on ₹ 985.65 crore (included tax of ₹ 11.62 crore), on production of Form 'C' instead of ₹ 974.03 crore. However, concessional rate of tax was to be levied on the value of sale excluding the amount of tax. Thus, concessional rate allowed on turnover of ₹ 11.62 crore was irregular and led to under assessment of CST of ₹ 34.85 lakh.

The CTD accepted the audit observation (September 2017).



**CHAPTER-III**  
**STATE EXCISE**



## CHAPTER – III: STATE EXCISE

### 3.1 Tax administration

The levy and collection of excise duty is governed by the Bihar Excise Act, 1915 and the Rules made/ notifications issued thereunder, as adopted by the Government of Jharkhand. The Secretary of the Excise and Prohibition Department is responsible for administration of the State Excise laws at the Government level. The Commissioner of Excise (EC) is the head of the Department and is primarily responsible for the administration and execution of state excise policies and programmes of the Government. He is assisted by a Joint Commissioner of Excise, Deputy Commissioner of Excise and Assistant Commissioner of Excise at the Headquarters. Further, the State of Jharkhand is divided into three excise divisions<sup>1</sup>, each under the control of a Deputy Commissioner of Excise. The divisions are further divided into 19 excise districts<sup>2</sup> each under the charge of an Assistant Commissioner of Excise/ Superintendent of Excise (ACE/ SE).

### 3.2 Human resources

The position of sanctioned strength and men-in-position of officers and other supporting staff of the Department as on December 2017 is shown in the **Table – 3.1**.

**Table – 3.1**

Nature of the post	Sanctioned strength	Working strength	Shortage	Percentage of shortage
Officers	33	12	21	63.64
Officials	1,017	260	757	74.43
<b>Total</b>	<b>1,050</b>	<b>272</b>	<b>778</b>	

There was acute shortage of officers, primarily in the cadres of ACEs/ SEs and supporting staff, in the technical posts of chemical analyzer, technician, laboratory assistant etc., in the inspectional posts of sub-inspector/ assistant sub-inspector of excise, constables, and clerks.

### 3.3 Results of audit

During 2016-17, Audit test checked the records of 19<sup>3</sup> out of 23 auditable units (83 *per cent*) of the Department. The Department collected ₹ 912.47 crore revenue during 2015-16 of which the audited units collected ₹ 834.77 crore (91 *per cent*). Audit noticed irregularities amounting to ₹ 124.93 crore in 3,194 cases (of which ₹ 89.66 crore involving 362 cases relates to three excise districts<sup>4</sup>) as detailed in **Table – 3.2**.

<sup>1</sup> North Chotanagpur Division, Hazaribag, South Chotanagpur Division, Ranchi and Santhal Pargana Division, Dumka.

<sup>2</sup> Bokaro, Chaibasa, Dhanbad, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla-cum-Simdega, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur, Jamtara, Koderma, Lohardaga, Pakur, Palamu-cum-Latehar, Ranchi, Sahibganj and Saraikela-Kharsawan.

<sup>3</sup> Offices of ACEs, Bokaro, Dhanbad, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur and Ranchi, SEs, Chaibasa, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla, Jamtara, Koderma, Pakur, Palamu-cum-Latehar, Sahibganj, Saraikela-Kharsawan and Commissioner of Excise, Ranchi.

<sup>4</sup> Offices of ACEs, Bokaro, Dhanbad and Jamshedpur.

**Table-3.2**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)	Share in per cent to the total objected amount
1	Retail excise shop not settled	111	79.72	63.82
2	Short lifting of liquor	695	23.20	18.57
3	Undue financial benefit to retail licencees	1,093	14.18	11.35
4	Licence fee not realised	10	0.18	0.14
5	Other cases	1,285	7.65	6.12
<b>Total</b>		<b>3,194</b>	<b>124.93</b>	

The Department accepted audit observations of ₹ 103.41 crore in 1,746 cases pointed out by Audit and recovered ₹ 8.46 crore including ₹ 15.26 lakh involved in six cases, pointed out in a draft paragraph.

Irregularities involving 819 cases worth ₹ 103.26 crore have been illustrated in this chapter. Some of these types of irregularities that have been repeatedly reported during the last five years are detailed in **Table – 3.3**.

**Table – 3.3**

Nature of observations	(₹ in crore)											
	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Non-settlement of retail liquor shops	407	80.29	128	-	82	24.88	51	22.27	79	47.00	747	174.44
Short lifting of liquor by retail vendors	148	0.16	-	-	263	2.00	542	4.67	447	5.57	1,400	12.40
Non/ short realisation of licence fee and interest on delayed deposit	-	-	-	-	140	3.81	-	-	-	-	140	3.81

**Recommendation:**

**The Department may initiate systemic measures to curb the persistent leakages of revenues pointed out by Audit.**

**3.4 Compliance to Acts/ Rules**

The notifications and resolutions issued between February 2009 and November 2015 provide for:

- i) *cent per cent* settlement of retail excise shops;
- ii) lifting of minimum guaranteed quota (MGQ) of liquor by excise retail shops;
- iii) realisation of additional license fee for excess lifting over MGQ; and
- iv) levy of excise duty on liquors.

Loss or non-realisation of revenue due to non-observation of the provisions of Act/ Rules are mentioned in the following paragraphs.

### 3.5 Non-settlement of retail liquor shops

**Lack of diligence by district excise authorities and failure of the Department to ensure 100 per cent settlement of retail excise shops deprived Government of revenue of ₹ 79.72 crore.**

The Department notified (February/ March 2009) a new excise policy along with guidelines to settle all retail shops annually through lottery system in place of bid for auction/ tender. The Excise Commissioner (EC) intimated (26 February 2014) that, all the ACEs/ SEs are responsible for 100 per cent settlement of retail excise shops, and where retail shops remained unsettled, the EC may, on the recommendation of the licensing authorities, approve the settlement proposal at reduced license fee.

Previous Audit Reports had highlighted persistent losses amounting to ₹ 174.44 crore due to non-settlement of 747 shops during 2011-12 to 2015-16. Following the assurances (August 2016) of the Department to ensure 100 per cent settlement of shops, Audit test checked the records of 19 units, and found (between July 2016 and February 2017) that in four excise districts<sup>5</sup>, 111 retail shops<sup>6</sup> out of 442 excise retail shops were not settled throughout the year. It was further observed that the ACEs/ SEs, responsible for 100 per cent settlement of shops, did not initiate any other action apart from issue of sale notification for settlement of these unsettled shops. The ACEs/ SEs did not contact the previous licensees of the shops or investigate the reasons for non-settlement. It was also noticed that none of the excise districts submitted proposals for settlement of these shops at the reduced rate of license fee. Thus, due to lack of diligence by excise authorities, Government was deprived of ₹ 79.72 crore of excise duty and license fee as detailed in **Table – 3.4**.

**Table-3.4**

Sl. No.	Names of excise districts	MGQ (LPL/BL)			License Fee (₹ in lakh)	Duty (₹ in lakh)	Total (LF+Duty) (₹ in lakh)
		CS/SpCS	IMFL	Beer			
1	Bokaro	8,48,260	3,36,545	4,73,827	1,084.16	632.63	1,716.79
2	Dhanbad	80,855	2,62,904	4,51,083	568.17	412.01	980.18
3	Jamshedpur	17,04,989	10,10,843	14,03,799	2,832.04	1,752.05	4,584.09
4	Ramgarh	3,85,717	1,26,852	1,76,221	441.29	249.22	690.51
<b>Total</b>		<b>30,19,821</b>	<b>17,37,144</b>	<b>25,04,930</b>	<b>4,925.66</b>	<b>3,045.91</b>	<b>7,971.57</b>

CS/SpCS = Country Spirit/Spiced country spirit, IMFL = India Made Foreign Liquor, LPL = London Proof Litre and BL = Bulk Litre

The Department replied (between November 2017 and March 2018) that shops could not be settled due to non-availability of interested applicants/ willing traders even though regular sale notification was published in local news papers. The reply is not acceptable. Except for publishing sale notifications from time to time, no other efforts were made *viz.*, proposals for settlement of shops at reduced rate of license fee and rational fixation of MGQ after considering the actual lifting of previous year. The MGQ of districts were fixed by enhancing it on a percentage basis of two, seven and ten per cent for

<sup>5</sup> ACEs, Bokaro, Dhanbad, East Singhbhum (Jamshedpur) and Hazaribag-cum-Chatra-cum-Ramgarh.

<sup>6</sup> Number of shops unsettled/sanctioned: Bokaro (30/91), Ramgarh (12/44), Jamshedpur (58/161) and Dhanbad (11/146).

country spirit/ spiced country spirit, IMFL and beer respectively over the MGQ for 2014-15, instead of on the basis of actual potential of shops. The irregularity has repeatedly occurred in these four districts; out of the 747 unsettled shops reported by Audit during the last five years, 419 shops pertain to these districts.

### **3.6 Short lifting of liquor by retail vendors**

**Absence of system for periodical monitoring of lifting of liquor against MGQ resulted in short lifting of liquor and consequential non-levy of penalty equivalent to loss of excise duty of ₹ 23.20 crore.**

The Act, Rules etc., stipulate that each licensed vendor of a retail excise shop is bound to lift Minimum Guarantee Quota (MGQ) of liquor of each kind fixed by the Department for the shop, failing which, penalty equivalent to loss of excise duty suffered by the Government shall be recoverable.

Previous Audit Reports had highlighted persistent loss amounting to ₹ 12.40 crore due to short lifting of liquor by 1,400 retail vendors during 2011-12 to 2015-16. To evaluate the corrective measures adopted by the Department to stop short lifting of liquor, Audit test checked the records of 19 units between July 2016 and March 2017. It was noticed in 12 excise districts<sup>7</sup> that 695 shops (out of 1,126) short lifted 69.61 lakh LPL/ BL of liquor (against requirement to lift 268.97 lakh LPL/ BL) during 2015-16. It was observed that the MGQ of retail excise shops were fixed on annual basis which was divided into twelve parts and the vendors of retail shops lifted liquor monthly. It was further observed that the Department had no mechanism to ensure that the vendors lifted the monthly quota of MGQ. This resulted in short lifting and consequential non-levy of penalty equivalent to loss of excise duty of ₹ 23.20 crore.

The Department's reply (March 2018) to the audit observation merely focused on steps taken to effect recoveries in the cases pointed out by Audit, without addressing the fundamental issue underlying the chronic shortfall in lifted quantity, resulting in revenue loss.

#### **Recommendation:**

**The Department may introduce a mechanism to ensure that revenue loss arising out of short lifting of MGQ is minimized.**

<sup>7</sup> ACEs/ SEs, Bokaro, Dhanbad, Deoghar, East Singhbhum (Jamshedpur), Garhwa, Giridih, Hazaribag-cum-Chatra-cum-Ramgarh, Jamtara, Koderma, Palamu-cum-Latehar, Ranchi and Sahibganj.

### 3.7 Non/ short realisation of licence fee and interest on delayed deposits

**Absence of system for periodical assessment of payment against license fee of each licensee resulted in non/ short realization of license fee and interest.**

The Act, Rules etc., stipulates that licensees of retail shops are bound to deposit license fees by the 20<sup>th</sup> of each month, failing which, interest at the rate of five *per cent* per day is chargeable on the amount due.

The Audit Report for the year 2013-14 highlighted loss of Government revenue amounting to ₹ 3.81 crore due to non/ short realisation of license fee and interest on delayed deposit by 140 licensees. To evaluate the corrective measures adopted by the Department to ensure timely realisation of license fee, the records of 19 units were test checked, in ACEs of Dhanbad and East Singhbhum, Jamshedpur (between January and February 2017), where it was noticed that seven licensees deposited monthly license fee after delays ranging up to 35 days, and one licensee did not deposit monthly license fee of ₹ 7.95 lakh for two months. It was further observed that payment of license fee was maintained manually and updated in Form 66A on production of bank challans by the licensees. Though the payments were updated in the register, non/ delayed payment of license fee was not identified in these cases due to absence of a system for periodical assessment of payment against license fee of each licensee. As such, the excise authorities were unaware of non/ short realisation of license fee and interest amounting to ₹ 18.81 lakh including interest of ₹ 10.86 lakh.

The Department merely intimated (March 2018) that process of recovery of non/ short realisation of license fees and interest in cases pointed out by Audit had been initiated, and did not inform of any system changes made to ensure non-recurrence of similar irregularities.

#### **Recommendation:**

**The Department may introduce a mechanism to identify all instances of non/ delayed payment of license fees to enable the excise authorities to take immediate corrective action.**

### 3.8 Short realisation of excise duty

**Absence of system for periodic assessment of payment of excise duty and verifying it with the stock of each licensee resulted in short realisation of excise duty.**

The Act stipulates that excise duty is leviable on excisable articles manufactured under license granted by the Government. The rate of duty leviable on liquors (IMFL and Beer) and country spirit/ spiced country spirit (CS/ Sp CS) was revised with effect from 2 November 2015 and 8 September 2015 respectively.

During test check of records of 19 units in three excise offices<sup>8</sup> (between August 2016 and March 2017), it was noticed that three out of six licensees deposited excise duty at pre-revised rates on 0.41 lakh LPL/ BL of IMFL and beer, which was accepted by the excise authorities without initiating action for recovery of the differential amount. In the case of the remaining three licensees, Audit cross-verified their deposit of excise duty with their stock registers and found that the licensees had deposited excise duty at the old rate for 2 November and 8 September 2015 for liquor and country spirit respectively and at the revised rates on subsequent dates, resulting in undue benefit of old rates for 0.35 lakh LPL on 2 November and 8 September 2015. Audit observed that the other shortcomings were not noticed by the excise authorities since they maintained a manual register which was updated only on production of bank challans by the licensees. There was therefore no method for the excise authorities to *suo motu* ensure that the licensee paid excise duty at the correct rates. The excise authorities also did not have a mechanism to cross-verify the stock register of the licensees at the time of accepting payment. Consequently, the excise authorities failed to realize that there was short realisation of excise duty amounting to ₹ 15.74 lakh in respect of these six licensees.

The reply (March 2018) of the Department merely addressed the issue of recovery of short realisation in respect of the six licensees test checked in audit, and did not touch upon the larger system issue that led to such short realisations.

**Recommendation:**

**The Department is required to introduce a mechanism to ensure that all licensees remit the correct amount of duty on liquor and country spirits including cross-verification of the stock registers of the licensees.**

**Impact of Audit**

- The Department has reported (March 2018) recovery of ₹ 8.19 crore out of ₹ 103.26 crore illustrated in this chapter.

<sup>8</sup> ACEs/SEs, Dumka, Bokaro and Ranchi.

**CHAPTER-IV**  
**TAXES ON VEHICLES**



## CHAPTER – IV: TAXES ON VEHICLES

### 4.1 Tax administration

The levy and collection of motor vehicles tax and fee in the State is governed by the Jharkhand Motor Vehicles Taxation (JMVT) Act, 2001, the Jharkhand Motor Vehicles Taxation (JMVT) Rules, 2001, Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules, 1989 and Bihar Financial Rules (as adopted by the Government of Jharkhand).

The Transport Department of Jharkhand is responsible for levy and collection of motor vehicle tax. The main functions of the Department are to issue certificates of registration, certificates of fitness, national permits, permanent and local permits for vehicles, trade certificates to dealers and driving/conductor licenses to individuals.

The Secretary of the Department is the State Transport Authority who acts as administrative head of the Transport Department and is responsible for implementation of the Acts and Rules in the State. The State Transport Commissioner (STC), Jharkhand is the executive head and responsible for administration of Acts and Rules in the Transport Department. A Joint Transport Commissioner at Headquarters and Regional Transport Authorities (RTAs) of four regions<sup>1</sup>, District Transport Officers (DTOs) and Motor Vehicle Inspectors (MVIs) at 24 transport districts<sup>2</sup> assist him. The Enforcement Wing<sup>3</sup> and 10 check-posts<sup>4</sup> of the department were responsible for compounding the offences committed under various MV Acts and Rules, and levy of tax and fines.

### 4.2 Human resources

The sanctioned strength and men-in-position of officers and other supporting staff of the Department as on January 2018 is shown in the **Table – 4.1**.

**Table – 4.1**

Sl. No	Names of the post	Sanction strength	Men-in-position	Vacancy	Percentage of vacancy
1	DTO	24	14	10	42
2	MVI	24	5	19	79
3	Enforcement Officer	6	0	6	100
4	Enforcement Inspector	6	0	6	100
5	Enforcement Sub-Inspector	7	0	7	100
6	Mobile squad	12	8	4	33
7	Clerk	132	31	101	77
8	Peon	40	26	14	35
<b>Total</b>		<b>251</b>	<b>84</b>	<b>167</b>	<b>67</b>

<sup>1</sup> Dumka, Hazaribag, Palamu and Ranchi.

<sup>2</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti (Notified in March 2015), Koderma, Latehar, Lohardaga, Palamu, Pakur, Ramgarh (Notified in April 2015), Ranchi, Sahibganj, Saraikela-Kharsawan and Simdega.

<sup>3</sup> Withdrawn vide Transport Department Order No. 37, dated 21.04.2015.

<sup>4</sup> Bahragora (East Singhbhum), Bansjore (Simdega), Chas More (Bokaro), Chauparan (Hazaribag), Chirkunda (Dhanbad), Dhulian (Pakur), Gitilipi (Chaibasa), Manjhatoli (Gumla), Meghatari (Koderma) and Murisemar (Garhwa). Withdrawn vide Notification No.374, dated 12.06.2017.

The acute shortage of officers (42 per cent) and supporting staff (69 per cent) severely affected the performance of Transport Department resulting in non-realisation of arrear taxes from defaulters (para no 4.4 and 4.6) and non-scrutiny of documents during registration of vehicles (para no. 4.5 and 4.9) leading to short levy of taxes. The chronic shortage of officers and staff had been pointed out in previous Audit Reports also.

Due to these shortages, the district administration officers held additional charge of DTOs in 10 districts. The Transport Department had requisitioned (August 2017) the Jharkhand Staff Selection Commission (JSSC) through the Personnel, Administrative Reform and Rajbhasha Department, Government of Jharkhand for selection of 100 clerks. The process for selection is yet to start.

11 candidates for the post of MVI were selected (April 2017) for appointment through open recruitment competition, but on scrutiny of testimonials, their candidatures were put on hold and the matter has been referred (January 2018) to State Law Department for further course of action.

In 2015, the Department, under an alternative arrangement, had withdrawn the services of enforcement wing after analysing their functioning and their charges/ responsibilities were vested with the DTOs with the support of police force provided by district administration. The revenue collection of Enforcement Wing which was ₹ 26.67 crore and ₹ 33.39 crore respectively in 2013-14 and 2014-15 reduced to ₹ 6.66 crore and ₹ 8 crore during 2015-16 and 2016-17 respectively after this alternative arrangement.

### 4.3 Results of audit

During 2016-17, Audit test checked the records of 18<sup>5</sup> out of 27 auditable units (67 per cent) of the Transport Department. Revenue collected by the Department during the year 2015-16 aggregated to ₹ 632.59 crore of which, the audited units collected ₹ 432.61 crore (68 per cent). Audit scrutiny revealed non/short levy of taxes, short levy of taxes due to wrong fixation of seating capacity, leviable taxes not realized from transport vehicles, trailers, personalized vehicles etc. amounting to ₹ 68.57 crore in 24,545 cases as shown in **Table 4.2**.

**Table-4.2**

Sl. No.	Categories	No of cases	Amount (₹ in crore)	Share in per cent to the total objected amount
1	Taxes not levied/ short levied	8,755	50.48	73.62
2	Taxes levied on trailers but not realized	6,554	9.64	14.06
3	Short realisation of taxes due to wrong fixation of seating capacity	819	1.57	2.29
4	Other cases	8,417	6.88	10.03
<b>Total</b>		<b>24,545</b>	<b>68.57</b>	

The Department accepted all the audit observations and recovered ₹ 88.06 lakh in 254 cases.

<sup>5</sup> Offices of DTO, Bokaro, Chaibasa, Deoghar, Dhanbad, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Jamtara, Koderma, Lohardaga, Pakur, Palamu, Ranchi, Sahibganj, Saraikela-Kharsawan and office of the Transport Commissioner, Ranchi.

Irregularities involving 15,254 cases worth ₹ 60.94 crore have been illustrated in this chapter. Out of these, some irregularities have been repeatedly reported during the last five years as detailed in **Table – 4.3**.

**Table – 4.3**

Nature of observations	(₹ in crore)											
	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Non-collection of taxes from defaulters	2,975	12.60	4,204	18.97	4,868	18.75	7,177	32.00	5,417	16.23	24,641	98.55
Non-realisation of one-time tax from personalised vehicles	-	-	3,495	8.27	1,081	2.24	1,513	4.05	428	1.12	6,517	15.68
Non-levy of tax from the date of possession of vehicles	-	-	163	0.41	41	0.11	-	-	576	1.09	780	1.61

**Recommendation:**

1. The Department may initiate systemic measures to ensure that the shortcomings repeatedly reported by Audit do not recur.
2. The Department may introduce more effective measures to monitor and ensure recoveries of the large amounts of uncollected/ short realisations pointed out in Audit Reports.

**4.4 Non-collection of taxes from defaulters**

**Non-raising of demands, inadequate functioning of enforcement wing and weak internal controls led to non-realisation of tax and penalty of ₹ 57.73 crore from 14,604 defaulting vehicles.**

The JMVT Act and JMVT Rules require the owners of registered vehicles to pay applicable advance tax. If the delay in payment exceeds 90 days, penalty at twice the amount of taxes due may be imposed along with the tax. The Rules further require every taxation officer to maintain tax registers in Form-M, and Demand, Collection and Balance (DCB) Register in Form-N for transport vehicles. The DCB registers are required to be updated on quarterly basis to identify tax defaulters. After computerization of the Transport Department, these data were auto updated in VAHAN software itself as and when events took place. To facilitate the update of registers, VAHAN software enables the users to generate defaulters list from the system. District transport officers (DTOs) are required to issue demand notices to the defaulters.

Previous Audit Reports of 2011-12 to 2015-16 had highlighted persistent loss of Government revenue amounting to ₹ 98.55 crore due to non-realisation of tax and penalty from 24,641 owners of defaulting vehicles. To evaluate the assurances (May 2016) by the Department in this regard, records of 17 districts transport offices<sup>6</sup> were test checked during 2016-17. It was, however, noticed (between June 2016 and March 2017) that registered owners of 14,604 out of 44,928 transport (commercial) vehicles test checked did not deposit advance tax due between January 2011 and March 2017. It was further

<sup>6</sup> Bokaro, Chaibasa, Deoghar, Dhanbad, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Jamtara, Koderma, Lohardaga, Pakur, Palamu, Ranchi, Sahibganj and Saraikela-Kharsawan.

observed that the DTOs, responsible to issue demand notices, neither generated the list of defaulters from VAHAN software and updated the DCB registers nor raised any demand for the outstanding tax. The State Transport Commissioner (STC) and Joint Transport Commissioner (JTC) also did not monitor the functioning of transport offices for realization of taxes from defaulters. In addition, the closure of enforcement wing by the department which carried out checking of defaulting vehicles plying on roads, acute shortage of staff and non-recruitment of MVIs also resulted in increase of defaulting vehicles. Thus, the department could not realize revenue worth ₹ 57.73 crore including penalty of ₹ 38.49 crore from 14,604 vehicles.

The Department stated (October 2017) that eight DTOs<sup>7</sup> had recovered ₹ 79.43 lakh in 221 cases and had issued demand notices to the remaining defaulters for realization of tax arrears. In the exit conference (February 2018), the Secretary stated that the DTOs would be directed to evolve a system so that demand notices would be served through E-mail/ SMS/ Speed post in due time to the vehicle owners. The Enforcement wing would be provided card readers to read the information of vehicles in the chips present in certificate of registration (RC). It was also informed that State wide special drive would be conducted for realization of tax from defaulters.

The extent to which the Department is successful in achieving its assurances would be examined in the next audit.

#### **4.5 Short levy of taxes due to registration of vehicles at lesser registered laden weight**

##### **Input control deficiencies in VAHAN software led to recording of lesser RLW of vehicles resulting in short levy of taxes of ₹ 1.15 crore in one DTO alone.**

The Central Motor Vehicle Rules, 1989 stipulates that the maximum gross registered weight/ registered laden weights (GRW/ RLW) of all vehicles including multi-axle vehicles shall not be more than the sum total of all the maximum safe axle weights put together. Further, the JMVT Act, 2001 requires owners of vehicles to pay road tax and additional motor vehicles tax at the rates prescribed in Schedules I and II appended to the Act. The RLW is the basis for computing taxes on goods vehicles. The plan for computerisation of the Department prescribes for creation of a Project Monitoring Unit (PMU) to monitor the functioning of VAHAN software in accordance with the provisions of Acts/ Rules.

During test check of records of 18 transport offices, it was noticed at DTO, Hazaribag that 40 rear dumpers/ motor graders out of 2,987 vehicles test checked were registered as goods vehicles with RLW of 99,999 kgs and taxes were being levied accordingly. However, on scrutiny of Form-24<sup>8</sup> it was observed that the axle weights of the front and rear axles were each 81,680 kgs, the sum total of which was 1,63,360 kgs. The lapse occurred due to deficiency in VAHAN software which could capture a maximum of only five

<sup>7</sup> Giridih, Jamshedpur, Koderma, Lohardaga, Pakur, Palamu, Ranchi and Sahibganj.

<sup>8</sup> Form 24 is a permanent register of motor vehicles registered, where all the details viz., owner, specification etc., of vehicle are recorded.

digits under the field relating to RLW. Thus, the DTO as well as the STC/ JTC and department were unaware of the deficiency and unable to rectify the error, which led to levy of taxes of ₹ 1.75 crore only instead of ₹ 2.90 crore resulting in short levy of taxes of ₹ 1.15 crore.

In the exit conference (February 2018), the Secretary of the Transport Department stated that demand notices had been issued to the vehicle owners. The DTO, Hazaribag would be directed to take necessary action to realize the arrear tax. Further, it was reiterated that all DTOs would be directed to check and certify the RLW entered in VAHAN software and to hold meetings with mining companies to ascertain that all the vehicles plying in mining area had been registered.

Further progress would be examined during the next audit.

#### 4.6 Non-realisation of one-time tax from personalised vehicles

**Non-raising of demand and inadequate functioning of the enforcement wing led to non-realisation of annual/ one-time tax and penalty/ interest from personalised vehicles.**

The Jharkhand Motor Vehicles Taxation (Amendment) Act, 2011 defines 'personalised vehicle' as motor car, omni bus or station wagon, having seating capacity of more than four but not exceeding 10 including driver, which are used solely for personal purposes. One-time tax<sup>9</sup> is leviable on cost of vehicle depending on seating capacity and age of the vehicle, with interest at the rate of two *per cent* per month on delayed payment. DTOs were required to use the VAHAN software and review the tax registers and raise demands against personalised vehicles that came under the purview of one-time tax after introduction of this amendment.

Previous Audit Reports of 2012-13 to 2015-16 had highlighted persistent loss of Government revenues amounting to ₹ 15.68 crore due to non-realisation of tax and penalty on 6,517 personalised vehicles due to failure of DTOs to review the online tax register and issue demand notices. To evaluate the assurances to initiate action to identify defaulters and extensive drives to realize the tax arrears (May 2016) by the Department, Audit test checked the records of seven DTOs<sup>10</sup> (between August 2016 and March 2017) and found that the annual tax validity of 312 vehicles (out of 1,435 private vehicles test checked) had expired between May 2005 and December 2016, but the DTOs failed to issue demand notices. Consequently, the Department failed to realize tax and penalty of ₹16.01 lakh for the pre-amendment period, one-time tax of ₹ 38.01 lakh and interest of ₹ 45.85 lakh (as on March 2017).

It is evident that the Department did not live up to its assurances, and the STC/ JTC did not monitor the functioning of transport offices in this regard. The department could not effectively control plying of defaulter vehicles on roads

<sup>9</sup> ₹ 9,000 or 3 *per cent* of cost of vehicle; ₹ 20,000 or 4 *per cent* of the cost of vehicle and ₹ 25,000 or 5 *per cent* of the cost of vehicle whichever is more, for personalized vehicles with seating capacity of more than 3 persons but not more than 5 persons; more than 5 persons but not more than 8 persons and more than 8 persons but not more than 10 persons respectively.

<sup>10</sup> Bokaro, Godda, Jamatara, Koderma, Pakur, Palamu and Sahibganj.

by exercising regular checking and penalizing the owners of such vehicles in the absence of enforcement wing responsible for checking of vehicles plying on roads. The transport offices already hampered by shortage of officers and staff were vested with additional responsibility of the enforcement wing. Thus, the department not only failed to realise revenue, it also could not impose effective control over the plying of these vehicles on roads.

During the exit conference (February 2018), the Secretary of the Transport Department stated that the DTOs would be directed to identify tax defaulters and realise tax arrears from them. A state wide special drive would also be conducted for realization of tax from defaulters.

Progress in this regard will be examined during the next audit.

#### **4.7 Non-realisation of tax and penalty from vehicles plying under reciprocal agreements**

**The Department failed to incorporate data in the VAHAN database, on inter-State vehicles plying under reciprocal agreements, and the Transport Commissioner failed to review and issue demand notices against such vehicles, resulting in non-realisation of tax and penalty.**

In terms of the Motor Vehicles Act, 1988, reciprocal agreements<sup>11</sup> with Odisha, Bihar, Chhattisgarh and West Bengal between January 2003 and September 2008, transport vehicles registered in one State, but operating in the other State are liable to pay all the taxes leviable in the other State.

Test check of records<sup>12</sup> of the Transport Commissioner (January 2017) revealed that 50 out of 230 vehicles registered in the other States<sup>13</sup> were plying under the reciprocal agreements without paying the taxes due between July 2014 and January 2017. The Transport Commissioner, who is entrusted with controlling the reciprocal agreements permits, failed to review the relevant registers/ raise demand/ levy penalty/ cancel the permits of defaulters. Further, the department failed to incorporate the data of vehicles covered under such reciprocal agreements in the VAHAN database. Consequently, the Department failed to realise tax amounting to ₹ 18.78 lakh and penalty of ₹ 37.56 lakh.

In the exit conference (February 2018), the Secretary of the Transport Department stated that actions has since been initiated to incorporate the data of these vehicles in the VAHAN database, and for online collection of tax and arrears.

Further progress in this regard will be verified during the next audit.

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<sup>11</sup> Under such agreements, a permit is granted by STC of a State to the vehicles registered in another State to ply within the State under certain terms and conditions.

<sup>12</sup> Taxation register showing details of taxes paid by vehicles of other States plying under reciprocal agreements.

<sup>13</sup> Bihar, Chattisgarh, Odisha and West Bengal.

#### 4.8 Non-levy of tax from the date of possession of vehicles

**Shortcomings in the VAHAN software, failure of the Department to complete the compulsory dealer point registration, and failure of DTOs to ensure tax payment from date of possession of the vehicle resulted in non-levy of taxes and penalty.**

The JMVT Rules, 2001 stipulate that, where no tax had previously been paid, the date of acquisition of the vehicle or the date when the tax is imposed by law shall be the due date for payment of that tax. Further, the Central Motor Vehicle Rules, 1989 stipulate that no holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent and application for registration has to be made within seven days from taking delivery of vehicle. Non-payment of taxes in time attracts penalty at rates ranging from 25 to 200 *per cent* of the tax due.

The Audit Reports of 2012-13 to 2015-16 had highlighted persistent loss of Government revenue amounting to ₹ 1.61 crore due to non-realisation of tax from the date of possession of transport vehicles. To evaluate the assurances by the Department in this regard, Audit test checked (between September and October 2016) the records of DTOs of Sahibganj and Saraikela-Kharsawan and found that the owners of 188 vehicles (out of 907 vehicles test checked) had applied for registration with delays ranging from three to 50 months. The registering authorities did not check the sale certificates and levied tax from the date of registration and the VAHAN software was also not designed to capture the tax from the date of possession of vehicles. Audit observed that compulsory dealer point registration had only been partially implemented in Jharkhand enabling vehicle owners to ply vehicles without payment of tax and registration. Consequently, the Department failed to levy tax amounting to ₹ 12.06 lakh and penalty of ₹ 24.12 lakh.

In the exit conference (February 2018), the Secretary of the Transport Department stated that the necessary rectification in VAHAN software had now been done and now taxes were levied from the date of possession of vehicles instead of date of registration.

Compliance in this regard will be verified during the next audit.

#### 4.9 Short levy of tax due to wrong categorisation of ambulances

**Improper mapping of Acts/ Rules in VAHAN software allowed ambulances to be registered as personalised vehicles instead of transport vehicles resulting in short levy of tax.**

The Government of India has categorised (September 1992) ambulances as transport vehicles. In terms of the MV Act, 1988 fitness certificates are required to be obtained annually for transport vehicles and once in 15 years for non-transport vehicles. The Ministry of Road Transport and Highway (MoRTH), Government of India defines (8 September 2016) a road ambulance as a specially equipped and ergonomically designed vehicle for transportation and/ or emergent treatment of sick or injured people and capable of providing out of hospital medical care during transit or when stationary, commensurate with its designated level of care when appropriately staffed. To meet these provisions, the make and model of the vehicles is to be verified by the

technical expert, the Motor Vehicle Inspector (MVI) and the medical equipment installed therein by an appropriate authority during registration of an ambulance. Once the vehicle is certified as an ambulance, it should be categorised as transport vehicle for taxation and fitness purposes.

Scrutiny of the VAHAN data dump revealed that 1,954 vehicles were registered as ambulance till 2015-2016 in the State with seating capacities ranging from 1 to 42. Of these ambulances, 1,730 were categorised as transport vehicles (1,722 as passenger and 8 as goods vehicles) and 224 as non-transport (private) vehicles.

The above was confirmed during test check of records of six district transport offices<sup>14</sup> and comparison with the VAHAN database (between September and October 2016) revealed that 60 vehicles (out of 268 vehicles test checked) were registered as ambulances but categorised as non-transport vehicles, resulting in short levy of tax of ₹ 13.86 lakh. Further, being non-transport vehicles, these were not subject to test by the MVIs and technical/ medical experts to verify their fitness and suitability to function as ambulances. It was also observed that the Department had not formulated specifications for different types of ambulances, and these vehicles had been taxed solely on the basis of seating capacity.

The Department accepted (October 2017) the audit observations.

**Recommendation:**

- 1. The Department should ensure that all vehicles registered as ambulances in the VAHAN database are categorized as transport vehicles and taxed and tested for fitness appropriately.**
- 2. The Department may formulate specifications for different types of ambulances, and tax them appropriately.**

**Impact of Audit**

- The Department has reported (February 2018) recovery of ₹ 88.06 lakh out of ₹ 60.94 crore illustrated in this chapter.
- Shortcomings in VAHAN software regarding levy of tax from date of possession instead of date of registration, and input control deficiencies in RLW field have been rectified, and vehicles under reciprocal agreements registered in other States have been included in the software for payment of tax.

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<sup>14</sup> Bokaro, Deoghar, Dhanbad, Pakur, Palamu and Ranchi.

**CHAPTER-V**  
**OTHER TAX RECEIPTS**



## CHAPTER – V: OTHER TAX RECEIPTS

### A. STAMP DUTY AND REGISTRATION FEES

#### 5.1 Tax administration

The levy and collection of stamp duty and registration fees in the State of Jharkhand is governed by the Indian Stamp (IS) Act, 1899 and Rules made thereunder and the Registration Act, 1908. The Indian Stamp (Bihar Amendment) Act, 1991, Bihar Stamp Rules, 1954, Bihar Stamp (Prevention of Under-Valuation of Instruments) Rules, 1995 and executive instructions of the State of Bihar as existing on the date of creation of State of Jharkhand on 15 November 2000 have been adopted by the State.

The Revenue, Registration and Land Reforms Department (Registration Department) is under the overall administrative control of the Principal Secretary/ Secretary at the Government level. The Inspector General of Registrations (IGR) is responsible for administration of Act, Rules and orders issued by the Government from time to time. He is assisted by a Deputy/ Assistant Inspector General (DIG)/ (AIG) and a Deputy Secretary at the headquarters, and an Inspector of Registration in the divisions. Further, there are 24<sup>1</sup> registration districts each under the charge of a District Sub Registrars (DSRs) and 18<sup>2</sup> sub-registration offices each under the charge of a Sub-Registrar (SRs). These offices are the primary units responsible for levy and collection of stamp duty and registration fees under the IS Act, 1899 and Registration Act, 1908.

#### 5.2 Results of audit

During 2016-17, Audit test checked the records of 19<sup>3</sup> out of 56 auditable units (34 *per cent*) of the Registration Department. The Department collected revenue of ₹ 531.64 crore (stamp duty: ₹ 381.10 crore and registration fees and other receipts: ₹ 150.54 crore) during 2015-16 out of which the audited units collected ₹ 436.04 crore (82 *per cent*). Audit noticed deficiencies and irregularities amounting to ₹ 9.73 crore in 726 cases (of which ₹ 6.12 crore involving 40 cases relates to three district sub-registrar offices<sup>4</sup>) as detailed in **Table-5.1**.

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<sup>1</sup> Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ranchi, Ramgarh, Sahibganj, Simdega and Saraikela-Kharsawan.

<sup>2</sup> Barhi (Hazaribag), Bermo (Bokaro), Bundu (Ranchi), Chakradharpur (Chaibasa), Chandil (Saraikela-Kharsawan), Dumri (Giridih), Ghatsila (Jamshedpur), Govindpur (Dhanbad), Gola (Ramgarh), Hussainabad (Palamu), Jamua (Giridih), Madhupur (Deoghar), Nagar Utari (Garhwa), Rajdhanwar (Giridih), Rajmahal (Sahibganj), Ranchi Urban Area -02 Doranda Sector, Ranchi Urban Area – 03 Kanke Sector and Ranchi Rural Area.

<sup>3</sup> Offices of District Sub Registrar/ Sub-Registrar, Barhi, Bokaro, Chatra, Dhanbad, Dumka, Garhwa, Ghatshila, Giridih, Godda, Hazaribag, Hussainabad, Jamshedpur, Koderma, Khunti, Latehar, Ranchi, Saraikela-Kharsawan, Simdega and Inspector General of Registration, Ranchi.

<sup>4</sup> Chatra, Ranchi and Saraikela-Kharsawan.

**Table-5.1**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)	Share in per cent to the total objected amount
1	Short levy of stamp duty and registration fees	587	5.59	57.45
2	Misclassification of instruments	19	3.74	38.44
3	Under valuation of properties	109	0.38	3.90
4	Other cases	11	0.02	0.21
<b>Total</b>		<b>726</b>	<b>9.73</b>	

Irregularities involving 117 cases worth ₹ 7.73 crore have been illustrated in this section of the chapter. Of these irregularities, non-levy of stamp duty and registration fees had been repeatedly reported during last five years as detailed in **Table - 5.2**.

**Table - 5.2**

Nature of observations	₹ in lakh											
	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Non-levy of stamp duty and registration fees	858	56.28	9,215	229.51	19	133.22	17	9.77	106	29.48	10,215	458.26

**Recommendation:**

**The Department is required to introduce systemic measures to ensure that similar lapses pointed out by Audit year after year do not recur.**

**5.3 Compliance to Acts/ Rules**

The Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908 and Bihar Registration Rules, 1937, Bihar Registration Manual, 1946 and Bihar Stamp (Prevention of Under Valuation of Instruments) Rules, 1995 (as adopted by the Government of Jharkhand) made thereunder provide for:

- (i) payment of registration fees at the prescribed rate; and
- (ii) payment of stamp duty by the executants at the prescribed rate.

Failures of departmental officers to comply with the above mentioned provisions are highlighted below:

**5.4 Short levy of stamp duty and registration fees on mining leases**

**Failure of mechanism to ensure that leases are registered on the basis of verification of the average annual royalty projected in the approved mining plan, as required under the law and rules, resulted in incorrect valuation of documents and consequential short levy of stamp duty and registration fees of ₹ 3.85 crore.**

The Registration Act, 1908 stipulates that leases of immovable properties for any term exceeding one year are to be registered compulsorily. According to the Indian Stamp Act, 1899 stamp duty and registration fees are to be charged on the value of average annual rent depending on the periodicity of lease. The Jharkhand Minor Minerals Concession (Amendment) Rules 2014 provide that mining work will be done as per approved mining plan. Further, as per instructions (November 1996) of the Mines and Geology Department, royalty

of one year (as per approved mining plan) or dead rent<sup>5</sup>, whichever is higher, will be considered as average annual rent for the purpose of calculation of stamp duty in respect of mining lease.

Audit test checked the records (between November 2016 and March 2017) of eight district sub-registrar offices<sup>6</sup> and their cross-verification with the records of eight district mining offices<sup>7</sup> revealed that 63 lease deeds (out of 64 lease deeds test checked) were registered during June 2014 to March 2016 considering the value of annual dead rent instead of the average annual royalty projected in the approved mining plan. It was further observed that the Department had no system in place to check the valuation of instruments with the basic records, viz., mining plan. Failure of the DSRs to perform such checks resulted in short levy of stamp duty and registration fees amounting to ₹ 3.85 crore.

The Department accepted (March 2018) the audit observation and assured appropriate remedial action.

**Recommendation:**

**The Department may introduce a system to ensure that lease deeds are registered on the basis of the average annual royalty projected in the approved mining plan, as required under the law and rules.**

### 5.5 Non-levy of stamp duty and registration fees

**Absence of system for inter-departmental exchange of data/ information resulted in failure to ensure presentation of documents relating to two toll contracts and 52 leases executed by circle offices and local bodies for registration and consequential non-levy of stamp duty and registration fees of ₹ 3.88 crore.**

The Indian Stamp Act defines, 'lease' as including any instrument by which toll of any description is let.

Audit has repeatedly identified areas escaping Government revenue due to non-registration of documents which were liable for registration, and reported 10,215 cases of unregistered documents relating to four departments<sup>8</sup>, Public Sector Undertakings<sup>9</sup> and Pollution Control Board involving government revenue of ₹ 458.26 lakh through Audit Reports for the years 2011-12 to 2015-16. The irregularity has repeatedly re-occurred in five DSR offices<sup>10</sup> reported through previous Audit Reports. To evaluate the corrective measures adopted by the Department to ensure registration of lease documents, the records of 19 units were test checked (between November 2016 and March 2017). It was noticed in two district sub-registrar offices<sup>11</sup>, that the General

<sup>5</sup> Deterrent against the tendency of leaseholders in cornering the mining lease and keeping the mineral resource idle.

<sup>6</sup> Chatra, Dhanbad, Dumka, Godda, Garhwa, Koderma, Ranchi and Saraikela-Kharsawan.

<sup>7</sup> Chatra, Dhanbad, Dumka, Godda, Garhwa, Koderma, Ranchi and Saraikela-Kharsawan.

<sup>8</sup> Urban Development Department, Rural Development Department, Revenue, Registration and Land Reforms Department and Animal Husbandry and Fisheries Department.

<sup>9</sup> Heavy Engineering Corporation, State Bank of India and National Highways Authority of India.

<sup>10</sup> Chatra-9, Dhanbad-896, Godda-50, Koderma-2, Ranchi-8,355.

<sup>11</sup> DSRs, Ranchi and Saraikela-Kharsawan.

Manager (Commercial Operation), Regional office NHAI, Ranchi and Executive Engineer, Road Construction Department (RCD), Road Division, Saraikela entered into contract agreements between February and March 2016 for collection of toll for one year with two private entrepreneurs<sup>12</sup> on a consideration value of ₹ 56.61 crore and ₹ five crore respectively. Further, information regarding settlement of *sairats*<sup>13</sup> in respect of revenue earning *haat, bazaar, bus/ taxi stand etc.*, was collected (between December 2016 and March 2017) from eight offices<sup>14</sup> of various departments/ bodies of the State Government. Audit found that out of 60 *sairats* test checked, 52 *sairats* were settled between 2014-15 and 2015-16 with different bidders for more than a year or on yearly basis. The above information relating to tolls from NHAI and EE (RCD) and other offices were cross-verified with the records of the concerned six DSRs and two SRs<sup>15</sup>, and it was noticed that these documents were not registered, though the contracts contained provisions for registration of lease. In the absence of a system for exchange of information between Registration Department and other departments/ bodies of State/ Central Governments, the Department remained unaware of these contracts/ leases which led to non-levy of stamp duty and registration fee of ₹ 3.88 crore.

The Registration Department assured (March 2018) that remedial action would be taken in this regard. The Road Construction Department, directed (March 2018) the Regional Officer (NHAI) and Chief Engineer (RCD) to ensure presentation of documents for registration.

**Recommendation:**

**The Registration Department may introduce a mechanism (preferably electronic) to ensure that data/ information relating to lease of government property (including tolls) is shared by all departments, so that there is no leakage of revenue through failure to register documents.**

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<sup>12</sup> M/s MEP Infrastructure Developers Ltd., Delhi and M/s Balaji Enterprises, Lucknow (Uttar Pradesh).

<sup>13</sup> The right and interest in respect of revenue earning *hat, bazaar, mela, trees, ferries, ponds etc.*

<sup>14</sup> Circle offices, Barhi and Saraikela, Municipal Corporation, Dhanbad, Nagar Parishads, Chatra and Garhwa, Nagar Panchayats, Dumka, Hussainabad and Saraikela.

<sup>15</sup> DSRs Chatra, Dhanbad, Dumka, Garhwa, Ranchi and Saraikela-Kharsawan; and SRs, Barhi and Hussainabad.

## B. TAXES AND DUTIES ON ELECTRICITY

### 5.6 Tax administration

The Commercial Taxes Department (CTD) is responsible for levy and collection of electricity duty under the Jharkhand Electricity Duty (Amendment) Act, 2011. The Secretary-cum-Commissioner of Commercial Taxes, assisted by an Additional Commissioner, three Joint Commissioners of Commercial Taxes (JCCT), three Deputy Commissioners of Commercial Taxes (DCCT) and two Assistant Commissioners of Commercial Taxes (ACCT) is responsible for administration of the Act and Rules. The State is divided into five Commercial Taxes Divisions<sup>16</sup> each under the charge of a JCCT (Administration) and 28 circles, each under the charge of a DCCT/ ACCT of the circle. The DCCT/ ACCT assisted by Commercial Taxes Officers (CTO), is responsible for levy and collection of electricity duty (ED).

### 5.7 Results of audit

During 2016-17, Audit test checked the records of 27<sup>17</sup> out of 44 auditable units (61 per cent) of the CTD and noticed deficiencies and irregularities amounting to ₹ 41.44 crore in 14 cases (of which ₹ 41.23 crore involving seven cases related to three offices<sup>18</sup>) as detailed in **Table-5.3**

**Table-5.3**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)	Share in per cent to the total objected amount
1	Suppression of energy turnover	2	36.77	88.73
2	Non-levy of interest	4	2.46	5.94
3	Application of incorrect rate	6	2.14	5.16
4	Incorrect grant of exemption from electricity duty	2	0.07	0.17
<b>Total</b>		<b>14</b>	<b>41.44</b>	

This section of the chapter illustrates irregularities involving 10 cases worth ₹ 6.83 crore. Some of these types of irregularities have been repeatedly reported during the last five years as detailed in **Table – 5.4**.

**Table – 5.4**

Nature of observations	(₹ in crore)											
	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Non/ short levy of ED and interest	3	1.40	16	15.80	-	-	8	3.83	2	0.25	29	21.28
Concealment of electrical energy	-	-	1	30.63	21	2.00	-	-	-	-	22	32.63

#### Recommendation:

**The Department may introduce systems to ensure that similar types of irregularities reported in successive Audit Reports do not recur.**

<sup>16</sup> Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Pargana (Dumka).

<sup>17</sup> Offices of DCCT/ ACCT, Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahibganj, Singhbhum and Tenughat and Commissioner, Commercial Taxes, Ranchi.

<sup>18</sup> Offices of DCCT/ ACCT, Jharia, Ranchi South and Tenughat.

## 5.8 Non/ short levy of electricity duty and interest

**Failure of the assessing authorities to levy higher electricity duty on mining activity in terms of the amended Act, and failure of the Department to introduce software application to implement its orders to make e-filing of taxes mandatory, resulted in short levy of electricity duty of ₹ 2.12 crore and interest of ₹ 3.36 crore.**

According to the Jharkhand Electricity Duty (Amendment) Act 2011, the rate of electricity duty for mining activity, where the total load exceeds 100 British Horse Power (BHP), is 20 *paise* per unit of energy sold or consumed; it is 5 and 24 *paise* per unit for industrial purposes and domestic use (when consumption exceeds 250 units) respectively. Further, as per the Jharkhand Electricity Duty (Amendment) Rules 2012, failure to pay the duty within the 21<sup>st</sup> of the following month attracts interest at the rate of 1.5 *per cent* per month.

The Audit Reports for the years 2011-12 to 2015-16 pointed out failures of assessing authority (AAs) to apply the correct rate of electricity duty in respect of 29 assessees resulted in loss of revenue amounting to ₹ 21.28 crore. Though the Department assured (August 2016) that appropriate action would be taken, subsequent audit noticed recurrence of similar irregularities/ lapses as detailed below.

(i) Test check of assessment records for the period 2012-13 to 2013-14 (assessed between September 2015 and May 2016) in Hazaribag and Tenughat circles revealed that electricity duty of ₹ 1.42 crore was levied at lesser rates in the case of five assessees out of 36 assessees test checked. Further scrutiny revealed that the failure arose due to the AAs misinterpreting “washing of coal” as industrial activity, attracting duty at lower rate, despite the new provisions of the Jharkhand Electricity Duty (Amended) Act 2011. This resulted in short levy of duty of ₹ 2.12 crore and interest of ₹ 89.61 lakh.

(ii) Similar check of assessment records for the period 2012-13 to 2014-15 (assessed between March 2015 and March 2016) in Giridih and Jharia Circles revealed that though the AAs assessed the duty at ₹ 9.38 crore (on the ground that energy consumed in mining activity by the assessees attracts higher rate of duty) against the lower amount of ₹ 2.02 crore admitted and paid by four assessees out of 19 assessees test checked, the AAs failed to levy interest of ₹ 2.46 crore on the additional assessment. Audit noted that the Department had made mandatory (April 2011) the e-filing of returns relating to Value Added Tax which had the facility of automatic calculation of interest in case of delayed payment of tax. Despite this, the Department had not introduced the software application for this, and returns continued to be filed manually, resulting in failure of AAs to levy interest on delayed payment of tax.

The Department accepted (September 2017) the audit observation but did not address the need for ensuring e-filing of returns.

### Recommendations:

- 1. The Department may suitably instruct the AAs to levy electricity duty on mining activity at higher rates in terms of amended Jharkhand Electricity Duty Act.**

2. The Department may immediately develop the software application required to make e-filing of returns mandatory.

### 5.9 Concealment of electrical energy

**The Department did not have a mechanism for cross-verification of transfer of electrical energy between two assessees. This resulted in concealment of 4.68 crore units of electrical energy and consequential under-assessment of duty of ₹ 1.35 crore including interest.**

As per the Jharkhand Electricity Duty (Amendment) Act, 2011 and Rules framed there under, every person other than a licensee who obtains bulk supply of energy generated by a licensee for sale or partly for his own use shall pay every month, electricity duty at the appropriate rate to the Government. Failure to pay the duty within 21<sup>st</sup> day of the following month attracts interest at the rate of 1.5 *per cent* per month or part thereof.

The Audit Reports for the years 2012-13 and 2013-14 highlighted non-adherence to the above provisions of the Act/ Rules leading to short/ non levy of duty of ₹ 32.63 crore in the case of 22 assessees. To ascertain the action taken by the department on the findings, Audit test checked assessment case records of 18 assessees in Tenughat commercial taxes circle, and noted that an assessee during 2012-13 and 2013-14 (assessed in May 2016) had shown receipt of electrical energy on stock transfer for 15.51 crore units. However, Audit scrutiny of assessment records of the transferor assessee showed that the assessee had actually transferred 20.19 crore units of electrical energy. The reasons for concealment of turnover of electrical energy was analysed and noticed that the AA while finalizing the assessment did not carry out the functions of cross verification of transfer of energy between two assessees registered in the same circle. Further, no provision exists under the Jharkhand Electricity Duty (Amendment) Act 2011 to carry out cross-verification of the sale/ purchase turnover. This resulted in concealment of 4.68 crore units of electrical energy by the transferee on which electricity duty of ₹ 93.68 lakh was leviable, besides interest of ₹ 41.26 lakh for non-payment of ED.

The Department accepted (September 2017) the audit observation.

**Recommendation:**

**CTD may evolve a mechanism of cross verification of sale/ transfer of electrical energy by amending the Jharkhand Electricity Duty (Amendment) Act 2011.**



**CHAPTER-VI**  
**MINING RECEIPTS**



## CHAPTER–VI: MINING RECEIPTS

### 6.1 Results of audit

During 2016-17, Audit test checked the records of 27<sup>1</sup> out of 51 auditable units (53 *per cent*) of the Mines and Geology Department. The Department collected ₹ 4,384.43 crore receipts during 2015-16 of which the audited units collected ₹ 4,239.26 crore (97 *per cent*). Audit noticed irregularities amounting to ₹ 381.79 crore in 322 cases due to various deficiencies (of which ₹ 339.22 crore involving 14 lessees and nine exporters relates to three mining offices<sup>2</sup>) as detailed in **Table-6.1**.

**Table-6.1**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)	Share in <i>per cent</i> to the total objected amount
1	“Mining Receipts in Jharkhand State”- A Performance Audit	01	366.54	96.01
2	Non/ short levy of royalty	28	6.94	1.82
3	Non/ short levy of dead rent	22	5.44	1.42
4	Non-levy of penalty	56	1.42	0.37
5	Other cases	215	1.45	0.38
<b>Total</b>		<b>322</b>	<b>381.79</b>	

The Department accepted under assessment and other deficiencies of ₹ 311.95 crore in 95 cases pointed out by Audit.

This chapter discusses 40 cases worth ₹ 367.53 crore including a Performance Audit (PA) on “Mining Receipts in Jharkhand State” having financial implication of ₹ 366.54 crore. Out of these some irregularities have been repeatedly reported during the last five years as detailed in **Table – 6.2**.

**Table – 6.2**

Nature of observations	(₹ in crore)											
	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Short levy of royalty due to application of incorrect rate	62	20.43	28	32.22	40	18.77	34	338.59	8	143.52	172	553.53
Short levy of royalty due to under valuation of basic sale value of washed coal	-	-	-	-	-	-	-	-	1	446.21	1	446.21
Suppression of dispatch	-	-	1	1.18	-	-	-	-	2	1.02	3	2.20
Non/ short levy of dead rent	20	0.37	-	-	-	-	38	0.20	37	2.42	95	2.99
Non/ delayed submission of monthly returns	17	0.02	-	-	-	-	28	0.07	19	0.12	64	0.21

#### Recommendation:

**The Department may initiate systemic measures to ensure that the persisting irregularities that are routinely found during audit do not recur.**

<sup>1</sup> Additional Director, Assistant Director, Geology, Ranchi; Deputy Director, Drilling, Geology/ Engineering Cell, Geology/ Ground water Cell, Ranchi; Director of Mines, Ranchi; District Mining Offices, Bokaro, Chatra, Chaibasa, Palamu, Deoghar, Dhanbad, Dumka, Garhwa, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Latehar, Pakur, Ramgarh, Ranchi, Sahibganj, Simdega, and Secretary, Mines & Geology, Ranchi.

<sup>2</sup> District mining offices, Chatra, Koderma and Ramgarh (included in PA).

## 6.2 Mining Receipts in Jharkhand State

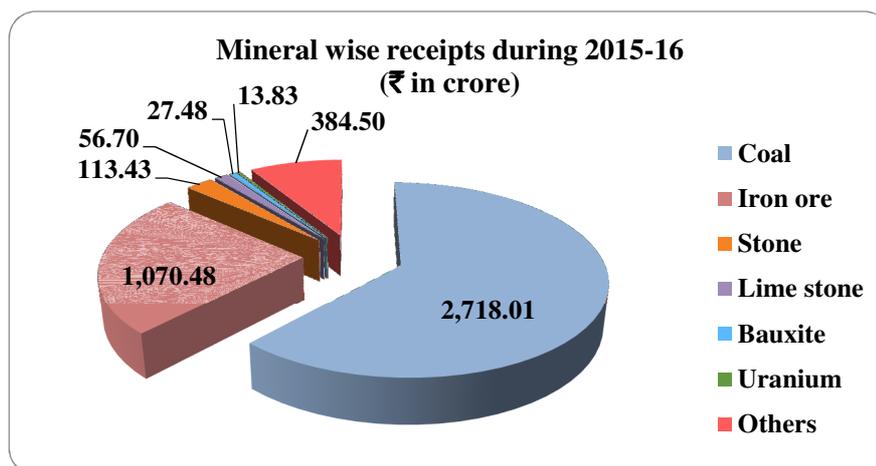
### 6.2.1 Introduction

Management of mineral resources is the responsibility of both the Central and State Government<sup>3</sup>. Minerals are divided into two categories, *viz.*, major and minor minerals. Minor minerals include building stone, gravel, ordinary clay, ordinary sand and any other minerals notified by the Government of India. All other minerals such as coal, bauxite, iron ore etc., are termed as major minerals.

More than 30 minerals including coal, iron ore, bauxite, copper, lime stone, kyanite, quartz, mica, graphite, building stone etc., are found in Jharkhand constituting 40 *per cent* of India's total mineral resources. Mining receipts are the second largest receipt of the State and it contributed between 24 and 27 *per cent* of the total receipts during the last five years.

Mineral wise share of the receipts against the total mining receipts of ₹ 4,384.43 crore<sup>4</sup> during the year 2015-16, of Mines and Geology Department, is shown in **Chart-6.1**.

Chart-6.1



The Government earns major share of its mining receipts from coal, iron ore and stone i.e., 61.99, 24.42 and 2.59 *per cent* respectively, whereas other minerals together contributes only 11 *per cent*.

### 6.2.2 Organisational set up

At the Government level, the Secretary, Industry, Mines and Geology Department and at Department level, the Director of Mines is responsible for the administration of the Act and Rules<sup>5</sup>. The Director of Mines is assisted by an Additional Director of Mines (ADM) and two Deputy Directors of Mines at

<sup>3</sup> Entry 54 of the Union List (List I) and entry 23 of the State List (List-II) of the Seventh Schedule of the Constitution of India.

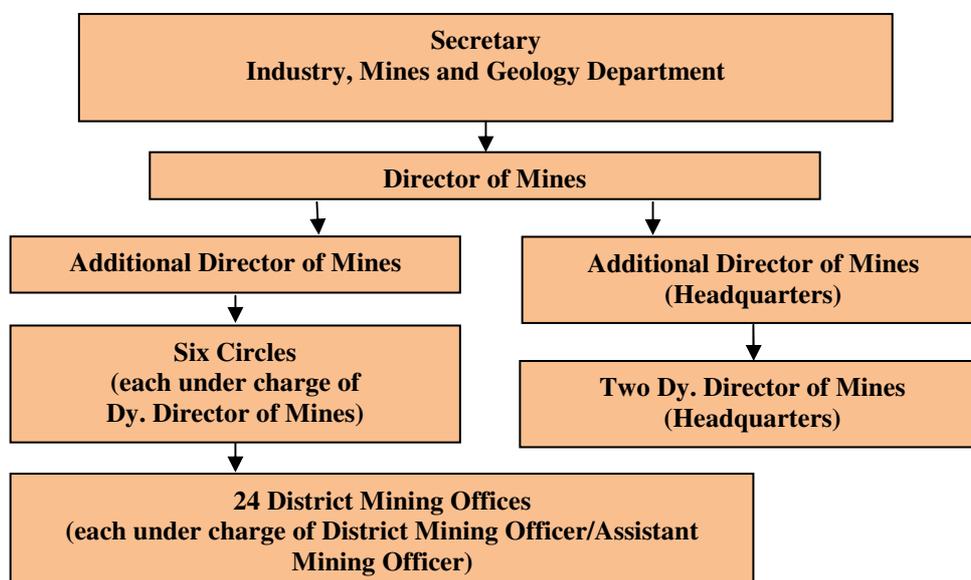
<sup>4</sup> Information furnished by the Mines and Geology Department.

<sup>5</sup> Mines and Minerals (Development and Regulations) Act, 1957 Mineral Concession Rules, 1960, Mineral Conservation and Development Rules, 1988, Jharkhand Minor Mineral Concession Rules, 2004, Jharkhand Minerals Dealer's Rules, 2007 and Jharkhand Mineral Transit Challan Regulations, 2005.

headquarter. At the field level, he is assisted by an ADM who is in turn assisted by six Deputy Directors of Mines (DDM). The State is divided into six circles<sup>6</sup>, each under the charge of a DDM who supervises the work of District Mining Officers (DMO)/ Assistant Mining Officers (AMO) of their jurisdiction. The circles are further divided into 24 district mining offices (mining offices)<sup>7</sup>, each under the charge of a DMO/ AMO. The DMOs/ AMOs are responsible for levy and collection of royalty<sup>8</sup> and other mining receipts, implementation of penal provisions and monitoring of compliance of orders and instructions issued by other departments of Central/ State Governments e.g., Indian Bureau of Mines, Ministry of Environment and Forests (MoEF), State Pollution Control Board etc. They are assisted by Mining Inspectors (MIs). The DMOs/ AMOs and MIs are authorised to inspect the mining lease areas, review production and check despatch of minerals.

The organisational set-up is depicted in the following **Chart-6.2**.

**Chart-6.2**



### 6.2.3 Audit objectives

The Performance Audit was conducted to ascertain whether:

- the provisions of Act, Rules and departmental instructions were adequate and enforced properly to safeguard the revenue of the State;
- the internal control mechanism in the Department was adequate and effective to check the leakage of revenue;
- there exists a mechanism for inter-departmental cross-verification of data/ information with returns of the lessees;

<sup>6</sup> Chaibasa, Dhanbad, Dumka, Hazaribag, Palamu and Ranchi.

<sup>7</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahibganj, Saraikela – Kharsawan and Simdega.

<sup>8</sup> Royalty is paid to the State for permitting extraction and removal of minerals granted under a lease agreement.

- action taken in cases of illegal/ unauthorised extraction of minerals was effective; and,
- there is a system for ensuring that environmental concerns are being addressed properly and preventive measures are useful and effective.

#### **6.2.4 Audit criteria**

The audit criteria for the Performance Audit was derived from the following sources:

- Mines and Minerals (Development and Regulations) Act, 1957;
- Mineral Concession Rules, 1960;
- Mineral Conservation and Development Rules, 1988;
- Jharkhand Minor Mineral Concession Rules, 2004;
- Jharkhand Minerals Dealer's Rules, 2007;
- Jharkhand Mineral Transit Challan Regulations, 2005;
- Bihar and Orissa Public Demands Recovery Act, 1914, as adopted by Jharkhand;
- Executive and departmental orders issued from time to time; and
- Files of the Department.

#### **6.2.5 Scope of audit**

The Performance Audit on “**Mining Receipts in Jharkhand State**” for the period 2011-12 to 2015-16 was conducted during November 2016 to July 2017. District mining offices were stratified as high, medium and low risk on the basis of revenue collected<sup>9</sup> (**Appendix-I**). All five mining offices<sup>10</sup> of high risk and eight mining offices<sup>11</sup> from medium and low risk strata were selected through random sampling method without replacement<sup>12</sup>. Further, three DDM offices<sup>13</sup> and Directorate office at apex level were also selected for the Performance Audit. Similar audit observations noticed during compliance audit of other than selected units<sup>14</sup> have been included in the respective paragraphs.

#### **6.2.6 Audit methodology**

An Entry conference was held on 18 January 2017 with the Secretary to the Government, in which the audit objective, scope and methodology were discussed. Records of leaseholders, permit holders, licensee etc., had been test checked to detect non/ short levy of royalty, unauthorised extraction of minerals and non-compliance of environment norms in the selected mining

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<sup>9</sup> More than ₹ 250 crore per year; less than ₹ 250 crore and upto ₹ 40 crore per year; and less than ₹ 40 crore per year respectively.

<sup>10</sup> Bokaro, Chaibasa, Chatra, Dhanbad and Ramgarh.

<sup>11</sup> Deoghar, Garhwa, Gumla, Hazaribag, Koderma, Lohardaga, Pakur and Sahibganj.

<sup>12</sup> Random Sampling without replacement is a method where samples are identified randomly from the universe without repetition of samples.

<sup>13</sup> Dhanbad, Dumka and Hazaribag.

<sup>14</sup> Jamshedpur, Jamtara and Latehar.

offices. Besides, data/ information from Indian Bureau of Mines, Directorate of System, Central Excise and Customs and Commercial Taxes Department, Government of Jharkhand had been collected and compared with the records<sup>15</sup> maintained in the respective mining offices.

An Exit conference was held on 6 October 2017 with the Secretary to the Government, to discuss the outcomes of the Performance Audit. The response of the Government/ Department has been suitably incorporated in the Report.

### 6.2.7 Acknowledgement

The co-operation of the Mines and Geology Department in providing necessary information and records for audit is acknowledged.

### 6.2.8 Trend of revenue

Receipts under the Major Head 0853–Non-ferrous Mining and Metallurgical Industries mainly consist of royalty. Other receipts under this head includes application fee, license fee<sup>16</sup>, permit fee<sup>17</sup>, dead rent<sup>18</sup>, surface rent<sup>19</sup>, penalties for illegal mining and interest for delayed/ belated payment of dues etc.

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department. The Secretary, Mines and Geology is responsible for compilation of the correct estimates and sending it to the Finance Department. In case of fluctuating revenue, the estimates should be based on a comparison of the last three years' receipts.

Actual receipts under the Major Head 0853–Non-ferrous Mining and Metallurgical Industries (Mining Receipts) against the budget estimates (BEs) during the period 2012-13 to 2016-17 along with the total non-tax revenue and total revenue during the same period is in **Table-6.3**.

**Table-6.3**

Year	Budget estimates (₹ in crore)	Actual mining receipts (₹ in crore)	Total non-tax revenue (₹ in crore)	Total revenue of the State (₹ in crore)	Percentage of variation (col. 2 to 3)	Percentage contribution by the mining sector to total non-tax revenue of the State (col. 3 to 4)	Percentage contribution by the mining sector to total revenue of the State (col. 3 to 5)
1	2	3	4	5	6	7	8
2012-13	3,209.92	3,142.47	3,535.63	11,759.30	(-) 2.10	88.88	26.72
2013-14	3,500.00	3,230.22	3,752.71	13,132.50	(-) 7.71	86.08	24.60

<sup>15</sup> Monthly returns, Raising and Dispatch (RD) register and Demand, Collection and Balance (DCB) register.

<sup>16</sup> Licence fee is a fee collected from the person, who intends to ascertain feasibility of mining operation in a defined area under the terms and condition of a prospecting licence.

<sup>17</sup> Permit fee is levied in advance for extraction of a fixed quantity of minor mineral within a specified period in lieu of royalty.

<sup>18</sup> Deterrent against the tendency of leaseholders in cornering the mining lease and keeping the mineral resource idle.

<sup>19</sup> Surface rent is payable by a lessee for the surface area used by him for mining operations and it shall not exceed the land revenue.

**Table-6.3**

Year	Budget estimates (₹ in crore)	Actual mining receipts (₹ in crore)	Total non-tax revenue (₹ in crore)	Total revenue of the State (₹ in crore)	Percentage of variation (col. 2 to 3)	Percentage contribution by the mining sector to total non-tax revenue of the State (col. 3 to 4)	Percentage contribution by the mining sector to total revenue of the State (col. 3 to 5)
2014-15	4,699.47	3,472.99	4,335.06	14,684.87	(-) 26.10	80.11	23.65
2015-16	5,500.00	4,384.43	5,853.01	17,331.96	(-) 20.28	74.91	25.30
2016-17	7,050.00	4,094.25	5,351.41	18,650.66	(-) 41.93	76.51	21.95

Source: Finance Account of the Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand.

Audit examined the files relating to preparation of budget estimates in the department and Finance Department to ascertain the reasons for variation in budget estimates and fluctuation in revenue collection. It was observed that estimates communicated by the Department were enhanced by the Finance Department without assigning reasons in contravention to the Rules. Wide variation and volatility in collection of revenue indicates that the BEs were prepared without considering actual receipts.

### 6.2.9 Cost of collection

The gross collections from mining receipts, expenditure incurred on the collection and the percentage of such collection to gross expenditure during 2012-13 to 2016-17 are mentioned in **Table-6.4**.

**Table-6.4**

Year	Total mining receipts (₹ in crore)	Total expenditure on collection of revenue (₹ in crore)	Percentage of expenditure on collection in neighbouring States				Percentage of expenditure on collection in Jharkhand
			Bihar	Chhattisgarh	Odisha	West Bengal	
2012-13	3,142.47	10.02	2.40	0.71	0.32	14.58	0.32
2013-14	3,230.22	9.44	2.45	0.82	0.66	10.38	0.29
2014-15	3,472.99	10.68	1.53	0.86	0.88	9.63	0.31
2015-16	4,384.43	12.94	1.28	0.88	0.63	1.47	0.30
2016-17	4,094.25	13.10	1.22	0.81	0.66	1.27	0.32

Source: Finance Account of the Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand.

The cost of collection of mining receipts in Jharkhand is more efficient than the neighbouring States.

### Audit findings

Test check of 549 out of 2,268 leases in selected mining offices revealed major irregularities in 141 cases having financial implication of ₹ 366.54 crore pertaining to the period 2011-12 to 2015-16. Mineral wise number of leases and revenue collected thereon versus number of leases test checked and audit findings during the period is depicted in **Table-6.5**.

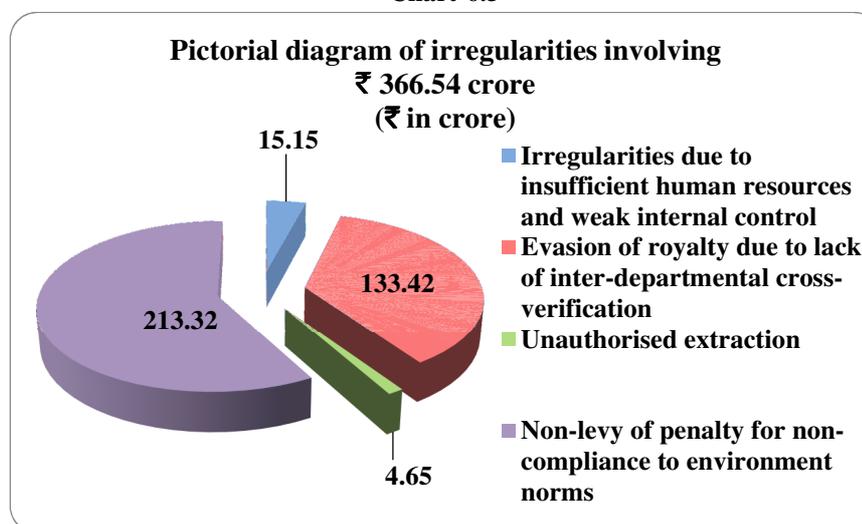
Table-6.5

Names of minerals	Total no. of leases in selected units	No. of leases test checked	Percentage of leases test checked	(₹ in crore)	
				Total collection in selected units during 2011-12 to 2015-16	Financial impact of audit observations noticed during PA
Coal	169	89	52.66	10,020.82	286.80
Iron ore	50	32	64	3,661.78	7.16
Bauxite	46	46	100	116.41	6.13
Mica	3	0*	0	0.17	56.14
Stone	1,470	305	20.75	294.17	4.48
Lime Stone	34	33	97.06	96.87	0.37
Others	496	44	8.87	52.20	5.46
<b>Total</b>	<b>2,268</b>	<b>549</b>	<b>24.21</b>	<b>14,242.42</b>	<b>366.54</b>

\* the observation is based on trading of mica without lease or dealer licence.

A pictorial diagram depicting nature of irregularities observed in audit is depicted in the Chart-6.3.

Chart-6.3



These irregularities as well as similar audit observations noticed in compliance audit involving ₹ 98.94 lakh are discussed in the succeeding paragraphs.

### 6.2.10 Non-formulation of State Mineral Policy

**The State Government is yet to finalise a State Mineral Policy, seven years after the Government of India circulated a model policy. Consequently, the mineral resources of the State continued to be exploited on *ad hoc* basis.**

Government of India (GoI) framed the National Mineral Policy, 2008 for optimal utilisation of mineral resources and sustainable development of the mineral sector. A Model State Mineral Policy, 2010 was circulated to all States requiring them to develop suitable mineral policies for their States within the ambit of the National Mineral Policy, keeping in view local requirements.

The Audit Report for the year 2011-12 had highlighted the failure of the State Government to frame a State Mineral Policy. During review of the status for the present Report, Audit found no improvement, since no proposal for a State

Mineral Policy had yet been finalised even more than seven years after the circulation of the Model State Mineral Policy. Consequently, the extraction of mineral resources in Jharkhand continues on *ad hoc* basis, implying inefficient use of mineral resources of the State.

Replying to the audit observation, the Department informed that the National Mineral Policy was under consideration of GoI. Further progress in this regard will be awaited in audit.

### 6.2.11 Human resources and internal control mechanism in the Department

DMOs/ AMOs are responsible for administration of Act and Rules as well as inspection of mines, to check output register and compare monthly returns of lessees. Mining Inspectors (MI) are primarily responsible for inspections/ sectional measurement of mines, verification of grade of mineral shown in laboratory analysis reports and field visits. Shortage of officers and staff adversely affects the work of assessment of records, levy of dead rent/ royalty, penalty, prevention of illegal extraction of minerals etc.

The Audit Report for the year 2011-12 had reported shortages of manpower. Audit evaluated the present position of Department's man power and found no improvement in this regard. The position of officers and staff in the district mining offices of the State is shown in **Table-6.6**.

**Table-6.6**

Names of post	Sanctioned strength	Men-in-position	Shortage	Shortage in percentage
DMO	24	07	17	70.83
AMO	15	09 <sup>20</sup>	06	40.00
Mining Inspector (MI)	50	26 <sup>21</sup>	24	48.00
Head Clerk	24	02	22	91.67
Clerk	63	34 <sup>22</sup>	29	46.03
Stenographer	16	02	14	87.50
Driver	17	05	12	70.59
Orderly	39	25	14	35.90
Chainman	37	13	24	64.86
Night Guard	12	03	09	75.00
Process Server	14	03	11	78.57
<b>Total</b>	<b>311</b>	<b>129</b>	<b>182</b>	

Source: Information furnished by the Directorate.

The shortage of manpower in various posts had increased to 36 and 92 *per cent* as compared to zero and 55 *per cent* previously reported in Audit Report for 2011-12. Regular recruitment had not been conducted in any cadre since the creation of the State (15 November 2000) till 2016-17 though there was huge vacancy in all cadres. The Department also did not maintain any records to show the annual position of vacancies against sanctioned posts. It was, however, noticed that Directorate had initiated recruitment proceedings in July 2013 and requisitioned for 26 clerks and 31 Mining Inspectors (MIs) in 2015 but recruitment was not made till March 2017. Thus, the Department has

<sup>20</sup> Three AMOs are under the charge of DMOs.

<sup>21</sup> One MI is under the charge of DMO and 10 MIs are under the charge of AMOs.

<sup>22</sup> Three clerks are under the charge of head clerks.

failed to evolve a mechanism for systematic recruitment to remove vacancies across different cadres.

The Department/ Government replied (October 2017) that 11 AMOs, five DMOs and 11 Mining Inspectors have been recruited in 2017-18 to bridge the gap between sanctioned strength and men-in-position. However, even after these recruitments there was huge shortage of officers and staff which adversely affected the work of the Department.

**Recommendation:**

**The Department may take steps to fill up vacancies in critical cadres.**

**Inadequate inspection by departmental officers**

As per departmental instructions (June 1970), the Director and Deputy Director of Mines are required to inspect the mining offices once a year.

The Audit Report for the year 2011-12 had reported inadequate inspection by the departmental officers. Audit examined the progress of inspection since the previous Audit Report and found that inspections were conducted by the DDM/ADM only on four occasions in three mining offices<sup>23</sup> during the period 2011-12 to 2015-16. Audit observed that the Department had not even prepared annual inspection plans, in the absence of which, the Department could not enforce and monitor adequate inspections. Lack of inspections by superior officers resulted in continuance of procedural lapses that remained undetected as mentioned in the succeeding paragraphs.

The Department accepted (October 2017) the audit observation and assured that efforts would be made to increase the frequency of departmental inspections. Action taken by the Department to evolve a mechanism to ensure adequate inspections would be checked during future audits.

**Internal audit**

The Department has no internal audit wing of its own. The Finance Department which acts as the internal auditor, is required to conduct *cent per cent* audit of all returns submitted, demand notices issued, accounting of royalty collection, up-to-date verification of amount deposited with the treasury records and their credit to the Consolidated Fund of the State.

The Audit Report for the year 2011-12 reported that internal audit was inadequate. When Audit verified the position of internal audit for the present Report, it found that the situation has worsened. Against the finding that internal audit had been conducted in 10 out of 12 selected mining offices during 2006-07 to 2010-11, Audit found that during the period 2011-12 to 2015-16, the Finance Department had conducted internal audit in only one out of 13 selected mining offices.

The Finance Department, which is responsible for internal audit did not furnish a reply to the audit observation. The Mining Department however informed (October 2017) that efforts would be made to enhance internal audit. The reply is not acceptable, since it is the responsibility of the Finance

<sup>23</sup> Bokaro, Chatra and Dhanbad.

Department, and not the Mining Department to perform internal audit. Absence/ shortfall in the internal audit is one of the reasons why systemic errors repeatedly pointed out in previous Audit Reports and in this Report, do not get redressed.

**Recommendation:**

**The Finance Department should initiate a mechanism for more and comprehensive internal audit.**

**Irregularities due to insufficient human resources and weak internal control mechanisms**

Audit noticed non-compliance to the Act and Rules due to deficient human resources and internal control mechanisms involving Government revenue of ₹ 15.15 crore in 142 cases out of 549 cases test checked as mentioned in succeeding paragraphs. Some of the irregularities have been reported in previous Audit Reports and in spite of assurances provided by the Department the irregularities persist.

**6.2.11.1 Sectional measurement**

**The Department failed to conduct sectional measurements against prescribed norms. Consequently, the authenticity of the quantity of mineral raised and despatched by the lessees could not be verified and concealment thereof cannot be ruled out.**

The Department notified (July 1986) that field offices should conduct at least 20 *per cent* sectional measurement of leases each year to verify the actual quantity of raising and despatch of minerals. The DMO should verify 10 *per cent* of sectional measurement conducted for correctness of data.

The Audit Report for the year 2011-12 had reported failures to conduct sectional measurements in terms of notification. Audit evaluated the Department's assurance that this would be ensured in future and found that sectional measurements of one to ten leases were conducted during 2011-12 to 2015-16 which was only 0.08 to 0.86 *per cent* against the prescribed norms of 20 *per cent* of the total leases of minor minerals. This shortfall can be attributed to the acute shortage in the cadre of Mining Inspector who are responsible for conducting sectional measurement. In test checked offices, against the sanctioned strength of 32 posts, only five Mining Inspectors were posted. In the absence of adequate sectional measurements, authenticity of the quantity of minerals raised and despatched by the lessees could not be verified and concealment thereof cannot be ruled out.

The Department accepted (October 2017) the audit observation, but assured that at least 10 *per cent* of the sectional measurement would be conducted annually.

### 6.2.11.2 Assessment of records of minor minerals

**Due to failure to fill up vacancies in critical cadres, the Department failed to perform the annual assessment of lessee records as required under the Rules, with many assessments becoming time barred.**

The JMMC Rules, 2004 require the assessing authority to assess the royalty and pass a written assessment order annually for each lease of minor minerals on the basis of scrutiny of lessee's books and accounts. Further, the Rules prohibit the assessing authority from issuing any notice after the expiry of five years from which the date of assessments became due.

The Audit Report for the year 2011-12 had reported inadequate assessment of records of minor minerals. However, Audit scrutiny of demand files in selected units<sup>24</sup> revealed that only 42 out of 6,359 records due for assessment for the period 2011-12 to 2015-16 were assessed. Further, assessment of 1,350 out of 1,358 records pertaining to the period 2011-12 became time barred as five years had elapsed from the date when assessments became due, with the result that the Department lost the opportunity to raise any additional demands. The shortfall in assessments is attributable to acute shortages<sup>25</sup> in the cadres of DMO/ AMO, Mining Inspector and other staff responsible for assessment/ assisting in assessment through scrutiny of relevant books and accounts of the lessees. Non-assessment of records was a violation of the Rules, which may lead to loss of Government revenue as illustrated in paragraphs 6.2.11.3 (2<sup>nd</sup> bullet) and 6.2.11.5 of this Report.

The Department accepted (October 2017) the audit observation, confirmed that shortage of manpower resulted in non-assessment of records, but stated that all the data are now being captured in Jharkhand Integrated Mines and Minerals Management System (JIMMS) which would facilitate the assessment. The reply was not convincing as JIMMS would only facilitate in fetching the data; the responsibility to verify and co-relate these data with the primary books of account of lessee and to pass an assessment order lies with DMOs/ AMOs. Failure of the Department to recruit sufficient manpower during the last five years led to non-compliance of the Rules.

### 6.2.11.3 Short levy of royalty due to application of incorrect rate

**Failure of departmental officers to verify the current price notified by Coal India Limited and Indian Bureau of Mines on coal and iron ore respectively, and the JMMC Rules on royalty on stone, resulted in loss of revenue.**

The Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 and the Mineral Concession (MC) Rules, 1960, require holders of mining leases to pay royalty on removal or consumption of coal from the leased areas

<sup>24</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Gumla, Hazaribag, Koderma, Lohardaga, Pakur, Ramgarh and Sahibganj.

<sup>25</sup> In these offices, against the sanctioned strength of 185 officers and staff only 75 were posted.

at the rate of 14 *per cent* on the basic pithead price of run of mines<sup>26</sup> (ROM) coal notified by the Coal India Ltd. (CIL) and at the rate of 15 *per cent* on grade wise monthly average price of iron ore, published by the Indian Bureau of Mines (IBM). Similarly, the Jharkhand Minor Mineral Concession (JMMC) Rules, 2004 provide that royalty on stone should be payable at the rate of ₹ 105 per m<sup>3</sup>.

The Audit Report for the year 2011-12 to 2015-16 had reported persistent loss of Government revenue amounting to ₹ 553.53 crore due to application of incorrect rate of royalty by 172 lessees. Further, audit test check of selected units<sup>27</sup> revealed that application of incorrect rate of royalty persisted due to shortage of Mining Inspectors and other staff and weak internal controls. This resulted in short levy of royalty of ₹ 6.65 crore detailed in the paragraph.

- In three mining offices<sup>28</sup>, Audit found that in four out of 19 leases of coal test checked, the lessees had despatched 2.84 lakh MT of coal during the period 2015-16. The mining officers levied royalty of ₹ 5.02 crore instead of ₹ 8.70 crore to be levied on basic pithead price of run of mine coal notified by CIL. This resulted in short levy of royalty of ₹ 3.68 crore as mentioned in **Table-6.7**.

**Table-6.7**

(₹ in lakh)

Sl. No.	Names of the office No. of leases	Mineral	Nature of observations	Quantity (MT)	Royalty leviable levied	Short levy
1	<u>Chatra</u> 1	Coal	Royalty was not levied on basic pithead price of ROM as notified by the CIL though, this information was available on the CIL website.	52,973.31	<u>97.15</u> 86.32	10.83
2	<u>Hazaribag</u> 2	Coal	Royalty was not levied on basic pithead price as notified by the CIL for the colliery nearest to the captive mine.	1,57,163.91	<u>349.95</u> 258.90	91.05
3	<u>Ramgarh</u> 1 (captive mine)	Coal (clean coal)		73,988.90	<u>422.62</u> 157.00	265.62
<b>Total</b>	<b>4</b>			<b>2,84,126.12</b>	<b><u>869.72</u></b> <b>502.22</b>	<b>367.50</b>

- In District Mining Office, Sahibganj, three out of 26 lessees of stone test checked had despatched 6.79 lakh MT of stone during November 2015 to December 2016 on which royalty of ₹ 2.46 crore was paid at the rate of ₹ 36.20 per MT. The DMO accepted the lower royalty instead of the royalty of ₹ 5.05 crore actually leviable at the prescribed rate of ₹ 105 per m<sup>3</sup> or ₹ 74.36 per MT<sup>29</sup>. This resulted in short levy of royalty amounting to ₹ 2.59 crore.

- In District Mining Office, Chaibasa, one out of ten lessees test checked had despatched 1.33 lakh MT of iron ore in March 2016. The DMO, however, levied royalty of ₹ 192.33 lakh instead of ₹ 231 lakh leviable on grade wise monthly average price of iron ore published by IBM. This resulted in short levy of royalty of ₹ 38.67 lakh as mentioned in **Table-6.8**.

<sup>26</sup> Run of mines (ROM) ores refers to ore that comes directly from a mine in its natural form i.e., prior to treatment/ processing of any sort.

<sup>27</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Gumla, Hazaribag, Koderma, Lohardaga, Pakur, Ramgarh and Sahibganj.

<sup>28</sup> Chatra, Hazaribag and Ramgarh.

<sup>29</sup> Standard conversion - 1 m<sup>3</sup> = 1.412 MT.

Table-6.8

Month	Category grade	Quantity despatched (MT)	Rate of royalty leviable levied (Amount in ₹)	Royalty leviable levied (₹ in lakh)	Short levy (₹ in lakh)
March 2016	<u>Lump</u> 55-58%	2,354.61	<u>198.90</u> 172.80	<u>4.68</u> 4.07	0.61
	<u>Lump</u> 58-60%	83,045.72	<u>198.90</u> 181.20	<u>165.18</u> 150.48	14.70
	<u>Fine</u> 55-58%	48,063.87	<u>127.20</u> 78.60	<u>61.14</u> 37.78	23.36
<b>Total</b>		<b>1,33,464.20</b>		<b><u>231.00</u></b> <b>192.33</b>	<b>38.67</b>

The Department accepted (October 2017) the audit observation.

#### Recommendation:

The Department may initiate measures to ensure that departmental officers verify the current prices notified by Coal India Limited and Indian Bureau of Mines on coal and iron ore respectively, and the JMMC Rules on royalty on stone.

#### 6.2.11.4 Short levy of royalty due to downgrading of mineral

**Failure of DMOs/ AMOs to cross verify monthly returns with the relevant laboratory analysis reports resulted in short levy of royalty of ₹ 5.78 crore.**

The MMDR Act, 1957 stipulates that rate of royalty on bauxite for use in alumina and aluminium metal extraction is based on the aluminium metal content at the price of aluminium metal on the London Metal Exchange (LME). As per the Jharkhand Mineral Transit Challan Regulations, 2005, the DMO/ AMO is required to issue challans for removal of minerals after obtaining laboratory analysis report from the lessee and getting it verified by the Mining Inspector (MI).

Audit noticed from the scrutiny of demand files of 15 leases of M/s Hindalco in District Mining Offices, Gumla and Lohardaga that, the lessee had despatched 76.66 lakh MT of bauxite and paid royalty of ₹ 95.70 crore during the period 2011-12 to 2015-16. Audit compared the percentage of alumina content mentioned in the laboratory analysis report of the bauxite sample collected from the mines of the lessee for the same period, with the percentage of alumina content shown by the lessee in the monthly returns. It was found that the lessee had depicted a lower percentage of alumina content in the monthly returns. It was noticed that the post of MI was vacant in these districts during 2011-12 to 2015-16. Audit observed, however, that despite the inability to get the laboratory analysis report verified by MIs, due to shortage in the cadre, it was still possible for the DMO/ AMO to have obtained and cross verified the laboratory analysis report with the figures depicted by the lessee in the monthly returns, and detect the discrepancy leading to loss of revenue as Audit had done. Further, inspection by departmental higher authorities was also not conducted in these mining offices during 2011-12 to 2015-16, to monitor their functioning. Thus, the failure of the DMO/ AMO to perform cross-verification of records, and non-inspection of mining offices by the

Department, as required, resulted in short levy of royalty amounting to ₹ 5.78 crore as shown in **Table-6.9**.

**Table-6.9**

(₹ in lakh)					
Sl. No.	Names of office No. of leases	Period	Quantity (in lakh MT)	Royalty leviable levied	Short levy
1	Gumla 8	2011-12 to 2015-16	57.25	7,641.61 7,206.95	434.66
2	Lohardaga 7	2011-12 to 2015-16	19.41	2,506.07 2,362.68	143.39
<b>Total</b>	<b>15</b>		<b>76.66</b>	<b>10,147.68</b> <b>9,569.63</b>	<b>578.05</b>

The Department accepted (October 2017) the audit observation.

**Recommendation:**

**The Department should initiate measures to fill up the vacancies in the cadre of Mining Inspector, ensure periodical inspection of mining offices, and direct DMOs/ AMOs to cross verify relevant mining returns with laboratory analysis reports.**

**6.2.11.5 Short levy of royalty due to concealment of despatch**

**Irregular maintenance of RD register led to non-detection of concealment of despatch of 1.34 lakh m<sup>3</sup> of stone by lessees resulting in short levy of royalty of ₹ 86.81 lakh and interest of ₹ 75.79 lakh thereon.**

The Department instructed (June 1970) DMOs/ AMOs to check monthly returns periodically and compare them with the entries in the Raising and Despatch (RD) register of minerals and railway figures. Further, in terms of the JMMC Rules, 24 per cent per annum simple interest is chargeable on delayed payment of mining dues.

Audit noticed in DMOs, Pakur and Sahibganj that seven out of 92 lessees test checked had filed returns for despatch of 1.07 lakh m<sup>3</sup> of stone between June 2011 and November 2016. However, as per other records available with the DMOs the lessees had actually despatched 2.41 lakh m<sup>3</sup> stone. Thus, failure of the DMOs to compare monthly returns periodically with the entries in RD registers led to concealment of despatch of 1.34 lakh m<sup>3</sup> stone. The failure to cross-verify relevant records could be attributed to shortage of staff and MIs who were responsible for scrutiny of relevant returns and other records of the lessees. In these offices, against the sanctioned strength of 37 officers and staff only 15 were posted. Neither internal audit nor inspection by higher departmental authorities was conducted in these mining offices during 2011-12 to 2015-16. As such, the Department remained unaware of these lapses, which resulted in short levy of royalty of ₹ 86.81 lakh, beside, interest of ₹ 75.89 lakh was also leviable as shown in **Table-6.10**.

Table-6.10

(₹ in lakh)

Sl. No.	Names of office No. of lessees	Period	Nature of observations	Despatch as per monthly returns Other records (in thousand m <sup>3</sup> )	Quantity concealed	Short levy	Interest (upto March 2016)
1	<u>Pakur</u> 5	May 2013 to August 2015	Opening balance in monthly returns was 7,200.97 m <sup>3</sup> while closing balance of previous month was 36,254.01 m <sup>3</sup> .	<u>7.20</u> 36.25	29.05	18.54	15.28
2	<u>Sahibganj</u> 1	June 2011 to February 2012	The lessee had declared despatch of 99,714 m <sup>3</sup> in the monthly returns, whereas, Divisional Railway Manager, Sonepur had sought royalty clearance certificate for 1,99,928 m <sup>3</sup> of stone supplied by the lessee as disclosed in Forms 'O' and 'P' <sup>30</sup> .	<u>99.71</u> 199.92	100.21	63.13	60.61
3	<u>Sahibganj</u> 1	November 2016	The lessee had declared nil despatch in the monthly return while for the same month lessee had generated online transporting challans for despatch of 4,894 m <sup>3</sup> stone.	<u>0.00</u> 4.89	4.89	5.14	0.00
<b>Total</b>	<b>7</b>			<u>106.91</u> 241.06	<b>134.15</b>	<b>86.81</b>	<b>75.89</b>

The Department accepted (October 2017) the audit observation.

**Recommendation:**

**The Department should initiate measures to fill up the vacancies in the cadre of Mining Inspector and other supporting staff to ensure proper maintenance of RD register, and direct DMOs/ AMOs to compare monthly returns periodically with the entries in RD register.**

**6.2.11.6 Non/ short levy of dead rent/ royalty**

**Failure to maintain relevant registers, shortage of officers and staff, and failure to conduct regular inspection, resulted in non/ short levy of dead rent/ royalty.**

As per departmental instructions (June 1970), DMOs/ AMOs are required to check monthly returns periodically and compare them with the Demand, Collection and Balance (DCB) register. The MMDR Act, 1957 and the JMMC Rules, 2004, provide that lessees shall either pay royalty for the mineral removed at the rate specified in the second schedule or pay dead rent<sup>31</sup> every

<sup>30</sup> Form 'O'- Affidavit submitted by works contractor for supply and/ or consumption of minerals under works contract and Form 'P' - Details of source of minerals procured.

<sup>31</sup> Rate of dead rent for major mineral- ₹ 1,000 per hectare per annum upto 31.08.2014 and thereafter, ₹ 2,000 per hectare.

year at the rate specified in the third schedule<sup>32</sup> for the area included in the instrument of lease, whichever is higher.

- The Audit Reports for the years 2011-12, 2014-15 and 2015-16 had reported persistent loss of Government revenue amounting to ₹ 2.99 crore due to non/ short levy of dead rent in nine districts. To evaluate the corrective measures adopted by the Department to ensure levy of dead rent, Audit test checked the records of six mining offices<sup>33</sup> and noticed from scrutiny of monthly returns, demand files and DCB registers that out of 111 leases test checked, 37 leases covering an area of 2,335.45 hectares, the lessees had not extracted minerals during 2013-14 to 2015-16, and were liable to pay dead rent of ₹ 88.93 lakh. However, a partial demand of ₹ 20.33 lakh only was raised in respect of four leases. Though, the responsibility for maintenance of RD (Raising and Despatch) and DCB (Demand, Collection and Balance) registers lies with the district mining officers concerned, there was acute shortage of staff responsible for updating the registers, since against the sanctioned strength of 60 posts only 21 officers and staff were posted in these districts. Consequently, the DMOs/ AMOs also did not periodically verify the DCB registers, as required, to ascertain the demand. The Department also failed to conduct periodic inspection of these mining offices during 2011-12 to 2015-16 to evaluate their functioning. Consequently, the Department remained unaware of the reasons for persistent lapses, which resulted in non/ short levy of dead rent of ₹ 68.60 lakh.

Similar irregularities were noticed in three mining offices<sup>34</sup>, where minerals were not extracted in 23 leases covering an area of 1,442.49 hectares during the period 2013-14 to 2014-15. Though, dead rent of ₹ 52.65 lakh was leviable the DMOs/ AMOs only levied ₹ 0.26 lakh in one lease alone, resulting in non/ short levy of dead rent of ₹ 52.39 lakh.

- Audit observed from scrutiny of monthly returns, demand files and DCB registers in four mining offices<sup>35</sup> that royalty of ₹ 1.69 lakh was levied instead of ₹ 24.57 lakh on one lessee of coal, three lessees of stone and four lessees of lime stone out of 10, 76 and 10 lessees test checked respectively. Though, the responsibility for maintenance of RD (Raising and Despatch) and DCB (Demand, Collection and Balance) registers lies with district mining officers concerned, there was no system in place for periodic submission of these registers as control/ check mechanism. Consequently, the DMOs/ AMOs did not exercise periodical check of monthly return and compare with the DCB registers before raising of demand. It was further observed that there was irregular maintenance of registers due to shortage of officers and staff responsible for updating the registers. In these offices, against the sanctioned strength of 55, only 25 officers and staff were posted. Inspections conducted by higher departmental authorities in two offices (once in each office) also could not detect the lapses. As such, the Department remained unaware of the lapses, which resulted in short levy of royalty of ₹ 22.88 lakh as mentioned in **Table-6.11**.

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<sup>32</sup> Schedule of rates of dead rent.

<sup>33</sup> Deoghar, Garhwa, Gumla, Hazaribag, Lohardaga and Sahibganj.

<sup>34</sup> Jamshedpur, Jamtara and Latehar.

<sup>35</sup> Bokaro, Chatra, Pakur and Ramgarh.

Table-6.11

(Amount in ₹)

Sl. No.	Districts No. of lessees	Minerals	Period/ month	Nature of observations	Royalty leviable levied	Short levy
1	<u>Bokaro</u> 1	Coal	October 2015	In the monthly return the actual despatch of coal was 4,026.32 MT but royalty was paid on 584.43 MT of coal only.	<u>6,31,327</u> 91,639	5,39,688
2	<u>Chatra</u> 1	Stone	June 2014	While calculating demand for quarter ending June 2014 in DCB register, outstanding dues of ₹ 1.74 lakh of the previous quarter was not accounted for. Consequently demand of ₹ 3,726 only for current quarter was computed instead of ₹ 1,77,894.	<u>1,77,894</u> 3,726	1,74,168
3	<u>Pakur</u> 2	Stone	2013-14 to 2014-15	As per monthly returns, the lessee had despatched 4,15,800 cft stone but in the DCB register royalty was computed on despatch of only 41,440 cft.	<u>7,41,371</u> 73,745	6,67,626
4	<u>Ramgarh</u> 4	Lime Stone	2014-15 to 2015-16	Demand was not raised.	<u>9,06,023</u> 0.00	9,06,023
<b>Total</b>	<b>8</b>				<u>24,56,615</u> <u>1,69,110</u>	<b>22,87,505</b>

The Department accepted (October 2017) the audit observation.

#### Recommendation:

**The Department is required to initiate comprehensive measure to ensure that royalty and dead rent is assessed and levied correctly and fully.**

#### 6.2.11.7 Non/ delayed submission of monthly returns

**Failure to maintain mining registers, shortage of staff, and failure of the Department to inspect mining offices, resulted in non-levy of penalty on lessees for delays in submission of monthly returns.**

The JMMC Rules, 2004 prescribes penalty for each day of delay in submitting monthly returns up to 15<sup>th</sup> of the following month. As per departmental instruction of June 1970, DMO/ AMO is required to check monthly returns periodically.

The Audit Report for the years 2011-12, 2014-15 and 2015-16 had reported persistent loss of Government revenue due to non/ delayed submission of monthly returns by lessees and permit holders. To evaluate the corrective measures adopted by the Department to ensure timely submission of returns, Audit test checked the records of four mining offices<sup>36</sup> and found that 28 out of 170 lessees test checked had not submitted monthly returns and eight lessees had submitted returns with a delay ranging from 12 days to more than 125 days during the period between January 2012 and November 2016. Since, the DMOs/ AMOs did not exercise periodical check of monthly returns and compare them with the RD and DCB registers, they remained unaware of non-

<sup>36</sup> Deoghar, Garhwa, Koderma and Pakur.

submission of monthly returns. In these offices, against the sanctioned strength of 53, only 24 officers and staff were posted. Shortage of manpower against sanctioned strength accounted for improper maintenance of records to monitor timely submission of monthly returns. The Department also failed to inspect these offices during 2011-12 to 2015-16 to evaluate their functioning and adequacy of internal controls. This resulted in non-levy of penalty of ₹ 17.53 lakh for non/ delayed submission of monthly returns.

The Department accepted (October 2017) the audit observation.

**Recommendation:**

**The Department may initiate measures to fill up the vacancies to ensure proper maintenance of RD register, and direct DMOs/ AMOs to compare monthly returns periodically with the entries in RD register.**

### 6.2.11.8 Termination of lease

**Failure to terminate leases where there had been no mining activity for more than one year.**

In terms of the standard lease agreement entered into by the Department, the lease may be terminated if a lessee has not conducted mining work for a continuous period of one year, without prior permission of competent authority or commissioner.

The Audit Report for the year 2011-12 reported non-termination of 20 leases in two districts. To evaluate the corrective measures adopted by the Department to ensure termination of the non-operational lease, Audit test checked records in the District Mining Offices, Pakur and Sahibganj and found that though 27 out of 92 lessees test checked discontinued extraction/ despatch of minerals for periods ranging from three to six years (between 2011-12 and 2015-16), without permission, the DMOs/AMOs failed to terminate the leases. One reason for this failure was shortage of staff (15 men in position against the sanctioned strength of 37) in these offices, and failure to verify the DCB registers.

The reply of the Department is awaited (March 2018).

**Recommendation:**

**The Department may review and identify leases under which no operation have occurred for more than a year, and initiate action to cancel and reallocate these leases to other applicants.**

### 6.2.12 Evasion of royalty due to lack of inter-departmental cross-verification

The Audit Report for the years 2011-12 and 2015-16 had reported persistent loss of Government revenue amounting to ₹ 563.81 crore by 57 lessees due to concealment of despatch and under valuation of basic sale value of washed coal. To evaluate the corrective measures adopted by the Department, Audit obtained data/ information from Central and State Government departments and compared them with the records of mining offices. Audit noticed persistent irregularities of non/ short levy of royalty/ penalty of ₹ 133.42 crore in 21 cases, which are discussed in the subsequent paragraphs.

**Recommendation:**

The Department may ensure that departmental units invariably cross verify mining records available with them, with information of other Central and State Government departments.

### 6.2.12.1 Short levy of royalty due to under valuation of basic sale value of washed coal

**Failure of DMO to cross verify monthly returns filed by the lessee with data/ information of the Commercial Taxes Department resulted in undervaluation of basic sale value of by-products of washed coal and short levy of royalty of ₹ 56.85 crore and interest thereon of ₹ 13.64 crore.**

The MC Rules, 1960 stipulates that when processing of ROM ores is carried out within the leased area, then the royalty shall be charged on the processed mineral removed from the leased area. Further, simple interest at the rate of 24 *per cent* per annum is leviable on mining dues from the sixtieth day after due date.

The Audit Report for the year 2015-16 had reported short levy of royalty in respect of by-products of washed coal amounting to ₹ 446.21 crore. To evaluate the corrective measures adopted by the Department to ensure detection of undervaluation of actual price of coal, Audit scrutinised (March 2017) records of the District Mining Office, Ramgarh and found that a lessee had paid royalty of ₹ 36.38 crore on despatch of 23.68 lakh MT of by-products of washed coal (middling and tailing) during 2015-16. From the information contained in JVAT 409<sup>37</sup> submitted by the lessee to the Commercial Taxes Department, Audit derived the basic sales value of these by-products amounting to ₹ 665.97 crore and computed the royalty leviable as ₹ 93.23 crore. Thus, there was short levy of royalty amounting to ₹ 56.85 crore and interest thereon of ₹ 13.64 crore.

Following audit requisition (between July and November 2016) from the District Mining Office (DMO), Dhanbad, of details of washery and processed coal which are not available on record, the DMO collected the information from the lessee and raised additional demand (November 2016) amounting to ₹ 131.73 crore on processed mineral at the instance of Audit, the amount was not realised till date (March 2018).

#### Impact of Audit

DMO, Ramgarh intimated (March 2018) recovery of ₹ 448.41 crore against audit observation based on undervaluation of sale value noticed through cross-verification of returns of a lessee of coal with the data of Commercial Taxes Department as reported in paragraph 6.4 of the Audit Report 2015-16.

<sup>37</sup> JVAT-409 is mandatory annual audited account, duly audited by a chartered accountant or a tax practitioner to be furnished by a registered dealer in the Commercial Taxes Department. It includes all financial details of the business like sales and purchase.

**Recommendation:**

**The Department should ensure that district mining officers invariably cross verify the data/ information of other departments/ organisations with the data/ information available in the Mining Department to detect such cases of leakage of revenue.**

**6.2.12.2 Non-levy of penalty on unregistered dealers/ exporters of mica**

**The Department failed to detect mining and export of 26,586.67 MT of mica valued at ₹ 56.15 crore without valid lease.**

The MMDR Act, 1957, states that the price of mineral may be recovered from person who extracts any mineral without a valid lease or dealer license, and has disposed of the mineral. Further, the Bihar Mica Act, 1947 and the Jharkhand Mineral Dealer's Rules, 2007 prohibits possession and trading of mica without miner's license, dealer's license, proprietor's certificate or digger's permit.

Audit cross verified the records of District Mining Office, Koderma with the records of the Department of Central Excise and Customs, New Delhi relating to export of mica from Jharkhand. It was noticed that nine exporters had exported 26,586.67 MT of mica amounting to ₹ 56.15 crore without valid mining lease or dealer licence. This resulted in non-levy of penalty, equivalent to the price of minerals, amounting to ₹ 56.15 crore.

The Department quoted the reply of the mica exporters that the entire exported mica was scrap mica i.e., "*dhibra*"<sup>38</sup> which was an exempted item under the provisions of Bihar Mica Act, 1947 and stated (October 2017) that applicability of the provisions of the Act would be examined before arriving at any conclusion for levying penalty. The reply was not in order as the Department has not provided evidence to substantiate the fact that the exported mica had been processed from scrap mica.

**Recommendation:**

**The Department may ensure that minerals are not extracted, despatched/ sold/ transported out of the State without valid license.**

**6.2.12.3 Concealment of despatch**

**Cross-verification of information obtained from IBM with mining returns indicated concealment of despatch of 2.77 lakh MT of minerals on which royalty of ₹ 3.96 crore and interest of ₹ 2.81 crore thereon was not levied.**

The MMDR Act, 1957, prescribes payment of royalty on removal or consumption of mineral from the leased area.

The Audit Report for the year 2011-12 had reported due concealment of despatch amounting to ₹ 117.60 crore by 56 lessees. To evaluate corrective

<sup>38</sup> Scrap mica locally known as "*dhibra*" from which the largest rectangular area of sound mica that can be obtained is less than six square inches.

measures adopted by the Department, Audit compared the data of production and despatch of iron ore and bauxite received from the Indian Bureau of Mines (IBM) with the monthly returns in the mining offices concerned. It was noticed (March 2017) in District Mining Offices, Chaibasa and Gumla that seven lessees of iron ore and four lessees of bauxite had shown despatch of 58.81 lakh MT of minerals in their monthly returns for the period from 2011-12 to 2014-15, whereas, as per IBM records they had despatched 61.58 lakh MT of minerals. Thus, the department failed to levy royalty amounting to ₹ 3.96 crore on concealed despatch of 2.77 lakh MT of minerals, beside, interest of ₹ 2.81 crore as shown in the **Table-6.12**.

**Table-6.12**

Sl. No.	Names of the office No. of lessees	Minerals	Period	Despatch as per records of IBM Despatch shown in mining returns (in thousand MT)	Differential quantity (in thousand MT)	Royalty leviable (₹ in lakh)	Interest (@ 24% per annum) (₹ in lakh)
1	Chaibasa 7	Iron ore	2011-12 to 2014-15	<u>6,104.58</u> 5,828.20	276.38	396.23	281.35
2	Gumla 4	Bauxite	2011-12 to 2012-13	<u>52.99</u> 52.66	0.33	0.15	0.14
<b>Total</b>	<b>11</b>			<u>6,157.57</u> 5,880.86	<b>276.71</b>	<b>396.38</b>	<b>281.49</b>

The Department accepted (October 2017) the audit observation.

#### **Recommendation:**

**The Department may evolve a mechanism to ensure that DMOs cross verify returns submitted by dealers/ lessees to different departments of the State and Central Governments to ensure there is no leakage of revenue.**

### **6.2.13 Unauthorised extraction**

Details of evasion of revenue due to unauthorised extraction of minerals are discussed in the succeeding paragraphs.

#### **6.2.13.1 Non-levy of penalty for illegal operation of brick kiln**

**The State Government failed to prescribe the price of brick earth, and mining offices failed to levy penalty on operation of brick kilns without permit.**

The JMMC Rules provides for every brick kiln owner to obtain a permit each year to extract brick earth for manufacturing brick on payment of consolidated amount<sup>39</sup> of royalty per kiln. Further, if a brick kiln owner fails to pay consolidated amount of royalty in full, he shall not be permitted to operate the brick kiln. If a person extracts minor mineral without valid lease/ permit, then he shall be a party to illegal extraction of minor minerals and liable to pay the price of minerals and taxes as the case may be.

<sup>39</sup> An amount leviable for manufacture of a fixed numbers of bricks, as notified by the State Government in the second schedule of the JMMC Rules.

Audit noticed that seven mining offices<sup>40</sup> had detected during field inspections in 2013-14 to 2015-16 that 150 out of 320 brick kilns were running without permit and issued (between February 2014 and August 2016) demand notices for payment of consolidated amount of royalty amounting to ₹ 70.38 lakh. Audit observed however, that none of the operators had paid the consolidated amount. Further, since the price of brick earth was neither notified by the Department nor prescribed in the schedule of rates of the State's Public Works Department, the penalty of ₹ 4.65 crore calculated by Audit was *ad hoc* and on the basis of penalty<sup>41</sup> levied by the DMO of other districts in some cases.

Similar irregularity was also noticed in the records of District Mining Office, Latehar, where Audit found that 16 out of 28 brick kilns were running without permit during 2014-15 to 2015-16, but the penalty of ₹ 46.55 lakh was not levied.

The Department accepted (October 2017) the audit observation.

**Recommendation:**

- 1. The State Government should prescribe the price of brick earth so that, the penalty for unauthorised extraction can be levied.**
- 2. The Department may ensure that penalty is levied and collected on unauthorised extraction of brick earth for manufacturing brick.**

**6.2.13.2 Non-levy of penalty against works contractor**

**Without enquiring about the source of procurement of minerals, the Mining Department accepted an amount of ₹ 777.69 crore, transferred by the Works divisions. This amount represented twice the royalty deducted from the bills of contractors who had not submitted Forms 'O' and 'P'.**

Rule 55 of the JMMC Rules prescribes mandatory submission of Forms 'O'<sup>42</sup> and 'P'<sup>43</sup> by work contractors along with bill of minerals consumed in the works contract. In case of non-submission, the Works divisions shall not accept the bill. The Works divisions shall send the submitted Forms 'O' and 'P' to the mining office concerned for verification of authenticity of source of minerals and withhold an amount equal to double the amount of royalty till the receipt of verification report. Further, Rule 54(8) states that the price of mineral may be recovered from persons who extracts/ sells any minor mineral without valid lease or dealer license.

Audit noticed in selected mining offices<sup>44</sup> that Works divisions, in spite of mandatory provisions, accepted the bills of contractors without Forms 'O' and 'P'. Further, the Works divisions applied the provisions for withholding the

<sup>40</sup> Bokaro, Chatra, Dhanbad, Deoghar, Garhwa, Gumla and Lohardaga.

<sup>41</sup> ₹ 500 per thousands of brick (9.30 crore bricks x ₹ 500/ 1,000 bricks = ₹ 4.65 crore).

<sup>42</sup> Form 'O' is an affidavit submitted by contractors that they have procured the minerals from a valid lessee, permit holder and dealer licensee.

<sup>43</sup> Form 'P' contains the name of lessee, permit holder or licensee; name and quantity of minerals; details of challans used for transportation of minerals etc.

<sup>44</sup> Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Garhwa, Gumla, Hazaribag, Koderma, Lohardaga, Pakur, Ramgarh and Sahibganj.

amount equal to double the amount of royalty prescribed in case of submission of these Forms, and transferred the withheld amount to the Mining Department. The Department as well as DMOs/ AMOs concerned also accepted double the amount of royalty without enquiring about the source of procurement of minerals consumed in works contracts. Further, scrutiny of the report furnished by the office of Director of Mines, revealed that during 2011-12 to 2015-16, the Department had received ₹ 777.69 crore from Works divisions as double the amount of royalty as depicted in **Table-6.13**.

**Table-6.13**

Names of minor minerals	Royalty collected (₹ in lakh)					
	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Stone	6,795.10	8,224.39	8,947.72	8,139.03	11,343.30	43,449.54
Moorum	495.44	559.15	35.03	65.25	54.23	1,209.10
Brick earth	391.86	397.80	423.55	362.90	408.77	1,984.88
Sand	350.15	175.87	418.43	71.33	3,208.29	4,224.07
<b>Total</b>	<b>8,032.55</b>	<b>9,357.21</b>	<b>9,824.73</b>	<b>8,638.51</b>	<b>15,014.59</b>	<b>50,867.59</b>
Double the amount of royalty received from the Works departments for consumption of minerals from undeclared source.	<b>9,246.50</b>	<b>11,228.60</b>	<b>14,216.50</b>	<b>17,551.80</b>	<b>25,525.60</b>	<b>77,769.00</b>

Procurement of minerals from undeclared source is indicative of procurement through illegal mining and attracts penalty under the provisions of Rule 54(8) of the Rules. Thus, both the Departments failed to enforce the Rules.

The Mining Department replied (October 2017) that in cases where Forms 'O' and 'P' is not submitted, Deputy Commissioner concerned has to impose appropriate penalty as per the provisions of Rule 55 (4). Double the cost of minerals as per Rule 54 (5) can only be imposed after enquiry if the contractors are found to be involved in illegal mining or transportation. The reply is not in order as the Department accepted double the amount of royalty without verifying the authenticity of source of mineral.

#### **Recommendation:**

**The Mining Department may coordinate with the Works Department to ensure submission of Forms 'O' and 'P' so that minerals are not procured by works contractors through illegal sources.**

#### **6.2.14 Non-levy of penalty for non-compliance of environment norms**

**DMOs failed to detect extraction of 29.97 lakh MT of coal valued at ₹ 212.57 crore in excess of quantity of environment clearance (EC), and extraction of 92,112 MT of sand valued at ₹ 74.82 lakh without clearance of the Pollution Control Board.**

Under the provisions of the Air (Prevention and Control of Pollution) Act, 1981 read with the Water (Prevention and Control of Pollution) Act, 1974 every industry is required to obtain No Objection Certificate (NOC) and Consent to Operate (CTO) from the State Pollution Control Board. As per the Jharkhand State Pollution Control Board's (JSPCB) directives (September 2012), AMOs/ DMOs are responsible for restricting the extraction of minerals

by the lessees within the limits prescribed in the Environmental Clearance (EC)/ CTO. The MMDR Act, 1957, and the JMMC Rules, 2004 provide for recovery of the price of mineral from any person extracting and disposing of any mineral without lawful authority. It has been judicially<sup>45</sup> held that violating any aspect of environment and forest law would amount to illegal mining and attract penalty under the MMDR Act.

**6.2.14.1** The Audit Report for the year 2011-12 had reported production of coal by a lessee over the limit prescribed in the Environmental Clearance (EC) issued by the Ministry of Environment and Forests (MoEF). To evaluate the corrective measures by the Department in this regard, Audit compared actual production in selected mining offices with the production limit prescribed in EC. Audit noticed in District Mining Office, Chatra that a colliery had extracted 359.97 lakh MT of coal during the periods 2011-12, 2013-14 and 2014-15 against the capacity of 330 lakh MT granted in EC. The AMO/ DMO concerned did not monitor the extraction of minerals and failed to restrict extraction within the capacity granted in EC. It was further observed that the Department had not evolved a system to monitor extraction of minerals in accordance with the limits granted in EC. This resulted in unauthorised extraction of 29.97 lakh MT of coal, and non-levy of penalty of ₹ 212.57 crore, equal to value of coal, leviable on such unauthorised extraction.

The Department accepted (October 2017) the audit observation, but did not address the issue of instituting measures to guard against recurrence of similar irregularities in future.

**6.2.14.2** The Audit Report for the year 2011-12 had reported extraction of minerals in four mining offices by six lessees and 23 licensees without NOC from JSPCB. To evaluate the corrective measures by the Department in this regard, Audit test checked the monthly returns and other relevant records in District Mining Office, Bokaro and observed that 16 out of 38 settlement holders of sand ghats had extracted and despatched 92,112 MT of sand between September 2015 and March 2016 without obtaining consent to operate (CTO) from the JSPCB. As such, extraction and despatch of sand without obtaining CTO was unlawful and penalty equivalent to price of mineral amounting to ₹ 74.82 lakh was to be recovered. It was further observed that the Department had not evolved a system to monitor extraction of minerals in compliance with the stipulations of JSPCB. This resulted in unauthorised extraction and despatch of 92,112 MT of sand and non-levy of penalty of ₹ 74.82 lakh.

The Department accepted (October 2017) the audit observation but did not address the issue of instituting measures to guard against recurrence of similar irregularities in future.

**Recommendation:**

**The Department should ensure that no mineral is extracted in excess of limits prescribed by EC and no mineral is extracted without NOC and CTO from JSPCB.**

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<sup>45</sup> Prafulla Samantra and Anr. Vs. Union of India and Ors. WP (Civil) No. 114 of 2014.

### 6.2.15 Conclusions

The Performance Audit on “Mining Receipts in Jharkhand State” revealed a number of deficiencies in assessment and collection of mining receipts with persistent non-compliance to rules and regulations leading to leakage of revenue due to shortage of manpower and inadequate internal control mechanisms (in terms of inadequate internal audit and inadequate inspections by the departmental officers). The State Government is yet to formulate a State Mineral Policy. No system existed for cross-verification of the information available with other departments of the Central/ State Governments and with the Indian Bureau of Mines to check evasion of royalty. There was substantial leakage of revenue due to non/ short levy of royalty, application of incorrect rates, non/ short levy of dead rent etc. Shortage of human resources in the Department coupled with absence of monitoring and strategic planning affected the collection of mining receipts by the Mines and Geology Department. Audit issues raised in the past continue to recur, indicating poor follow up and control mechanisms.

Ranchi  
The 26 June 2018

  
(C. Nedunchezian)  
Accountant General (Audit)  
Jharkhand

Countersigned

New Delhi  
The 2 July 2018

  
(Rajiv Mehrishi)  
Comptroller and Auditor General of India



# APPENDIX



**Appendix-I (Referred to in Paragraph No. 6.2.5)  
Scope of audit (Selection of units for Performance Audit)**

(₹ in lakh)

Sl. No.	District	Collection						Strata
		2011-12	2012-13	2013-14	2014-15	2015-16	Total	
1	Dhanbad	65,005.78	88,254.30	87,778.33	87,373.66	89,149.53	4,17,561.60	High risk
2	Chaibasa	60,073.21	66,116.93	60,318.84	81,188.73	1,14,886.15	3,82,583.86	
3	Ramgarh	26,474.86	27,785.14	28,700.93	31,751.83	69,591.30	1,84,304.06	
4	Chatra	23,056.46	31,634.29	34,305.83	37,312.86	41,877.67	1,68,187.11	
5	Bokaro	19,468.10	27,953.60	29,784.75	29,045.87	32,584.51	1,38,836.83	
6	Godda	12,050.29	13,408.70	19,989.66	20,544.59	21,588.94	87,582.18	Medium risk
7	Hazaribag	7,702.18	13,458.70	12,406.19	11,539.00	11,670.08	56,776.15	
8	Pakur	13,731.86	11,216.53	11,740.49	10,373.48	5,096.13	52,158.49	
9	Ranchi	8,127.70	7,253.97	5,683.10	4,569.48	7,333.61	32,967.86	
10	Deoghar	3,952.52	6,018.65	6,236.65	6,747.28	7,035.53	29,990.63	
11	Jamshedpaur	3,799.18	3,355.70	3,864.93	3,902.99	4,956.51	19,879.31	Low risk
12	Sahibganj	1,947.32	2,067.23	2,990.78	2,606.57	4,050.25	13,662.15	
13	Palamu	1,598.61	2,030.95	2,971.52	3,475.07	1,433.00	11,509.15	
14	Gumla	2,083.61	2,183.69	2,257.65	2,132.26	2,066.45	10,723.66	
15	Latehar	1,156.25	672.79	1,661.00	2,400.59	3,997.33	9,887.96	
16	Dumka	1,606.08	1,805.25	2,050.35	1,680.26	2,448.97	9,590.91	
17	Giridah	1,300.04	1,630.75	1,912.22	2,281.09	2,344.42	9,468.52	
18	Saraikele-Kharsawan	1,022.75	1,165.04	984.49	1,437.54	2,308.97	6,918.79	
19	Lohardaga	984.88	1,054.65	1,236.98	1,353.94	1,840.41	6,470.86	
20	Garhwa	761.72	804.64	914.33	751.54	1,804.94	5,037.17	
21	Koderma	903.04	1,013.46	834.12	854.82	900.14	4,505.58	
22	Khunti	276.76	451.24	515.75	671.10	1,354.65	3,269.50	
23	Simdega	445.81	507.14	412.57	535.63	951.51	2,852.66	
24	Jamtara	555.07	609.47	409.30	453.53	503.80	2,531.17	

\* District marked as grey were selected for Performance Audit by applying random sampling method without replacement (High risk- 100 per cent, medium risk- 50 per cent and low risk- 38 per cent).

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