

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

for the year ended 31 March 2018

Government of West Bengal

Report No. 2 of the year 2020

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PREFACE

This Report for the year ended March 2018 has been prepared for submission to the Governor of West Bengal under Article 151 of the Constitution of India.

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

For the Revenue Receipt functions which are computerised, Audit must necessarily be given access to transaction data, otherwise Revenue Audit functions will be severely impacted.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2017-18 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 2017-18 have also been included, wherever necessary.

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

OVERVIEW

OVERVIEW

I. General

This Report contains 26 paragraphs including one Performance Audit and two detailed compliance audits relating to under-assessment/ non-realisation/ loss of revenue etc., of ₹ 748.13 crore. The Departments/Government accepted audit observations of ₹ 380.26 crore, of which ₹ 4.50 crore was recovered during the year. Some of the major audit findings are mentioned below:

- **Trend of revenue receipts**

Total receipts of the Government for the year 2017-18 increased to ₹ 1,31,270.39 crore from ₹ 1,17,832.45 crore in the previous year. Forty three *per cent* of the total revenue collected in 2017-18 was raised by the Government through tax revenue (₹ 52,720.57 crore) and non-tax revenue (₹ 3,117.17 crore). The balance 57 *per cent* was received from the Government of India as State's share of net proceeds of divisible Union taxes (₹ 49,321.10 crore) and Grants-in-aid (₹ 26,111.55 crore).

(Paragraph 1.1.1)

- **Response of the Departments to the draft audit paragraphs**

Twenty six Draft Paragraphs (DPs) including one Performance Audit (PA) and two detailed compliance audits were sent to the Principal Secretaries/Secretaries of the respective Departments between July and August 2018. Except for replies to one Detailed compliance audit on "Working of check-posts under Transport Department" and two DPs under Chapter VII-Mines and Minerals, replies to other paragraphs are still awaited. Responses of the heads of the audited units, wherever available, have however, been taken into account.

(Paragraph 1.6.4)

- **Position of local audit conducted during the year**

Test check of records of 180 units related to (i) Sales Tax/Value Added Tax, (ii) Land and Land Reforms, (iii) Motor Vehicles Tax, (iv) State Excise, (v) Stamp Duty and Registration Fees and (vi) other tax and non-tax receipts were conducted during the year 2017-18. Instances of under-assessment/ short levy/ loss of revenue amounting to ₹ 870.64 crore were pointed out in 1,490 audit observations. During the course of the year, departments accepted 695 audit observations involving ₹ 155.08 crore. The departments recovered ₹ 16.21 crore at the instance of audit.

(Paragraph 1.10.1)

- **Analysis of arrears of revenue**

The arrears of revenue as on 31 March 2018 in respect of State Excise and taxes and duties on Electricity amounted to ₹ 63.91 crore. Of this, ₹ 45.76 crore was outstanding for more than five years.

Other principal revenue generating Departments/Directorates, viz., (i) Directorate of Commercial Taxes, (ii) Directorate of Registration and

Stamp Revenue, (iii) Land and Land Reforms Department and (iv) Transport Department did not furnish the figures of arrears of revenue.

(Paragraph 1.2)

II Value Added Tax and Goods and Services Tax

Value Added Tax (VAT)

Compliance audit observations

- In 30 cases, assessing authorities (AAs) incorrectly determined turnover of sales (TOS) at ₹ 2,572.16 crore instead of ₹ 2,825.34 crore. This resulted in short determination of TOS of ₹ 253.18 crore with consequent short levy of tax of ₹ 12.72 crore.

(Paragraph 2.5)

- In 58 cases, the AAs allowed input tax credit of ₹ 70.56 crore instead of ₹ 60.46 crore admissible to the dealers. This resulted in irregular allowance of ITC of ₹ 10.10 crore.

(Paragraph 2.6)

- In 48 cases, the AAs incorrectly determined Contractual Transfer Price (CTP) of ₹ 91.13 crore instead of ₹ 139.17 crore. This resulted in short determination of CTP of ₹ 48.04 crore with consequent short levy of tax of ₹ 2.82 crore.

(Paragraph 2.7)

- In five cases, the AAs allowed excess deduction towards payment to sub-contractors and labour, services and other like charges. This resulted in short determination of taxable contractual transfer price by ₹ 12.65 crore with consequent short levy of tax of ₹ 1.31 crore.

(Paragraph 2.8)

- In 13 cases involving sales of ₹ 65.52 crore, AAs levied output tax of ₹ 2.44 crore instead of ₹ 7.69 crore. This was due to application of incorrect rate of tax resulting in short levy of tax of ₹ 5.25 crore.

(Paragraph 2.9)

Goods and Services Tax (GST)

A study on “Status of implementation of Goods and Services Tax (GST) in West Bengal”

Audit reviewed the activities of the Directorate of Commercial Taxes (DCT), West Bengal relating to implementation of GST and noticed the following deficiencies:

- Forty three taxpayers eligible for registration under GST were not found registered in two Charge offices. The Charge offices neither conducted any survey/enquiry to ensure the status of taxpayers’ business nor assigned any reasons for their non-migration to GST.

(Paragraph 2.13.9.1)

- In two Charge offices, 55 taxpayers claimed excess transitional credit of ₹ 1.09 crore. The proper officer did not initiate recovery proceedings against taxpayers for such irregular claims.

(Paragraph 2.13.10.1)

- In seven cases, inadmissible claims of refund of ₹ 26.43 lakh by five taxpayers were rejected, but no action was taken to re-credit the rejected amount of refund in Electronic Credit Ledger and raise demand for recovery of the rejected amount.

(Paragraph 2.13.11.1)

- In 277 cases, claims of refund of ₹ 9.71 crore remained undisposed of in three Charge offices due to inaction of the Charge offices to inform the taxpayers to submit application of refunds physically.

(Paragraph 2.13.11.2)

III Land Revenue

Compliance audit observations

- The Department failed to settle 23 cases of long-term leases involving 48.31 acres of land within the prescribed time limit. The land was under unauthorised occupation.

(Paragraph 3.4)

- There was non/short realisation of rent, cess and surcharge of ₹ 7.58 crore in 8,760 cases on land used for commercial purpose.

(Paragraph 3.5)

IV Stamp Duty and Registration Fees

Performance Audit of “Assessment and Collection of Stamp duty and Registration Fees”

A Performance Audit of “Assessment and Collection of Stamp duty and Registration Fees” involving money value of ₹ 212.02 crore was conducted during the period from February 2018 and June 2018. It covered the period from 2012-13 to 2016-17. Registration Data from a central server in respect of all the Registering Authorities (RAs) was obtained from the Directorate of Registration and Stamp Revenue (DRSR) and the data was analysed using Interactive Data Extraction and Analysis (IDEA) tool. There was short levy of stamp duty and registration fees due to deficiencies in the computerised system in respect of all the RAs. Besides, manual records maintained by the Inspector General of Registration & Commissioner of Stamp Revenue (IGR & CSR), three Deputy Inspectors General of Registration (DIGRs) and different Public Offices (POs)¹ were also scrutinised by Audit. The irregularities pointed out include the following:

¹ Public Office is an office held by a Public Officer as defined in Section 2 (17) of the Code of Civil Procedure, 1908.

- Non-registration/non-execution of lease agreements of toll plazas and other immovable properties by different Government authorities resulted in evasion of stamp duty and registration fees of ₹ 81.18 crore by lessees.

(Paragraph 4.4.8.2)

- Stamp duty of ₹ 18.28 crore was evaded by 16 companies on issue of debentures in the absence of a proper mechanism of assessment of stamp duty on debenture.

(Paragraph 4.4.8.3)

- Due to non/ incorrect disclosure of lease consideration and facts affecting chargeability of stamp duty and registration fees in the registered deeds by Kolkata Port Trust (KOPT) and Haldia Development Authority (HDA), there was evasion of stamp duty and registration fees of ₹ 8.14 crore by lessees.

(Paragraph 4.4.8.4)

- Inadequately stamped instruments of assignment of trademarks were not impounded by the trademark registering authority, resulting in short levy of stamp duty of ₹ 6.57 crore.

(Paragraph 4.4.8.5)

- Incorrect mapping of rate of stamp duty/ non-mapping of notified areas in the e-Nathikaran software resulted in loss of stamp duty of ₹ 40.82 crore.

(Paragraph 4.4.9.1)

- Delayed/ non-updating of municipal areas in the e-Nathikaran software resulted in short levy of stamp duty of ₹ 1.25 crore.

(Paragraph 4.4.9.2)

- Due to absence of proper validation control in the e-Nathikaran software, excess depreciation of market value of properties was allowed by the system, resulting in short levy of stamp duty and registration fees of ₹ 0.66 crore.

(Paragraph 4.4.9.3)

- Due to misclassification of instruments, stamp duty and registration fees of ₹ 44.72 crore was levied short by the RAs.

(Paragraph 4.4.10.1)

- Due to incorrect determination of lease period and lease consideration stamp duty and registration fees of ₹ 3.91 crore was levied short.

(Paragraph 4.4.10.2)

V Motor Vehicles Tax

Detailed compliance audit on “Working of check-posts under Transport Department”

A detailed compliance audit on “Working of check-posts under Transport Department” involving money value of ₹ 162.32 crore was conducted between January 2018 and June 2018, in the office of Transport Department and five out of the six check-posts in the State. It covered the period from April 2014 to March 2017. Information collected from two weighbridges² was cross checked with the records of the check-posts. Moreover, information/data of other Departments³ were cross checked from the VAHAN⁴ data to ascertain if there were overloading of vehicles. The irregularities pointed out include the following:

- The Transport Department identified 17 different locations in 2008 for setting up check-posts with weighbridges. Only one check-post and two weighbridges were, however, set up under Build Own Operate (BOO) basis. Thus, only four check-posts including three existing check-posts and two weighbridges were operational on National Highways (NH) crossing the inter-state border against network of 47 Highways (28 NH and 19 SH) in the State.

(Paragraph 5.5.3.2)

- Cases were not compounded at higher rate for the second and subsequent offences of overloading committed by the owners or drivers of vehicles.

{Paragraph 5.5.3.4 (ii)}

- Cases of overloading by common carriage operators were not monitored in the absence of information/returns submitted by them as prescribed in the Carriage by Road Act.

(Paragraph 5.5.3.5)

- There was lack of basic infrastructure at the check-posts required for enforcement of provisions of Act and Rules of Motor Vehicles effectively.

(Paragraph 5.5.3.6)

Other compliance audit observations

- Tax, additional tax, penalty and special fee of ₹ 240.52 crore were not realised from owners of 1,23,361 vehicles.

(Paragraph 5.6.1.1)

² M/s Shamiyana Infrastructure Pvt. Ltd. (SIPL) and M/s Toofanganj Construction and Engineering Co. Pvt. Ltd. (TCECPL).

³ Finance Department and Public Works Department related to vehicles used for carrying goods.

⁴ The software was developed by National Informatics Centre for vehicles registration, tax collection, permits, enforcement, etc.

- Registering Authorities (RAs) did not realise permit fee of ₹ 12.87 crore from owners of 15,011 transport vehicles plying with expired permits.

(Paragraph 5.6.1.2)

- RAs realised fee for conducting test of fitness at normal rates instead of 150 *per cent* of the fee for delayed production of vehicles. This resulted in short realisation of fitness fee of ₹ 1.86 crore in case of 1,46,053 vehicles.

(Paragraph 5.6.1.3)

- Improper mapping of the provisions of the Act/notification in the system resulted in short realisation of road tax of ₹ 76.77 lakh in 705 cases.

(Paragraph 5.6.1.6)

VI Other Tax Receipts

Profession Tax

Detailed compliance audit of “Assessment and Collection of Profession Tax”

A detailed compliance audit on “Assessment and Collection of Profession Tax” involving money value of ₹ 26.59 crore was conducted during the period between January 2018 and May 2018 covering the periods from April 2014 to March 2017. Irregularities pointed out include the following:

- In the absence of a mechanism for cross verification of Profession Tax (PT) data with that of other departments, DCT failed to bring under its tax net 25,266 permit holders of heavy transport vehicles, liable to pay PT. This resulted in non-realisation of PT of ₹ 15.93 crore.

(Paragraph 6.3.5.1)

- Absence of system to cross verify turnover of enrolled persons registered as dealers under WBVAT Act, resulted in non /short realisation of ₹ 5.13 crore of PT.

(Paragraph 6.3.6.1)

- Absence of system to ensure payment of PT by persons enrolled under serial number 2 and 3 of the Schedule in accordance with the Annual Gross Income (AGI) and Annual Gross Turnover (AGT) respectively, resulted in non/short realisation of ₹ 4.86 crore.

(Paragraphs 6.3.6.2)

- In contravention of West Bengal State Tax on Professions, Trades, Calling and Employments (WBSTPTCE) Act, 1979, enrolment certificates of 105 cases were cancelled prior to the cancellation of their registration certificates (RC) under WBVAT Act.

{Paragraph 6.3.8 (iii)}

Other compliance audit observations

State Excise

- Eight licensees were liable to pay the difference of excise duty consequent upon enhancement of excise duty during the intervening period between issue of import passes and arrival of consignments at their warehouses. The excise authorities did not realise additional excise duty of ₹ 2.73 crore from these licensees.

(Paragraph 6.4)

VII Mines and Minerals

Compliance audit observations

- In 1,382 cases, ₹ 10.09 crore of royalty and cess on extraction of earth / sand /morrum /boulder was not realised/short realised from the brick field owners, lessees and contractors.

(Paragraph 7.4)

- In 691 cases, price of brick earth of ₹ 9.76 crore was not recovered/short recovered, as penal action for extraction of brick earth without valid permit.

(Paragraph 7.5)

- Penalty to the extent of ₹ 2.25 crore, for shortfall in the extraction of sand/ stone in 36 cases was not realised.

(Paragraph 7.6)

CHAPTER I

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of West Bengal during the year 2017-18, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are detailed in **Table – 1.1**.

Table – 1.1
Trend of revenue receipts

(₹ in crore)

Sl. No.	Particulars	2013-14	2014-15	2015-16	2016-17	2017-18
1.	Revenue raised by the State Government					
	(a) Tax revenue	35,830.56	39,411.98	42,492.08	45,466.46	52,720.57
	(b) Non-tax revenue	2,022.72	1,626.66	1,861.79	2,949.86	3,117.17
	Total	37,853.28	41,038.64	44,353.87	48,416.32	55,837.74
2.	Receipts from the Government of India					
	(a) Share of net proceeds of divisible Union taxes and duties	23,175.02	24,594.93	37,163.93	44,625.16	49,321.10
	(b) Grants-in-aid	11,853.49	20,880.64	28,214.41	24,790.97	26,111.55
	Total	35,028.51	45,475.57	65,378.34	69,416.13	75,432.65
3.	Total revenue receipts of the State Government (1 and 2)	72,881.79	86,514.21	1,09,732.21	1,17,832.45	1,31,270.39¹
4.	Percentage of 1 to 3	52	47	40	41	43

During the year 2017-18, the total revenue raised by the State Government (₹ 55,837.74 crore) was 43 per cent of the total revenue receipts. The remaining 57 per cent came from the Government of India.

1.1.2 The details of the tax revenue raised during the period 2013-14 to 2017-18 are given in **Table 1.2**.

¹ For details, please see Statement No. 14 – Detailed statement of revenue by minor heads in the Finance Accounts of Government of West Bengal for the year 2017-18. Figures under the heads 0005-Central Goods and Services Tax (CGST), 0008-Integrated Goods and Services Tax (IGST), 0020 - Corporation Tax, 0021 - Taxes on income other than Corporation Tax, 0032- Taxes on Wealth, 0037 – Customs, 0038 - Union Excise Duties and 0044 - Service Tax mentioned in the Statement under caption “A - Tax revenue” have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes.

Table – 1.2
Details of tax revenue raised

(₹ in crore)

Sl. No.	Heads of revenue	2013-14		2014-15		2015-16		2016-17		2017-18		Percentage of increase (+)/ decrease (-) in 2017-18 over 2016-17
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1.	State Goods and Services Tax (SGST)	-	-	-	-	-	-	-	-	-	14,963.74	-
2.	Taxes on sales, trade etc.	22,783.98	21,931.09	27,472.66	24,021.91	29,115.91	26,050.16	32,018.09	27,982.69	34,679.46	12,999.34	(-)53.54
3.	Stamp duty and registration fees	4,500.00	4,053.07	5,399.06	4,196.20	4,597.67	4,174.97	5,199.09	4,382.73	4,699.99	5,260.77	(+)20.03
4.	State excise	3,202.02	3,017.66	3,810.41	3,587.02	4,418.15	4,015.12	4,698.29	5,226.16	5,781.38	9,340.05	(+)78.72
5.	Land revenue	3,942.82	2,253.54	2,829.13	2,275.74	3,031.85	2,456.27	2,643.06	2,568.66	2,759.83	2,874.51	(+)11.91
6.	Taxes and duties on electricity	1,380.00	1,213.30	1,403.74	1,946.83	1,660.22	2,091.63	1,909.25	1,318.87	3,181.89	2,333.55	(+)76.94
7.	Taxes on vehicles	1,389.97	1,350.66	1,667.96	1,504.68	1,590.00	1,707.02	1,903.40	1,869.86	2,141.31	2,317.23	(+)23.93
8.	Others	2,584.83	2,011.24	2,830.99	1,879.60	2,083.01	1,996.91	2,402.33	2,117.49	2,542.87	2,631.38	(+) 24.27
	Total	39,783.62	35,830.56	45,413.95	39,411.98	46,496.81	42,492.08	50,773.51	45,466.46	55,786.73	52,720.57	(+)15.95

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

Reasons for variation in respect of principal heads of tax revenue were not furnished by the Departments concerned, though sought for (May 2018) followed by reminders.

The details of the non-tax revenue raised during the period 2013-14 to 2017-18 are given in **Table 1.3**.

Table – 1.3
Details of non-tax revenue raised

(₹ in crore)

Sl. No.	Heads of revenue	2013-14		2014-15		2015-16		2016-17		2017-18		Percentage of increase (+)/ decrease (-) in 2017-18 over 2016-17
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1.	Interest receipts	478.41	986.29	775.45	277.46	1,152.93	334.94	323.80	1,201.24	397.95	1,395.68	(+) 16.19
2.	Miscellaneous general services	330.46	231.78	227.73	185.79	276.89	180.24	219.47	182.66	215.62	131.57	(-) 27.97
3.	Non-ferrous Mining and Metallurgical Industries	26.32	45.63	40.61	46.31	53.22	292.17	1,204.01	399.68	347.12	422.19	(+) 5.63
4.	Other Administrative Services	50.42	63.89	69.25	50.60	74.53	170.58	59.02	210.35	202.66	133.95	(-) 36.32
5.	Education, Sports , Art and Culture	24.85	63.19	46.38	53.32	73.70	58.00	62.22	176.64	68.90	68.31	(-) 61.33
6.	Forestry and wild life	111.89	123.76	137.47	135.73	144.35	134.86	160.32	126.48	160.23	93.74	(-) 25.89
7.	Police	184.87	139.17	161.85	126.61	162.33	104.38	147.69	143.68	124.02	187.10	(+) 30.22
8.	Medical and Public Health	105.45	91.44	125.92	103.29	106.66	112.45	123.04	134.78	133.60	210.48	(+) 56.18
9.	Roads and Bridges	28.24	27.68	57.54	34.93	40.28	82.55	40.74	104.92	98.07	124.43	(+) 18.60
10.	Other non-tax receipts	415.29	249.89	348.15	612.62	295.00	391.62	347.66	269.43	472.78	349.72	(+) 29.80
	Total	1,756.20	2,022.72	1,990.35	1,626.66	2,379.89	1,861.79	2,687.97	2,949.86	2,220.95	3,117.17	(+) 5.67

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

Reasons for variation in respect of principal heads of non-tax revenue were not furnished by the Departments concerned, though sought for (May 2018) followed by reminders.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2018 in respect of some principal heads of revenue amounted to ₹ 63.91 crore, of which ₹ 45.76 crore was outstanding for more than five years, as detailed in the **Table – 1.4**.

Table - 1.4
Arrears of revenue

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2018	Amount outstanding for more than five years as on 31 March 2018	Replies of the Department
1.	State Excise	63.45	45.52	The Directorate attributed arrears of revenue to recoveries stayed by the Hon'ble High Court and other judicial authorities, cases pending at appeal stage before the Government and other appellate authorities, recoveries held up due to rectification/review of demands, certificate case initiated against defaulters and process of recovery underway and demand raised against the defaulters not complied with.
2.	Taxes and Duties on Electricity	0.46	0.24	The concerned Collectors/District Magistrates were the collecting authority. The Directorate of Electricity Duty compiled the data furnished by the various District Collectors regarding Electricity Duty.
3.	Taxes on sales, trade etc.	The concerned Departments/Directorates did not furnish the figures of arrears of revenue though requested (May 2018) and followed by reminders.		
4.	Stamp duty and registration fees			
5.	Land revenue			
6.	Taxes on vehicles			
Total		63.91	45.76	

1.3 Arrears in assessments

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

Table – 1.5
Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2017-18	Total assessments due	Cases disposed of during 2017-18	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Taxes on sales, trade etc.	Not furnished	VAT (Value Added Tax) - 16,770 CST (Central Sales Tax) - 7,637	Not furnished	VAT- 16,766 CST- 7,632	Not furnished	--
Taxes and duties on electricity	Nil	56	56	56	Nil	100
Mines and Minerals ²	84	283	367	187	180	50.95
Stamp duty and registration fees	The concerned Departments/Directorates did not furnish the figures of arrears in assessments though requested (May 2018) and followed by reminders.					
Land revenue						
Taxes on vehicles						

1.4 Evasion of tax detected by the department

As per reply furnished by the Directorate of Commercial Taxes, investigation was completed in 415 cases of evasion involving ₹ 78.04 crore during 2017-18. Cases of evasion pending as on 31 March 2018 and cases detected during 2017-18 as stated by the Directorate of Electricity Duty, Directorate of Mines and Minerals and the Directorate of Excise were nil.

Other principal revenue generating Departments/Directorates namely Directorate of Agricultural Income Tax, Directorate of Registration and Stamp Revenue, Land and Land Reforms Department and Transport Department did not furnish any information on evasion of tax (December 2019) though requested (May 2018) and followed by reminders.

1.5 Pendency of refund cases

The number of refund cases pending at the beginning of the year 2017-18, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2017-18, as reported by the Directorate of Commercial Taxes, are given in **Table 1.6**.

Table – 1.6
Details of pendency of refund cases

(₹ in crore)

Sl. No.	Head of revenue	Claims outstanding at the beginning of the year		Claims received during the year		Refunds made during the year		Balance outstanding at the end of the year	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Taxes on sales, trade etc.	422	Not furnished	601	152.24	1,004	97.53	19	Not furnished

² Information provided by Directorate of Mines and Minerals.

(₹ in crore)

Sl. No.	Head of revenue	Claims outstanding at the beginning of the year		Claims received during the year		Refunds made during the year		Balance outstanding at the end of the year	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2.	State Excise	The concerned Departments/Directorates did not furnish the detail of refund cases though requested (May 2018) and followed by reminders.							
3.	Taxes and duties on electricity								
4.	Stamp duty and registration fees								
5.	Land revenue								
6.	Taxes on vehicles								

1.6 Response of the Government/Departments towards audit

1.6.1 Pendency of inspection reports

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

Inspection reports issued upto December 2017 disclosed that 4,958 paragraphs involving ₹ 2,459.78 crore relating to 970 IRs remained outstanding at the end of June 2018, as mentioned along with the corresponding figures for the preceding two years in **Table 1.7**.

Table - 1.7
Details of pending Inspection Reports

	June 2016	June 2017	June 2018
Number of IRs pending for settlement	853	945	970
Number of outstanding audit observations	4,460	5,239	4,958
Amount of revenue involved (₹ in crore)	2,536.06	3,092.90	2,459.78
Number of paras cleared during the year	2,112	1,318	1,569

The Department-wise details of the IRs and audit observations issued upto December 2017, outstanding as on 30 June 2018 and the corresponding amounts involved are mentioned in **Table 1.8**.

Table - 1.8
Department wise details of IRs

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Number of outstanding audit observations	Money value involved	Pending since
1.	Finance	Sales Taxes/VAT	251	1,823	1,246.90	2006-07 to December 2017
		Electricity duty	31	95	396.52	2008-09 to December 2017
		Amusement Tax	20	62	31.84	2013-14 to December 2017
		Profession Tax	86	259	11.24	2006-07 to December 2017
		Stamp duty and registration fees	288	726	98.72	2009-10 to December 2017
		Non-judicial Stamp duty	28	73	8.56	2011-12 to December 2017
		Departmental Receipts	01	01	0.07	2011-12
		State Excise	32	171	27.74	2009-10 to December 2017
2.	Land and Land Reforms	Land Revenue	87	1,069	458.85	1984-85 to December 2017
		Receipts from mines and minerals	96	571	174.14	2007-08 to December 2017
3.	Transport	Taxes on motor vehicles	50	108	5.20	2008-09 to December 2017
Total			970	4,958	2,459.78	

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of 344 IRs issued during 2017-18. The large pendency of IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the PAG/AG in the IRs.

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

1.6.2 Departmental Audit Committee Meetings

The Government sets up audit committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2017-18 and the paragraphs settled are mentioned in **Table 1.9**.

Table - 1.9
Details of Departmental Audit Committee Meetings

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Number of meetings held	Number of paras settled	Amount
1.	Finance	Amusement Tax	2	106	11.55
		State Excise	1	12	0.60
2.	Land and Land Reforms	Land Revenue	1	65	5.48
Total			4	183	17.63

Despite holding Departmental audit committee meetings, the progress of settlement of paragraphs pertaining to these Departments, was insignificant as compared to the huge pendency of the IRs and paragraphs in the IRs as detailed in the paragraph 1.6.1.

1.6.3 Constraints in Audit

Non-availability of data and information has been a regular constraint in audit. During the year 2017-18, Audit requested the Transport Department in August 2017 for making available the dump data regarding 'e-VAHAN'. The same was, however, not made available to audit. In February 2018, the Commissioner of Commercial Taxes, West Bengal was requested to fix a convenient date on which the Data Transmission, Use and Storage Protocol (DTUSP) could be signed by the audit and DCT for facilitating the regular data flow of GST. This has not been done, so far, by the Directorate of Commercial Taxes.

Following information sought, for Audit Report 2017-18, was not made available despite repeated requests: (i) opening balance of arrears in assessments and total assessments due at the end of the year from the Directorate of Commercial Taxes, Directorate of Mines and Minerals and Directorate of Electricity Duty; (ii) claims of refund outstanding at the beginning and at the end of the year from the Directorate of Commercial Taxes and (iii) information regarding performance of the Internal Audit Wing of the Directorate of Registration and Stamp Revenue.

1.6.4 Response of the Departments to the draft audit paragraphs

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

Twenty six draft paragraphs (DPs) including one Performance Audit (PA) and two detailed compliance audits were sent to the Principal Secretaries/Secretaries of the respective Departments by name between July and August 2018. With the exception of one detailed compliance audit on "Working of check-posts under Transport Department" and two DPs under Chapter VII- Mines and Minerals for which replies were received, for all other DPs the Principal Secretaries/Secretaries of the Departments concerned did not send replies despite reminders. As such, these DPs have been included in this Report without response of the Government. Replies of the heads of the audited units, wherever furnished, have been taken into account.

1.6.5 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee (PAC), notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, explanatory notes of action taken on audit paragraphs of the Reports were delayed inordinately. 149 paragraphs (including Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of West Bengal for the years

ended 31 March 2012, 2013, 2014, 2015 and 2016 were placed before the State Legislative Assembly between 10 July 2014 and 7 March 2016. No action taken explanatory note in respect of paragraphs/sub-paragraphs of Performance Audit was received on time. The action taken explanatory notes from the concerned Departments on 11 sub-paragraphs/paragraphs were received with average delay of 14 months in respect of Audit Reports for the years ended 31 March 2012, 2013, 2014, 2015 and 2016. Action taken explanatory notes in respect of remaining paragraphs from four departments (Finance, Industries, Commerce and Enterprises, Land & Land Reforms and Transport) had not been received for the Audit Reports for the years ended 31 March 2012, 2013, 2014, 2015 and 2016 so far (December 2019).

No discussions of the selected paragraphs were held by the Public Accounts Committee during 2017-18.

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

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

The succeeding paragraphs 1.7.1 and 1.7.2 discuss the performance of the Transport Department and cases detected in the course of local audit during the last 10 years and also the cases included in the Audit Reports for the years 2008-09 to 2017-18.

1.7.1 Position of Inspection Reports

The summarised position of the inspection reports issued to the Transport Department during the last 10 years, paragraphs included in these reports and their status as on 31 March 2018 are tabulated in **Table 1.10**.

Table - 1.10
Position of Inspection Reports

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance during the year		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2008-09	427	1,280	58.98	8	38	14.68	0	12	0.90	435	1,306	72.76
2.	2009-10	435	1,306	72.76	8	49	5.41	332	1,015	59.83	111	340	18.34
3.	2010-11	111	340	18.34	7	53	5.31	10	53	4.34	108	340	19.31
4.	2011-12	108	340	19.31	18	309	156.76	21	154	85.79	105	495	90.28
5.	2012-13	105	495	90.28	15	243	283.83	31	158	15.25	89	580	358.86
6.	2013-14	89	580	358.86	11	167	185.23	12	240	216.09	88	507	328.00
7.	2014-15	88	507	328.00	13	138	170.84	24	287	156.17	77	358	342.67
8.	2015-16	77	358	342.67	20	245	441.57	27	228	258.42	70	375	525.82
9.	2016-17	70	375	525.82	9	124	153.23	7	112	230.89	72	387	448.16
10.	2017-18	72	387	448.16	21	231	194.58	25	282	347.40	68	336	295.34

Though Audit Committee Meetings are organised between the Department and Audit to settle old paragraphs, it would be evident from the above table, that except for 2009-10, settlement of paras was not significant. This is primarily because the Department is not providing replies/follow-up action for settlement of outstanding paragraphs contained in the IRs.

1.7.2 Recovery of accepted cases

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

Table – 1.11
Recovery of accepted cases

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount of recovery of accepted cases as of 31.03.2018
2007-08	4	4.66	4	1.06	Nil
2008-09	5	10.69	5	1.17	Nil
2009-10	33	14.41	9	4.76	0.52
2010-11	4	73.97	4	9.05	0.07
2011-12	6	4.28	6	4.28	0.02
2012-13	4	205.42	4	204.82	0.01
2013-14	9	151.02	8	10.51	0.69
2014-15	9	230.31	9	61.16	0.01
2015-16	6	321.76	6	170.47	0.01
2016-17	11	320.22	11	289.51	1.61
Total	91	1,336.74	66	756.79	2.94

It is evident from the above table that the recovery even in accepted cases was meagre (only 0.39 *per cent*) during these years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties by instituting an appropriate mechanism for pursuance of the accepted cases by the Department/Government.

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

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

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

The status of action taken on recommendations in the Audit Reports of last five years as per reports furnished by the Departments till December 2019 is given in **Appendix-I**.

1.9 Audit Planning

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

During the year 2017-18, there were 583 auditable units, of which 178 units were planned for audit and 180 units were audited, which was 30.87 *per cent* of the total auditable units. The details are shown in the **Appendix – II**.

Besides the compliance audits mentioned above, one Performance Audit and two detailed compliance audits were also conducted to examine the efficacy of the tax administration of revenue receipts.

1.10 Results of audit

1.10.1 Position of local audit conducted during the year

Test check of the records of 180 units related to Sales Tax/Value Added Tax, State Excise, Motor Vehicles tax, Land and Land Reforms, Stamp Duty and Registration Fees and other Departmental offices conducted during the year 2017-18 showed under assessment/short levy/loss of revenue aggregating ₹ 870.64 crore in 1,490 cases. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹ 155.08 crore involved in 695 cases pointed out in audit during 2017-18. The Departments collected ₹ 16.21 crore in 189 cases during 2017-18 pertaining to findings of local audit.

1.11 Coverage of this Report

This Report contains 26 paragraphs (selected from the audit observations made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including one Performance Audit on “Assessment and Collection of Stamp Duty and Registration Fees” and two detailed compliance audits on “Working of Check-posts under Transport Department” and “Assessment and Collection of Profession Tax” involving financial effect of ₹ 748.13 crore.

The Departments/Government accepted audit observations involving ₹ 380.26 crore of which ₹ 4.50 crore had been recovered. No replies/specific replies had been furnished in respect of remaining cases (December 2019). These are discussed in succeeding Chapters II to VII.

CHAPTER II

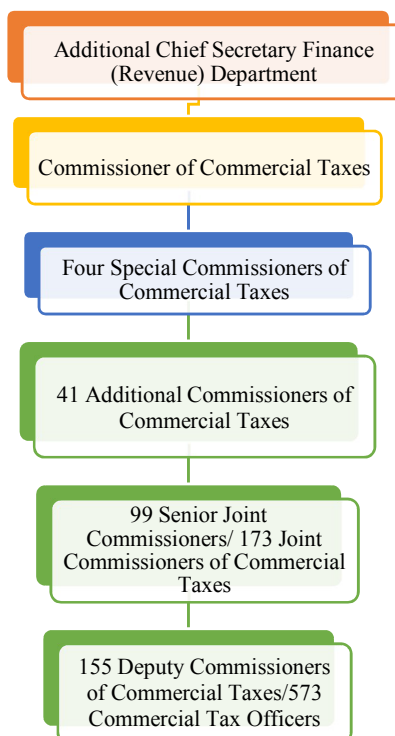
CHAPTER II

VALUE ADDED TAX AND GOODS AND SERVICES TAX

2.1 Tax administration

During 2017-18, for administering the relevant Value Added Tax (VAT) laws and rules framed thereunder the following tax administration was in place:

Chart 2.1: Tax Administration



2.2 Internal Audit

The Department has an Internal Audit Wing (IAW) under the charge of the Special Commissioner of Commercial Taxes. He is assisted by one Additional Commissioner of Commercial Taxes, one Senior Joint Commissioner and one Commercial Tax Officer. This Wing conducts scrutiny and detects irregularities in the assessments of VAT cases as well as checks different records and registers to ascertain whether internal control system as envisaged in the Acts and Rules made thereunder are properly followed.

Of the 68 Charge offices and 10 Ranges under the Directorate of Commercial Taxes (DCT), West Bengal, the IAW planned to audit seven Charge offices/Ranges during the year 2017-18 for checking 523 cases. IAW however, did not audit any case under Charge office/range. The IAW stated that the plan to conduct audit in seven Charge offices could not be executed due to shortage of manpower. They also stated that there was no internal audit manual to formulate working procedure of IAW.

There is, therefore, an urgent need to establish internal procedures for the IAW besides strengthening its manpower.

2.3 Audit Methodology

Audit Data Analytics

The IMPACT (Information Management for Promotion of Administration in Commercial Taxes) application was developed for better tax administration in the Value Added Tax (VAT) regime. The web-based application provides services such as online registration, filing of return, payment of taxes and issue of waybills. It also functions as MIS (Management Information System) to the DCT.

The Commissioner of Commercial Taxes and the other assessing authorities access the IMPACT application through a West Bengal State Wide Area Network (WBSWAN) or Managed Leased Line Network (MLLN) from BSNL where WBSWAN is not available.

Audit of VAT

Audit was not given access to data dump of VAT administration. The audit units under the Commercial Taxes Department (49 units) were selected based on risk parameters such as, revenue generated based on consolidated data provided by the Department on an annual basis.

During the field audit of selected units, the access to data was provided through a node in the audit unit. The information made available was used to verify the following.

- Discrepancies in Contractual Transfer Price (CTP) through cross verification of details available in IMPACT and Sales Tax Deducted at Source (STDS).
- Discrepancies between assessed and actual sales turnover.

Audit of GST

Audit was given access to the data related to registered dealers as on 30 June 2017 and migrated dealers in IMPACT. These two sets of data of selected audit units were analysed using data analytic tool (IDEA) to identify unmatched cases, where gross turnover exceeded the threshold limit of ₹ 20 lakh. The eligible cases were verified with data in GSTN portal with the aid of their PAN identity to ascertain their migration status. Audit was also given access to the data in mismatch reports (analysis provided by GSTN) on transitional credits for the selected audit units. Audit analysed the compliance status of this mismatch and made observation where no compliance or inadequate compliance was found.

2.4 Results of audit

In 2017-18, test check of the records of 49 units relating to VAT assessments and other records showed underassessment of tax and other irregularities involving ₹ 277.44 crore in 632 cases, which fall under the following categories as given in **Table 2.1**.

Table 2.1
Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Incorrect determination of Contractual Transfer Price / turnover of sales	236	129.98
2.	Non/short levy of purchase tax/penalty/interest	230	103.01
3.	Irregular allowance of transfer of goods /Input Tax Credit /remission	63	18.64
4.	Application of incorrect rate of tax/mistake in computation	26	5.32
5.	Others	77	20.49
Total		632	277.44

During the course of the year, the Department accepted under assessment and other deficiencies of ₹ 99.07 crore in 383 cases, of which 356 cases involving ₹ 98.52 crore was pointed out in audit during the year 2017-18 and the rest in earlier years. An amount of ₹ 28.99 lakh was realised in 32 cases during the year 2017-18.

Compliance Audit

Audit was conducted in 49 out of 108 (45.37 per cent) units administering Value Added Tax during the period 2017-18. The cases mentioned in the succeeding paragraphs are those which came to notice in the course of test audit for the period 2017-18 as well as those which came to notice in 2016-17, but could not be reported in the previous Audit Report. The cases were examined to ascertain the extent of compliance of provisions of the Acts and rules framed thereunder. The audit findings in 290 cases involving ₹ 41.09 crore are discussed in the following paragraphs:

2.5 Incorrect determination of turnover of sales

In 30 cases, Assessing Authorities (AAs) incorrectly determined TOS at ₹ 2,572.16 crore instead of ₹ 2,825.34 crore. This resulted in short determination of TOS of ₹ 253.18 crore with consequent short levy of tax of ₹ 12.72 crore.

In terms of Section 2(55) of West Bengal Value Added Tax (WBVAT) Act, 2003, turnover of sales (TOS) in relation to any period, means the aggregate of the sale prices/parts of sale prices received/receivable by a dealer in respect of sales of goods made during such period which remains after making deductions prescribed under the Act. Section 16 of WBVAT Act, 2003 provides applicable rates for levy of tax on such part of the TOS which remains after making deductions therefrom as prescribed under the Act. Section 42 of the WBVAT Act, 2003 provides that correctness of TOS furnished in returns by the assessee may be verified with reference to the accounts, registers or documents including those in electronic records maintained or kept by the dealer. Information in respect of TOS is also available in the database accessible through IMPACT (Information Management for Promotion of Administration in Commercial Taxes), a web based application software developed by DCT for better tax administration.

Audit test checked assessment case records of nine Charge offices³ between September 2016 and December 2017. It found that in 30 cases⁴ of 29 dealers, the Assessing Authorities (AAs) determined TOS at ₹ 2,572.16 crore instead of ₹ 2,825.34 crore. This resulted in short determination of turnover of sales of ₹ 253.18 crore with consequent short levy of tax as detailed in the following table:

Table-2.2
Incorrect determination of TOS

(₹ in crore)

Sl. No.	No. of cases/ no. of dealers	Nature of irregularity	Name of the Charge office	TOS assessable	TOS assessed	TOS determined short (7) = (5-6)	Tax levied short (8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	1/1	Sales as per database of Directorate of Commercial Tax was higher than that determined on the basis of returns filed.	Large Taxpayers Unit (LTU)	599.55	555.41	44.14	1.77
2.	5/5	Turnover of sales assessed by AA was short of that shown in returns.	Ballygunge, Behala, Shibpore, Siliguri Circle	29.69	9.06	20.63	2.59
3.	22/21	Turnover of sales assessed by AA was short of that shown in books of Accounts.	Asansol, Ballygunge, Bhowanipore, Fairlie Place, Jalpaiguri, LTU, Shibpore, Siliguri Circle	2,193.24	2,005.94	187.30	8.27
4.	1/1	Suppressed sale was not taken into account in the assessment order.	Ballygunge	2.18	1.75	0.43	0.06
5.	1/1	Excess deduction was allowed from aggregate sale price to arrive at TOS.	Behala	0.68	Nil	0.68	0.03
	30/29	Total		2,825.34	2,572.16	253.18	12.72

In the cases pointed out in the table, the concerned AAs did not verify the correctness of the declared TOS with reference to the other records and the discrepancies were overlooked during assessment. This resulted in under assessment of TOS and short levy of tax of ₹ 12.72 crore.

After this was pointed out, seven Charge offices⁵, while accepting⁶ the audit observations in 23 cases involving ₹ 9.75 crore, stated that:

³ Asansol, Ballygunge, Behala, Bhowanipore, Fairlie Place, Jalpaiguri, Large Taxpayers Unit (LTU), Shibpore and Siliguri Circle.

⁴ Assessed between April 2013 and June 2017 for assessment periods between 2010-11 and 2014-15.

⁵ Asansol, Ballygunge, Behala, Bhowanipore, Fairlie Place, Shibpore and Siliguri Circle.

⁶ Between March 2014 and December 2017.

- Proposal for reopening the cases would be sent to the higher authorities in eight cases involving ₹ 41.07 lakh;
- Proposals had been sent to the appellate authorities in one case involving ₹ 27.25 lakh, and
- Necessary actions were being taken in 14 cases involving ₹ 9.07 crore. They, however, did not furnish any report on realisation of tax.

In the remaining cases, the Charge offices did not furnish any reply/specific reply (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

2.6 Irregular allowance of input tax credit

In 58 cases, the AAs allowed Input Tax Credit (ITC) of ₹ 70.56 crore instead of ₹ 60.46 crore admissible to the dealers resulting in irregular allowance of ITC of ₹ 10.10 crore.

Section 22 of the WB VAT Act 2003 read with Rules 20 and 23 of the West Bengal Value Added Tax Rules, 2005 prescribe that a registered dealer can avail the benefits of Input Tax Credit (ITC) to the extent of tax paid or payable by him in respect of purchases of taxable goods from registered dealers of West Bengal. Any amount of ITC, which remains in excess at the end of assessment period, shall be carried over to the next assessment period. Further, ITC shall not be allowed where original tax invoice has not been issued by the selling dealer from whom the goods are purported to have been purchased. Excess of ITC beyond admissible amount shall be reversed.

Audit test checked assessment case records in 15 Charge offices⁷. It found that between August 2016 and February 2018 in 58 cases of 52 dealers⁸, the AAs allowed ITC of ₹ 70.56 crore. The dealers were, however, eligible for ITC of ₹ 60.46 crore only. This resulted in irregular allowance of ITC as detailed in the following table:

Table-2.3
Irregular allowance of ITC

(₹ in crore)

Sl. No.	Nature of irregularity	Name of Charge office	No. of cases	ITC allowed	ITC allowable	ITC allowed in excess (7) = (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(7) = (5-6)
1.	ITC was allowed on purchases made from dealers whose registration certificates were cancelled before purchases were made.	Asansol, Ballygunge, Fairlie Palace, Howrah, Jorabagan	21	11.04	8.10	2.94

⁷ Asansol, Ballygunge, Berhampore, Burtola, College Street, Durgapur, Fairlie Palace, Howrah, Jalpaiguri Circle, Jorabagan, Lalbazar, LTU, New Market, Salt Lake and Shibpore.

⁸ Between June 2012 and January 2017 for assessment periods between 2008-09 and 2014-15.

(₹ in crore)

Sl. No.	Nature of irregularity	Name of Charge office	No. of cases	ITC allowed	ITC allowable	ITC allowed in excess (7) = (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(7) = (5-6)
2.	ITC was allowed on purchases made from dealers who did not file returns or did not show any purchase and sale in their returns.	Asansol, Berhampore, Burtola, College Street, Howrah, Jorabagan, Lalbazar, New Market, Salt Lake, Shibpore	16	46.13	41.68	4.45
3.	ITC was allowed on claim of purchases higher than the sales disclosed by selling dealers.	Berhampore, Burtola, College Street, Howrah, Jorabagan, LTU, New Market	10	6.86	5.93	0.93
4.	ITC brought forward from previous assessment period was allowed in excess of the amount carried forward after assessment.	Berhampore, Durgapur, Jalpaiguri, Lalbazar, Salt Lake	6	1.24	0.55	0.69
5.	Net ITC was determined excess in assessment.	Shibpore	1	0.21	0.19	0.02
6.	ITC was not/short reversed in assessment.	LTU	4	5.08	4.01	1.07
Total			58	70.56	60.46	10.10

In the cases pointed out at Sl. No.1-4 in the table, correctness of the claims of ITC in the returns were not verified by the concerned AAs with reference to the other records, while in cases pointed out at Sl. No. 5 and 6, ITC allowed by the concerned AAs was not in conformity with the provisions of the Act. This resulted in irregular allowance of ITC of ₹ 10.10 crore.

After this was pointed out, the Charge offices, while accepting⁹ the audit observations in 42 cases involving ₹ 8.42 crore, stated that:

- Proposal for suo-motu revision would be sent to the higher authorities in 14 cases involving ₹ 7.23 crore;
- Proposals had been sent to the higher authorities to reopen 22 cases involving ₹ 1.02 crore;
- Necessary action was being taken in four cases involving ₹ 15.18 lakh;
- Notice under Section 66(1) of WBVAT had been issued to the dealer in one case involving ₹ 1.16 lakh, and
- Proposal had been sent to the Appellate forum to review the order of appeal in one case involving ₹ 1.04 lakh.

Report on levy and realisation of tax was yet to be furnished. In the remaining 16 cases involving ₹ 1.68 crore, the Charge offices did not furnish any reply/specific reply (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

⁹ Between September 2016 and February 2018.

2.7 Incorrect determination of Contractual Transfer Price

In 48 cases, the AAs incorrectly determined Contractual Transfer Price (CTP) of ₹ 91.13 crore instead of ₹ 139.17 crore. This resulted in short determination of CTP of ₹ 48.04 crore with consequent short levy of tax of ₹ 2.82 crore.

In terms of Section 2(10) the WBVAT Act, 2003, Contractual Transfer Price (CTP) in relation to any period is the amount received or receivable by a dealer in respect of transfer of property in goods in the execution of any works contract. Sections 14 and 18 of the Act prescribe that any transfer of property in goods involved in the execution of a works contract shall be deemed to be a sale by the person making such transfer. Tax at prescribed rates shall be levied on his CTP after allowing deductions towards labour, service and other like charges and payments to sub-contractors etc. Under Section 40 of the Act, a contractee shall deduct tax at source at the rate of two *per cent* from payments made to a registered dealer for execution of a works contract. Information in respect of CTP arising from execution of works contract is also available in database accessible through IMPACT, a web based application software developed for DCT for better tax administration. CTP from works contract executed in other states are not taxable in West Bengal.

Audit found¹⁰ in 10 Charge offices¹¹ that in 48 cases of 46 dealers¹², the AAs incorrectly determined CTP of ₹ 91.13 crore instead of ₹ 139.17 crore. This resulted in short determination of CTP of ₹ 48.04 crore with consequent short levy of tax of ₹ 2.82 crore as detailed in the following table:

Table-2.4
Incorrect determination of CTP

(₹ in crore)

Sl. No. (1)	Nature of irregularity (2)	Name of Charge office (3)	No. of cases (4)	CTP assessable (5)	CTP assessed (6)	CTP determined short 7 = (5-6) (7)	Short levy of tax (8)
1.	Data in respect of payments made by the contractees to the dealers in execution of works contracts as available in the IMPACT was not ascertained before assessing nil tax as per returns	Armenian Street, Asansol, Burtola, Durgapur, Park Street	32	22.98	Nil	22.98	1.24
2.	CTP as per STDS ¹³ details available in IMPACT was higher than that assessed	Asansol, Bhowanipore, Burtola, Park Street, Siliguri Circle, Taltola	14	104.66	83.60	21.06	1.28
3.	CTP as per returns was higher than the CTP assessed by AA	Budge Budge	1	1.77	1.64	0.13	0.02

¹⁰ Between October 2016 and December 2017.

¹¹ Armenian Street, Asansol, Bhowanipore, Budge Budge, Burtola, Colootolla, Durgapur, Park Street, Siliguri Circle and Taltola.

¹² Assessed between June 2015 and May 2017 for assessment periods between 2012-13 and 2014-15.

¹³ Sales tax deduction at source.

(₹ in crore)

Sl. No. (1)	Nature of irregularity (2)	Name of Charge office (3)	No. of cases (4)	CTP assessable (5)	CTP assessed (6)	CTP determined short 7 = (5-6) (7)	Short levy of tax (8)
4.	CTP in works contract executed in West Bengal by a dealer was determined short from gross CTP of works contracts executed in Sikkim and West Bengal	Siliguri Circle	1	9.76	5.89	3.87	0.28
Total			48	139.17	91.13	48.04	2.82

The case noted at Sl. No. 4 of the table pertains to execution of works contracts by a dealer in two States - West Bengal and Sikkim. The CTP in works contract executed by the dealer in Sikkim was not taxable in West Bengal. The gross CTP from works contracts executed in the two States stood at ₹ 14.42 crore. The CTP from works contract executed by the dealer in Sikkim was ₹ 4.66 crore. The AA, however, allowed deduction of CTP of ₹ 8.53 crore in respect of works executed in Sikkim from gross CTP of ₹ 14.42 crore to determine the CTP in respect of works executed in West Bengal. This resulted in short determination of CTP of ₹ 3.87 crore for works executed in West Bengal with consequent short levy of tax of ₹ 27.84 lakh.

In the cases pointed out at Sl. Nos. 1 and 2 of the table above, the AAs concerned did not verify CTP with payments received by the dealers from contractees in execution of works contract as available in the database of IMPACT. In case pointed out at Sl. No. 3, CTP disclosed by the dealer concerned was not taken into account at the time of assessment. This resulted in short levy of tax of ₹ 2.54 crore. After this was pointed out, six Charge offices¹⁴, while accepting¹⁵ audit observations in 15 cases involving ₹ 1.69 crore, stated that:

- Proposal for suo motu revision would be sent to the higher authorities in three cases involving ₹ 97.63 lakh;
- Proposals had been sent to the higher authorities to reopen seven cases involving ₹ 55.83 lakh and
- Necessary actions were being taken in five cases involving ₹ 15.64 lakh.

They, however, did not furnish any report on realisation of tax. In the remaining 33 cases involving ₹ 1.13 crore, the Charge offices did not provide any reply/specific reply (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

2.8 Incorrect determination of taxable contractual transfer price

In five cases, the AAs allowed excess deduction towards payment to sub-contractors and labour, services and other like charges. This resulted in short determination of taxable CTP by ₹ 12.65 crore with consequent short levy of tax of ₹ 1.31 crore.

Under Section 18(2) of WBVAT Act, 2003, taxable contractual transfer price is the part of intra-State contractual transfer price (CTP), which remains after

¹⁴ Bhowanipore, Burtola, Durgapur, Park Street, Siliguri Circle and Taltola.

¹⁵ Between June 2017 and December 2017.

deducting labour, service and other like charges, payment to sub-contractors etc. In terms of Section 18(3), however, if labour, service and other like charges or the taxable CTP for applying proper rates of tax are not ascertainable from books of account maintained by a dealer, such labour, service and other like charges and the taxable CTP shall be determined on the basis of such percentage of the value of the works contract, as prescribed for different types of works contract under Rule 30(2) of WBVAT Rules, 2005. The labour, service and other like charges to be deducted from the CTP have been specified under clauses (a) to (g) of Rule 30(1) of WBVAT Rules, 2005. Plant depreciation has not been specified under any of the clauses of Rule 30(1) of WBVAT Rules, 2005.

Audit found in two Charge offices¹⁶ that in five cases of four dealers¹⁷, the AAs incorrectly allowed deductions of ₹ 20.13 crore instead of ₹ 7.48 crore from CTP of ₹ 184.38 crore. Of these, in three cases of three dealers, deductions towards labour, service and other like charges was allowed in excess by ₹ 2.21 crore. In two cases of a dealer, deduction allowed towards plant depreciation of ₹ 10.44 crore was not admissible under Rule 30(1). This resulted in short determination of taxable contractual transfer price by ₹ 12.65 crore with consequent short levy of tax as detailed in the following table:

Table-2.5
Incorrect determination of taxable CTP

(₹ in crore)

Sl. No.	Nature of irregularity	Name of Charge office	No. of dealers/cases	CTP	Deduction allowed	Deduction admissible	Excess allowance (taxable CTP) (8)= (6-7)	Short levy of tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)= (6-7)	(9)
1.	Percentage of CTP for deduction towards labour, service and other like charges was allowed by AA in excess of that admissible under Rule 30(2).	Bhowanipore, Siliguri Circle	2/2	32.41	7.88	5.79	2.09	0.84
2.	Deduction from CTP towards plant depreciation was allowed by AA which was not specified under clause (a) to (g) of Rule 30(1).	Bhowanipore	1/2	149.08	10.44	Nil	10.44	0.45
3.	Profit earned from labour and services was deducted twice from CTP.	Bhowanipore	1/1	2.89	1.81	1.69	0.12	0.02
Total			4/5	184.38	20.13	7.48	12.65	1.31

The cases pointed out in the table indicate that the AAs did not comply with the provisions of the Rules while determining taxable CTP of dealers concerned.

¹⁶ Bhowanipore and Siliguri Circle.

¹⁷ Assessed between June 2015 and March 2017 for assessment periods between 2012-13 and 2014-15.

This resulted in under assessment of taxable CTP and short levy of tax of ₹ 1.31 crore.

After this was pointed out¹⁸, the Charge offices accepted¹⁹ the audit observations in all cases. They, however, did not furnish any report on realisation of tax (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

2.9 Application of incorrect rate of tax

In 13 cases involving sales of ₹ 65.52 crore, AAs levied output tax of ₹ 2.44 crore instead of ₹ 7.69 crore. This was due to application of incorrect rate of tax resulting in short levy of tax of ₹ 5.25 crore.

Section 16(2) of the WBVAT Act, 2003 prescribes the rates of tax on sale of goods according to their classification. Section 18 of the WBVAT Act, 2003 prescribes the rates of tax on CTP.

It was observed²⁰ that in eight Charge offices²¹, in 13 cases²², involving sales of ₹ 65.52 crore, the AAs levied output tax of ₹ 2.44 crore instead of ₹ 7.69 crore. This was due to applications of lower rates of tax, incorrect rates of tax and pre-revised rates of tax, resulting in short levy of tax as detailed in the following table:

Table-2.6
Application of incorrect rate of tax

(₹ in crore)

Sl. No. (1)	Nature of irregularity (2)	Name of Charge office (3)	No. of cases (4)	Taxable turnover (5)	Tax leviable (6)	Tax levied (7)	Short levy of tax (8)= (6-7) (8)
1.	Application of lower rates of tax due to misclassification of commodities.	Ballygunge, Budge-Budge, Chandney Chowk, LTU, Shibpore, Siliguri Circle	11	64.41	7.61	2.38	5.23
2.	In assessment of a case for the period 2013-14, rate of tax on medical and surgical instruments was applied at the pre-revised rate of four per cent instead of five per cent applicable from April 2013 ²³ .	Salt Lake	1	0.52	0.03	0.02	0.01
3.	Rate of tax on taxable CTP, as per table under Rule 30(2) was not applied correctly.	Siliguri	1	0.59	0.05	0.04	0.01
Total			13	65.52	7.69	2.44	5.25

¹⁸ Between July and August 2017.

¹⁹ Between August and September 2017.

²⁰ Between May 2016 and September 2017.

²¹ Ballygunge, Budge Budge, Chandney Chowk, LTU, Salt Lake, Shibpore, Siliguri and Siliguri Circle.

²² Assessed between June 2012 and May 2017 for the assessment periods from 2009-10 to 2014-15.

²³ Trade Circular No. 07/2013 dated: 1 April 2013.

The cases pointed out in the table above indicate that the AAs concerned did not assess tax on sales of goods/CTP in works contract correctly and applied incorrect rates on sales/CTP. This resulted in short levy of tax amounting to ₹ 5.25 crore.

After this was pointed out, five Charge offices²⁴, while accepting²⁵ the audit observations in eight cases, stated that:

- Proposal for suo motu revision would be sent to the higher authorities in six cases involving ₹ 4.47 crore, and
- Necessary action was being taken in two cases involving ₹ 10.32 lakh.

They, however, did not provide any report on levy and realisation of tax. In the remaining cases, the Charge offices did not furnish any/specific reply (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

2.10 Penalty on evaded tax not levied

In 72 cases, the AAs did not initiate proceedings to levy penalty despite evasion of tax by dealers. Penalty to the extent of ₹ 58.71 crore was leviable for such evasion of tax/ineligible claim of input tax credit.

2.10.1 Section 96 of the WB VAT Act, 2003, prescribes levy of penalty if a dealer has concealed any sale/purchase/CTP or claimed excess amount of ITC but has not reversed the same within the tax period. The quantum of penalty should not exceed twice the amount of tax, which would have been avoided if such concealment was not detected. In terms of a Circular²⁶, issued by the Commissioner of Commercial Taxes (CCT), West Bengal, minimum penalty of 25 per cent of the amount of evaded tax was to be levied in cases where dealer has admitted the evasion of tax and paid the evaded tax.

- It was observed²⁷ in four Charge offices²⁸ that in six cases of five dealers²⁹, the AAs detected evasion of tax of ₹ 5.17 crore. This tax was evaded by suppression of sales/purchases. After detection of the cases, the dealers admitted the evasion of tax and paid the evaded tax. The AAs, however, did not initiate proceedings to levy minimum penalty of ₹ 1.29 crore at the rate of 25 per cent of the amount of evaded tax as per CCT's Circular issued under Section 96 of the WB VAT Act. Non- initiation of penal proceedings against dealers involved in evasion of tax amounted to violation of the provisions in the Act meant for curbing such activities.

After this was pointed out, all Charge offices accepted³⁰ the audit observation. In four cases, penal proceedings had been initiated, while in other two cases necessary action was being taken.

²⁴ LTU, Salt Lake, Shibpore, Siliguri and Siliguri Circle.

²⁵ Between March 2017 and September 2017.

²⁶ No. 793 dated 31 May 2013.

²⁷ Between August 2017 and November 2017.

²⁸ Alipore, Bhowanipore, Jorabagan and Park Street.

²⁹ Assessed between February 2014 and June 2017, for assessment periods between 2011-12 and 2014-15.

³⁰ Between September 2017 and December 2017.

- In 18 Charge offices³¹ Audit also observed³² that in 63 cases of 57 dealers³³, AAs detected evasion of tax of ₹ 23.57 crore by the dealers. This was due to claim of excess amount of ITC and suppression of sales/purchase. Though the AAs detected evasion of tax, they did not initiate proceedings to levy penalty under Section 96 of the WBVAT Act. Penalty not exceeding ₹ 47.13 crore at twice the tax evaded was leviable for such evasion of tax. Reasons for non-initiation of penalty proceedings were not available in the assessment case records.

After this was pointed out, 16 Charge offices³⁴, while accepting³⁵ the audit observations in 44 cases involving ₹ 31.37 crore, stated that

- Penal proceedings had already been initiated in 16 cases involving ₹ 11.05 crore;
- Proposal had been forwarded to the higher authorities for necessary action in one case involving ₹ 1.34 crore, and
- Necessary action was being taken in 27 cases involving ₹ 18.98 crore.

In the remaining 19 cases involving ₹ 15.76 crore, the Charge offices did not furnish any/specific reply (December 2019).

2.10.2 Section 22A of the WBVAT Act, 2003 prescribes levy of penalty if a dealer has claimed ITC without entering into a valid transaction of purchase with another dealer. Penalty at the rate of 25 *per cent* of ineligible claim of ITC is leviable, if the dealer admits in writing the fact of such ineligible claim of ITC and pays the full amount of tax involved therein within one month of inspection or enquiry. In all other cases, penalty is leviable at the rate of 150 *per cent* of ineligible claim of ITC.

It was observed³⁶ in two Charge offices³⁷ that in three cases, ITC of ₹ 6.86 crore was claimed without entering into a valid transaction with other dealers of these, in two cases, Bureau of Investigation had detected inadmissible claim of ITC of ₹ 1.16 crore between April 2013 and November 2014. In one case, AAs detected inadmissible claim of ITC of ₹ 5.69 crore in June 2014 arising out of invalid transaction. The dealers, however, neither admitted in writing the fact of such ineligible claims of ITC nor paid the full amount of tax involved therein within one month of inspection or enquiry. The AAs did not initiate proceedings to levy penalty under Section 22A of the WBVAT Act. This resulted in non-levy of penalty of ₹ 10.29 crore.

³¹ Asansol, Ballygunge, Barrackpore, Baruiapur, Behala, Bhowanipore, Budge-Budge, Burtola, Durgapur, Jorabagan, LTU, N.S. Road, Park Street, Salt Lake, Sealdah, Shibpore, Taltola and Ultadanga.

³² Between October 2016 and December 2017.

³³ Assessed between April 2013 and February 2017 for assessment period 2009-10 and 2014-15.

³⁴ Asansol, Ballygunge, Barrackpore, Baruiapur, Behala, Budge-Budge, Burtola, Jorabagan, LTU, N.S. Road, Park Street, Salt Lake, Sealdah, Shibpore, Taltola and Ultadanga.

³⁵ Between November 2016 and December 2017.

³⁶ Between August and November 2017.

³⁷ Lalbazaar and Park Street.

After this was pointed out, Charge offices accepted³⁸ audit observations in all cases. They, however, did not furnish any report on realisation of penalty (December 2019).

The matter was reported to the Government in July 2018. Their reply has not been received.

2.11 Non/short levy of interest

Interest of ₹ 6.60 crore was not levied/short levied in 46 cases.

In terms of Section 33 of the WB VAT Act, 2003, a dealer shall be liable to pay interest if he:

- fails to adjust the amount of any inadmissible ITC by way of deduction from the amount of ITC claimed for a tax period, or
- fails to make full payment of tax; or
- makes delay in payment of net tax in respect of any tax period.

The interest shall be payable at the rate of 12 *per cent* per annum up to 31 March 2015 and from 1 April 2015 at the rate as specified below: -

- (i) At the rate of one *per cent* per month up to the first 90 days of the period for which such interest is payable;
- (ii) At the rate of one and half *per cent* per month after the first 90 days and up to 300 days of the period for which such interest is payable; and
- (iii) At the rate of two *per cent* per month after the first 300 days of the period for which such interest is payable.

Audit found³⁹ in 16 Charge offices⁴⁰ that in 46 cases⁴¹ of 42 dealers, the AAs did not levy interest of ₹ 6.54 crore. In one case of a dealer, the AA levied interest short by ₹ 0.06 crore. This resulted in non/short levy of interest as detailed in the following table:

Table-2.7
Non/short levy of interest

(₹ in crore)							
Sl. No.	No. of cases/dealers	Name of the Charge office	Nature of irregularity	Tax on which interest was leviable	Interest leviable	Interest levied	Non/Short levy of Interest (8) = (6-7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	37/33	Alipore, Ballygunge, Bhowanipore, Budge Budge, Durgapur, Fairlie Place, Jorabagan, Lalbazar, LTU, Maniktola, Park Street, Princep Street, Taltola	Interest not levied on inadmissible claim of ITC	17.65	6.23	Nil	6.23

³⁸ Between August and November 2017.

³⁹ Between April 2016 and December 2017.

⁴⁰ Alipore, Ballygunge, Barasat, Berhampur, Bhowanipore, Budge Budge, Diamond Harbour, Durgapur, Fairlie Place, Jorabagan, Lalbazar, LTU, Maniktola, Park Street, Princep Street, and Taltola.

⁴¹ Assessed between June 2011 and June 2016 for assessment periods between 2008-09 and 2013-14.

(₹ in crore)

Sl. No.	No. of cases/dealers	Name of the Charge office	Nature of irregularity	Tax on which interest was leviable	Interest leviable	Interest levied	Non/Short levy of Interest (8)=(6-7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		LTU	Interest levied short on inadmissible claim of ITC	0.21	0.07	0.01	0.06
2.	4/4	Alipore, LTU, Taltola	Interest not levied on tax admitted but not paid by dealers within the prescribed dates	2.38	0.19	Nil	0.19
3.	5/5	Barasat, Berhampore, Diamond Harbour	Interest not levied for non-submission of return	0.36	0.12	Nil	0.12
Total	46/42			20.60	6.61	0.01	6.60

The cases pointed out in the table above indicate that provisions for levy of interest was not complied with by the AAs concerned at the time of assessment. This resulted in non/short levy of interest of ₹ 6.60 crore.

Reasons for not applying the provisions of interest were not found on records.

After this was pointed out, 12 Charge offices⁴², while accepting⁴³ the audit observations in 20 cases involving ₹ 3.30 crore, stated that:

- Proposal for suo motu revision would be sent to the higher authorities in six cases involving ₹ 58.68 lakh;
- Necessary action was being taken in 11 cases involving ₹ 2.59 crore;
- Demand was confirmed in the appeal and assessee asked to pay assessed dues in one case involving ₹ 2.05 lakh, and
- Proposal had been sent to the Appellate forum in two cases involving ₹ 9.78 lakh.

They, however, did not furnish any report on realisation of interest. In the remaining 26 cases involving ₹ 3.30 crore, six⁴⁴ Charge offices did not provide any/specific reply (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

2.12 Short levy of tax due to mistake in computation

In 18 cases, the AAs assessed output tax of ₹ 10.61 crore instead of ₹ 11.61 crore due to error in computation. This resulted in short levy of tax of ₹ one crore.

Under the WBVAT Act, 2003, tax is to be computed at prescribed rates along with interest and penalty, if any, on the goods sold.

⁴² Alipore, Ballygunge, Berhampur, Bhowanipore, Budge-Budge, Diamond Harbour, Fairlie Place, Jorabagan, Lalbazar, LTU, Park Street, and Taltola.

⁴³ Between May 2016 and December 2017.

⁴⁴ Alipore, Barasat, Durgapur, LTU, Maniktola and Princep Street.

It was observed⁴⁵ in 12 Charge offices⁴⁶ that in 18 cases⁴⁷, the AAs assessed output tax of ₹ 10.61 crore instead of ₹ 11.61 crore. This resulted in short levy of tax due to wrong computation as detailed in the following table:

Table-2.8
Short levy of tax due to mistake in computation

(₹ in crore)

Sl. No.	Nature of irregularity	Name of the Charge office	No. of cases	Tax leviable	Tax levied	Short levy of tax (7) = (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(5-6)
1.	Tax on TOS/CTP was computed less than that payable by the dealers due to arithmetical errors	Ballygunge, Bhowanipore, Lalbazar, LTU	8	9.42	8.88	0.54
2.	Amount of tax computed at the applicable rates was less than that computable at those rates	Ballygunge, N.S.Road, Taltola	4	0.71	0.35	0.36
3.	Total of tax payable was calculated short in assessment order	Behala, Budge-Budge, Jorabagan, Maniktola, Shibpore, Ultadanga	6	1.48	1.38	0.10
Total			18	11.61	10.61	1.00

In the cases pointed out in the table above, the AAs concerned did not check the computations before passing the assessment orders. This resulted in short levy of tax of ₹ one crore.

After this was pointed out, nine Charge offices⁴⁸, while accepting⁴⁹ the audit observations in 14 cases involving ₹ 42.15 lakh, stated that

- Proposals for revision had been sent to the higher authorities in five cases involving ₹ 10.11 lakh,
- Necessary action was being taken in four cases involving ₹ 14.37 lakh,
- Proposals had been sent to the higher authorities for necessary action in two cases involving ₹ 3.94 lakh, and
- Suo motu revision was made in three cases involving ₹ 13.73 lakh.

Report on realisation of tax was, however, not furnished. In the remaining four cases, the Charge offices did not give any reply/specific reply (December 2019).

The cases were reported to the Government in July 2018. Reply was awaited.

The paragraphs discussed above bring out under assessment of VAT mainly because of inadequate compliance of the provisions of the Act and Rules framed thereunder, underutilisation of the database accessible through IMPACT software to ascertain the correctness of dealers' claim against TOS,

⁴⁵ Between February 2015 and November 2017.

⁴⁶ Ballygunge, Behala, Bhowanipore, Budge-Budge, Jorabagan, Lalbazar, LTU, Maniktola, N.S. Road, Shibpore, Taltola and Ultadanga.

⁴⁷ Assessed between June 2013 and August 2016 for assessment periods between 2010-11 and 2013-14.

⁴⁸ Ballygunge, Behala, Bhowanipore, Budge-Budge, Jorabagan, Lalbazar, N.S. Road, Shibpore and Ultadanga.

⁴⁹ Between February 2015 and December 2017.

CTP and ITC disclosed in returns etc. Accordingly, corrective measures need to be taken immediately to make good the deficiencies during assessment, to ensure that there is no shortfall in revenue realisation.

The above paragraphs are based on the results of the test check of assessment case records made available to audit. There may be similar irregularities, errors/omissions in other units under the department but not covered in the test audit. Department may, therefore, examine all the units with a view to ensure that the taxes are levied as per provisions of the Act and rules.

2.13 Status of implementation of Goods and Services Tax (GST) in West Bengal

2.13.1 Introduction

Goods and Services Tax (GST) came into effect in West Bengal on 1 July 2017. GST⁵⁰ is being levied on intra-State supply of goods or services (*except alcohol for human consumption and five specified petroleum products*⁵¹) separately but concurrently by the Union and the States/Union territories. Further, Integrated GST (IGST) is being levied on inter-State supply of goods or services (including imports) and the Central Government has the exclusive power to levy IGST. Prior to implementation of GST, VAT was levied on intra-State sale of goods as per the WBVAT Act, 2003 and Central Sales Tax (CST) on sale of goods in the course of inter-State trade or commerce as per the CST Act, 1956.

The State Government is empowered to regulate the provisions of WBVAT Act whereas provisions relating to GST are being regulated by Centre and State on the recommendation of Goods and Services Tax Council (GSTC) which was constituted with representation from Centre and all the States to recommend on matters related to GST. The West Bengal Goods and Services Tax (WBGST) Ordinance was notified by the State Government in June 2017 and subsequently the WBGST Rules, 2017 and the WBGST Act, 2017 were notified in June 2017 and August 2017, respectively. Various taxes⁵² were subsumed in the GST.

Goods and Services Tax Network (GSTN) was set up by the Government of India as a private company to provide IT services. It provides front-end IT services to taxpayers namely registration, payment of tax and filing of returns. Back-end IT services, i.e., registration approval, taxpayer detail viewer, refund processing, MIS reports, etc. are also being provided by GSTN to Model-II⁵³ States. West Bengal has opted for Model-II.

⁵⁰ Central GST: CGST and State/Union Territory GST: SGST/UTGST.

⁵¹ Petroleum products: crude, high speed diesel, petrol, aviation turbine fuel and natural gas.

⁵² Value Added Tax, Central Sales Tax, Entry Tax, Entertainment tax, Luxury tax, Taxes on Betting, Gambling and Lotteries and Taxes on Medicinal and toilet preparations.

⁵³ Model-I States: only Front-end services provided by GSTN,
Model-II States: both Front-end and Back-end services provided by GSTN.

2.13.2 Audit objectives

The Audit was conducted with a view to:

- evaluate the IT preparedness and capacity building for implementation of GST by the Government;
- assess the process of migration of taxpayers from existing laws⁵⁴ to GST and
- ascertain the compliance with the provisions of extant rules and regulation regarding transitional credits, refunds, etc.

2.13.3 Audit criteria

The provisions of the following Acts and Rules were the sources of criteria:

- West Bengal Goods and Services Tax Act, 2017;
- West Bengal Goods and Services Tax Rules, 2017;
- Integrated Goods and Services Tax Act, 2017;
- Integrated Goods and Services Tax Rules, 2017;
- West Bengal Value Added Tax Act, 2003; and
- GST (Compensation to States) Act, 2017.

2.13.4 Scope of Audit

The activities of the Directorate of Commercial Taxes (DCT), West Bengal relating to implementation of GST were reviewed. Detailed information regarding ‘Registration, Transitional Credit and Refunds’ available in the database of GST was sought for from DCT for conducting audit. The required information was however not provided by the DCT. In the absence of the detailed database, the audit was conducted mainly on the basis of MIS reports as available with the Directorate. Records of office of the Commissioner of Commercial Taxes (CCT), West Bengal and records relating to Registration, Transitional Credits and Refunds of four Charge⁵⁵ offices under the DCT were also examined.

Draft paragraphs were sent to the CCT and the Government on 28 January 2019 and June 2019. Their views have been suitably incorporated in the relevant paragraphs, wherever replies have been received.

2.13.5 Trend of Revenue from 2013-14 to 2017-18

GST was implemented from July 2017 and total receipts under pre-GST taxes⁵⁶ from April 2017 to June 2017 and GST including subsumed taxes from July 2017 to March 2018 were ₹ 23,802.19 crore against ₹ 21,904.87 crore under pre-GST

⁵⁴ “Existing law” means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passes or made before the commencement of this Act by the Legislature or any authority or person having the power to make such law, notification, order, rule or regulation.

⁵⁵ Subordinate unit of the Circle under the Directorate of Commercial Tax, responsible for assessment, levy and collection of tax.

⁵⁶ Value Added Tax, Central Sales Tax, Entry Tax, Entertainment tax, Luxury tax, Taxes on Betting, Gambling and Lotteries and taxes on Medicinal and toilet preparations.

taxes during the previous year 2016-17, which is an increase of 8.66 per cent. Actual receipts under pre-GST taxes and GST are given below:

Table-2.9
Trend of Revenue

(₹ in crore)

Financial Year	Budget Estimates (BE)	Receipts under pre-GST taxes	Receipts under GST		Total Receipts under pre-GST taxes and GST	Increase in per cent	Compensation received	Total receipts
			SGST	IGST apportionment				
2013-14	18,056.42	17,117.87	NA ⁵⁷	NA	17,117.87	-	NA	17,117.87
2014-15	21,200.40	18,466.64	NA	NA	18,466.64	7.88	NA	18,466.64
2015-16	22,317.02	20,227.78	NA	NA	20,227.78	9.54	NA	20,227.78
2016-17	24,643.33	21,904.87	NA	NA	21,904.87	8.29	NA	21,904.87
2017-18	26,555.02	8,838.45	13,652.54	1,311.20	23,802.19	8.66	1,608.00	25,410.19

*Source: Finance Accounts of the Government of West Bengal.

2.13.6 Legal/statutory preparedness

The State Government notified the WBGST Act, 2017 and the WBGST Rules, 2017. E-way bill system was implemented in the State on inter-State transactions with effect from 1 April 2018 and on intra-State transactions with effect from 3 June 2018. Further, necessary notifications/circulars/orders were issued by the State Government from time to time for facilitating implementation of GST in the State. The brief on the status of implementation of GST is given in the succeeding paragraphs:

2.13.7 IT preparedness and capacity building efforts by the Department

GSTN was to provide three *front-end services* to the taxpayers namely registration, payment of tax and filing of returns. As West Bengal had opted for Model-II for implementation of GST, *back-end applications* like registration approval, taxpayer detail viewer, Letter of Undertaking (LUT) processing, refund processing, management information system (MIS) reports *etc.* for GST administration were being developed by GSTN. As per information provided by the Department, the access for *back-end application* was available to State through State Data Centre, which in turn, is available to all officers of DCT through the internal LAN.

Under the overall supervision of National Academy of Customs, Excise and Narcotics (NACEN), Kolkata, training programme for officers (up to the level of State Tax Officer) were organised in four phases. IT training of selected Master Trainers (officers) had been organised in Chennai at *Infosys* campus under the supervision of GSTN. Further, IT in house training programmes were organised, and refresher training has been completed for 3,200 Officers, down to the rank of State Tax Officers. More than 1,000 workshops were conducted across the State where more than one lakh stake holders/taxpayers participated. A GST Policy-Planning Unit was opened, under Joint Secretary (Finance) for overall knowledge sharing and issue of notifications & circulars *etc.* Departmental websites have been updated with GST related information

⁵⁷ Not applicable since GST has been implemented from 1 July 2017.

such as Act/Rules, notifications/circulars/orders, help/FAQ, important dates, GST Service Provider (GSP) Forms, Advance Ruling, GST rate finder App, taxpayer division, e-Way bill *etc.* A 'Centralised Helpdesk' was also established to attend to the problems/queries of taxpayers. As many as 67 Helpdesks were also setup at various units (Charges) of the Department, where GST related issues were solved for taxpayers.

The Department informed that availability of hardware was sufficient for the present user base of DCT created on GSTN portal.

2.13.8 Registration

Under provisions of Rule 24 of the West Bengal Goods and Services Tax Rules, 2017, every person registered under any existing law of subsumed taxes and having a PAN shall enroll on GST common portal by validating his e-mail address as well as mobile number and such person shall be granted registration on provisional basis. Every person who has been granted provisional registration shall submit an application in Form- GST REG-26 along with the information and documents specified in the said application. If the information and particulars furnished in the application are found by the proper officer⁵⁸ to be correct and complete, a certificate of registration in Form- GST REG-06 shall be issued.

Rule 24 (3A) prescribes that where a certificate of registration has not been made available to the applicant within a period of 15 days from the date of furnishing information and particulars and no notice has been issued under Rule 24(3), the registration shall be deemed to have been granted.

Total number of dealers registered as on 30 June 2017 under VAT Act and under other State Acts⁵⁹ related to taxes subsumed under the GST, were 2,70,854 and 2,567, respectively. All such dealers were required to migrate to GST under Section 139 of the WBGST Act, 2017. As per the minutes of the meeting held on 6 November 2017 between the Central and State Authorities of the Joint Working Group constituted for the purpose of division of taxpayers, the total number of taxpayers migrated to GST regime from the old Acts (both Central and State Acts) in the jurisdiction of West Bengal was stated to be 2,86,388. Of this, final registration certificate was issued to 2,54,722 taxpayers.

Directorate of Commercial Taxes, West Bengal could not provide information about dealers whose registration were auto approved under rule 9(5) of WBGST Rules, 2017 and stated that the number of dealers auto approved were available with GSTN. The number of new taxpayers registered under GST was 3,91,053 (December 2018).

During course of audit, it was observed that dealers registering through the GSTN common portal were not allocated to their proper jurisdiction. The Competent Authority, however, has the powers to re-allot the dealers as per geographical location of the dealer's place of business. The option provided for dealers to register in a charge jurisdiction other than their place of business often creates extra work burden on tax authorities in terms of reallocation of jurisdiction and makes monitoring and supervision of the dealers more difficult.

⁵⁸ "proper officer" in relation to any function to be performed under WBGST Act, means the Commissioner or the officer of the State tax who is assigned that function by the Commissioner.

⁵⁹ Entertainment tax, Luxury tax, Betting and Gambling, Lotteries, etc. administered by the Directorate of Agricultural Income Tax.

2.13.8.1 Non-verification of documents before migration to GST

Analysis of IMPACT database (February and March 2019) in four⁶⁰ Charge offices revealed that 12,348 taxpayers had migrated to GST from VAT. As per provision of the rules, the proper officer granted certificate of registration in Form- GST REG-06 after the taxpayers submitted application in Form GST REG-26. There was no information on record to show that the proper officer, verified information and documents before allowing the taxpayers' migration in the above cases.

Further, test check of VAT registration certificate of taxpayers who migrated through VAT registration revealed that VAT registration certificates of 25 taxpayers in two⁶¹ charge offices were cancelled with effect from dates prior to the date of implementation of GST Act. Thus, the dealers were not eligible to be migrated to GST as WBGST Rules categorically states that only the dealers registered under an existing law and having a PAN issued shall be allowed to migrate under GST. The dealers with cancelled VAT registration were neither restricted in the GSTN system from migration to GST nor did the proper officers restrict such taxpayers from migration.

Reply in this regard is still awaited.

2.13.9 Distribution of migrated taxpayers between the Central and the State Authorities

A Joint Working Committee comprising officers from both the State and Centre was constituted for division of migrated taxpayers (from Central Excise, Service Tax, VAT and Other Taxes) between State and Centre. Taxpayers having turnover of more than ₹ 1.5 crore were divided between State and Centre on the ratio of 1:1 basis. Taxpayers having turnover of less than ₹ 1.5 crore were divided in the ratio of 9:1 between the State and Centre.

Accordingly, 2,09,941 registered taxpayers were allotted to the State as detailed in the following table:

Table-2.10
Distribution of migrated taxpayers between the
Central and the State Authorities
(as on 6 November 2017)

	Registered taxpayers		Total
	Total Turnover above ₹ 1.5 crore	Turnover below ₹ 1.5 crore	
State	22,553	1,87,388	2,09,941
Centre	22,553	20,792	43,345
Total	45,106	2,08,180	2,53,286 ⁶²

*Source: Minutes of the Joint Working Committee related to division of migrated taxpayers between Centre and State.

⁶⁰ Asansol, Fairlie Place, Park Street and Siliguri.

⁶¹ Asansol and Park Street.

⁶² Jurisdictional details of 1,436 (2,54,722 – 2,53,286) taxpayers could not be ascertained by the Central and State tax authorities.

The distribution of 3,91,052 new taxpayers between the Central and State Tax Authorities was made on 1:1 basis. Accordingly, the State was allotted jurisdiction of 1,95,526 new registered taxpayers (December 2018).

2.13.9.1 Non-migration of eligible taxpayers to GST

Forty three taxpayers in two Charge offices eligible for registration under GST were not registered. The Charge offices neither conducted any survey/enquiry to ensure the status of taxpayers' business nor assigned any reasons for their non-migration to GST.

Section 22(2) of the West Bengal Goods and Services Tax Act, 2017 prescribes that every person who, on the day immediately preceding the appointed date, is a registered taxpayer, shall be liable to be registered under GST Act with effect from the appointed date. Further, Section 22(1) prescribes that every supplier shall be liable to be registered under GST Act if his aggregate turnover in a financial year exceeds ₹ 20 lakh.

During test check of the VAT registration database (IMPACT) in two⁶³ Charge offices (February and March 2019) it was revealed that 8,906 dealers were registered as on 30th June 2017. Cross-verification of data with the registration database of GST, available under IMPACT, revealed that 1,472 dealers did not migrate under GST. Of these, 104 taxpayers whose aggregate turnover was more than ₹ 20 lakh as per summary of VAT returns for the year 2016-17, were selected for test check. Cross verification of information of these 104 taxpayers available on GSTN portal with their PAN revealed that 43 taxpayers had not been migrated to GST, though eligible to be migrated under the GST Act.

No survey/enquiry was found to have been conducted by the Charge offices to check whether these taxpayers were continuing their business and hence liable to migrate to GST. Further, there were no record to indicate that the reasons for non-migration of these eligible taxpayers under GST were available and action taken to get these taxpayers migrated under GST by Charge offices.

Reply in this regard is still awaited.

2.13.10 Transitional Credit

Taxpayers, who have migrated to GST from previous tax regime, are eligible for tax credit, if available, under GST and required to claim credit in the GST regime in the prescribed manner under Section 140 of the WBGST Act. Various criteria as prescribed under Rule 117 (4) (b) of the WBGST Rules, 2017 are required to be fulfilled by taxpayers for availing transitional credit. In all, 31,112 dealers had claimed transitional credit. Wherever the taxpayers had carried over credit which was not admissible, the process of reversal was taken up. With regard to verification of Central credit, it was decided by the joint working group of Central and State Authorities that all TRAN-I credit would be verified by the concerned jurisdictional offices. Further, as regards guidelines issued for verification of transitional credit claims to ensure uniformity, the DCT stated that several meetings had been held and guidelines issued in such meetings. The proceedings of the meetings, however, were not found minuted.

⁶³ Asansol and Park Street.

The date of submission of transitional credit claims (TRAN-1) was extended by the State Government upto 31 January 2019.

During the course of audit, irregularity noticed in claim of transitional credit has been discussed in the following paragraph:

2.13.10.1 Excess transitional credit of Input Tax Credit (ITC)

In two Charge offices, 55 taxpayers claimed excess transitional credit of ₹ 1.09 crore. The proper officer did not initiate recovery proceedings against taxpayers for such irregular claims.

As per provisions under Rule 117 (3) of the WBGST Rules, 2017, the amount of credit specified in the application in Form- GST TRAN-01 shall be credited to the Electronic Credit Ledger of the applicant maintained in Form- GST PMT- 02 on the common portal. Further, Rule 121 prescribes that the amount so credited under sub-Rule 3 of Rule 117 may be verified and proceedings under Section 73⁶⁴ or Section 74⁶⁵, as the case may be, shall be initiated in respect of any credit wrongly availed, whether wholly or partly.

Test check of the records (February and March 2019) in two⁶⁶ Charge offices revealed that 55 taxpayers claimed transitional credit of ITC of ₹ 2.98 crore. The taxpayers had, however, carried forward ITC of ₹ 1.89 crore for the quarter ending June 2017 as per VAT return. Thus, the taxpayers claimed ITC of ₹ 1.09 crore in excess as transitional credit under GST. Even though the Directorate of Commercial Taxes had made available the information related to excess transition credit availed by the taxpayers, the proper officer did not initiate proceeding under Section 73 or 74 of the WBGST Act against the taxpayers for such irregular claim of transitional credit. This resulted in excess credit of ITC involving ₹ 1.09 crore.

Reply in this regard is still awaited.

2.13.11 Refund

Taxpayers can claim refund of GST paid in excess or input tax credit unutilised or both during the relevant period under provisions of Section 54 of the WBGST Act, 2017. Further, in pursuance of the provisions of trade circular No. 57/2018 of the CCT, taxpayers are required to submit the prescribed forms for refund through the common portal. Thereafter, they have to submit a hardcopy of such application alongwith all relevant documents to the jurisdictional proper officer. The process of refund starts by the proper officer only after submission of the hard copy. Thus, the entire process of refund continues to be more or less manual. The Directorate has informed that the total number of refund cases received till 17 December 2018 was 7,021 involving ₹ 852.72 crore. Of these 6,311 cases involving ₹ 655.73 crore had been disposed and remaining 710 cases

⁶⁴ Section 73 of the Act prescribes initiation of demands and recovery related to determination of tax not paid or short paid or erroneously refunded or ITC wrongly availed for any reason other than fraud or wilful misstatement or suppression of facts.

⁶⁵ Section 74 of the Act prescribes initiation of demands and recovery related to determination of tax not paid or short paid or erroneously refunded or ITC wrongly availed for any reason of fraud or any wilful misstatement or suppression of facts.

⁶⁶ Fairlie Place and Park Street.

were pending for disposal. Regarding guidelines issued for scrutiny of refund cases, the DCT stated that guidance has been issued in the form of circulars from time to time.

During the course of audit, irregularities noticed in allowing claim of refund by the Charge offices have been discussed in the following paragraphs:

2.13.11.1 Non-raising of demand against refunds rejected

In seven cases, inadmissible claims of refund of ₹ 26.43 lakh by five taxpayers were rejected, but no action was taken to re-credit the rejected amount of refund in Electronic Credit Ledger and raise demand for recovery of the rejected amount.

Para 4.1 of Trade circular⁶⁷ issued by the CCT in pursuance of the provisions under GST Acts and Rules made thereunder prescribes that in case of rejection of claim for refund of unutilised ITC on account of ineligibility of the said ITC, the proper officer shall order for the rejected amount to be re-credited to the Electronic Credit Ledger of the claimant using form GST RFD-01B. For recovery of the inadmissible ITC, a demand notice shall be simultaneously issued to the claimant.

Scrutiny of the refund case records of GST between February and March 2019 in three⁶⁸ Charge offices revealed that five taxpayers in seven cases claimed refund of ₹ 2.20 crore. Of these, the proper officer rejected the claim of refund on account of ineligibility of ITC of ₹ 26.43 lakh. The proper officer, however, neither issued an order in form GST RFD-01B for re-credit of the rejected amount to the Electronic Credit Ledger of the claimants nor issued any demand notice for recovery of that amount.

This resulted in non-crediting of rejected amount of refund to electronic credit ledger and non-recovery of ₹ 26.43 lakh due to non-issuance of demand notice. After this was pointed out, Asansol and Fairlie Place Charge offices accepted the audit observations in five cases involving ₹ 4.02 lakh and stated that action had been/was being taken considering the audit observations. In remaining two cases, Park Street Charge office did not furnish specific reply.

2.13.11.2 Non-disposal of refund cases

In 277 cases, claims of refund of ₹ 9.71 crore remained undisposed of in three Charge offices due to inaction of the Charge offices to inform the taxpayers to submit application of refunds physically.

Under Section 54(7) of the WBGST Act, 2017, the proper officer shall issue the order of refund within 60 days from the date of receipt of application complete in all respects. Further, as per instructions issued under a trade circular⁶⁹, for refund applications that has been generated on the portal but not physically received in the jurisdictional tax offices, a communication will be sent to all such claimants on their registered e-mail informing that application needs to be physically submitted to the jurisdictional tax office within 15 days of the date of

⁶⁷ No.42/2018 dated 17-09-2018.

⁶⁸ Asansol, Fairlie Place and Park Street.

⁶⁹ No.- 57/2018 dated: 31-12-2018.

the e-mail. If the claimant does not submit the application physically within the period, the application shall be summarily rejected and amount of refund shall be re-credited to the Electronic Credit Ledger⁷⁰ of the taxpayer.

Paragraph 7 of the circular prescribes that in relation to refund of excess balance from the Electronic Cash Ledger⁷¹ which have not yet been received in the jurisdictional office, the amount debited in the electronic cash ledger in such applications may be re-credited through FORM GST RFD-01B provided that there are no liabilities in the Electronic Liability Register⁷². The said amount shall be re-credited even though the return in FORM GSTR-3B, as the case may be for the relevant period has not been filed.

Analysis of the data of the DCT in three⁷³ Charge offices (February and March 2019) revealed that in 778 cases⁷⁴, application for refund was filed by the taxpayers. On a cross-verification of these cases with the refund register along with refund case records maintained by the Charge offices, it was noticed that no action was taken by the proper officers in 277 cases involving claims of refund of ₹ 9.71 crore.

In these 277 cases of refund, the proper officers did not communicate to the claimant on their registered e-mail that the application also needed to be physically submitted to the jurisdictional tax office within 15 days of the date of the e-mail, failing which the application would be summarily rejected and the debited amount of refund claimed would be re-credited to the Electronic Credit Ledger/Electronic Cash Ledger. Inaction of the Charge offices to inform the taxpayers to submit application of refunds physically resulted in non-disposal of 277 refund cases involving claims of refund of ₹ 9.71 crore.

After this was pointed out, the Fairlie Place Charge offices, while accepting all audit observations, stated that seven cases were disposed of and in remaining cases, necessary action had been taken. Replies of the Asansol and Park Street Charge offices are still awaited.

2.13.11.3 Allowance of excess refund

In disposal of three refund cases, the proper officers made deductions of inadmissible claims of ITC of ₹ 0.15 lakh instead of ₹ 2.27 lakh. This resulted in excess allowance of refund of ₹ 2.12 lakh.

Under provision of Rule 92(3) of the WBGST Rules, 2017, where a proper officer is satisfied that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall make an order in Form GST RFD-06 sanctioning the amount of refund in whole or part or rejecting the

⁷⁰ Electronic Credit Ledger is maintained in FORM GST PMT-02 on the common portal for each registered person eligible for ITC and every claim of ITC shall be credited to this ledger.

⁷¹ Electronic Cash Ledger is maintained in FORM GST PMT-05 on the common portal for each registered person for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.

⁷² Electronic Liability Register is maintained in FORM GST PMT-01 on the common portal for each registered person liable to pay tax, interest, penalty, late fee or any other amount and all amounts payable by him shall be debited to the said register.

⁷³ Asansol, Fairlie Place and Park Street.

⁷⁴ Between November 2017 and December 2018.

said refund claim. Further, under provision of Section 54(3) and explanation (1) of Section 54 of the WBGST Act, 2017, the ITC for purchase of capital goods is not admissible for the purpose of refund.

Scrutiny of refund case records (February and March 2019) in two⁷⁵ Charge offices revealed that in three cases, the proper officers, while disposing of the refund cases made deduction of inadmissible claims of ITC of ₹ 0.15 lakh instead of ₹ 2.27 lakh. This resulted in excess allowance of refund of ₹ 2.12 lakh as detailed in the following table:

Table-2.11
Allowance of excess refund

(₹ in lakh)

SI. No.	Nature of Irregularity	Name of Charge offices	No. of cases	Refund claimed	Inadmissible ITC	Inadmissible ITC deducted from refund amount	Excess amount refunded
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)=(6-7)
1.	Inadmissible ITC was not deducted at the time of refund.	Park Street	1	3.57	0.61	0	0.61
2.	Inadmissible ITC was deducted short at the time of refund	Asansol	1	21.86	1.48	0.15	1.33
3.	Refund was allowed for ITC claimed on capital goods.	Park Street	1	5.23	0.18	0	0.18
Total			3	30.66	2.27	0.15	2.12

After this was pointed out, the Charge offices accepted all the audit observations and stated that taxpayers had agreed to refund the overpaid amount.

2.13.12 Status of assessment and scrutiny of returns

2.13.12.1 Assessment

Assessment under GST will be in the shape of audit conducted by the DCT, which will start after submission of annual return of the taxpayers. As per Section 44 of the WBGST Act 2017, the last date for submission of annual returns for the period July 2017 to March 2018 was 30 November 2019.

2.13.12.2 Scrutiny of returns

As per Section 61(1) of the WBGST Act, the proper officer may scrutinise the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

During course of audit, it was observed that scrutiny of returns by the Competent Authority focuses on proper noting of Harmonised System of Nomenclature (HSN) code by the dealer, which forms the basis of application of the tax rate, application of correct rate of tax and tax exemptions. The DCT, West Bengal obtains periodic reports from GSTN on dealers who have defaulted on their GST returns. The Competent Authorities contact the taxpayers, ascertain the causes of non-submission of returns and cancel the Registration Certificate (RC) of

⁷⁵ Asansol and Park Street.

the taxpayers, if necessary. Registration Certificates of 20,210 taxpayers were cancelled by DCT upto 8 February 2019.

During the course of audit, irregularity noticed in filing of returns has been discussed in the following paragraph.

Notices to return defaulters not issued

Under provisions of Section 46 of the West Bengal Goods and Services Tax Act, 2017, where a registered person fails to furnish a return, a notice shall be issued requiring him to furnish such return within 15 days in such form and manner as prescribed.

Test check of the status of filing of returns by registered taxpayers with the GST portal (February and March 2019) in three⁷⁶ Charge offices revealed that 23 taxpayers have not filed returns for varying periods between July 2017 to March 2018. The proper officers, however, did not issue notices till the date of audit (March 2019).

Further, the GSTN itself does not provide for any alert (pop up) to enable the proper officers to monitor the return defaulting taxpayers. This system deficiency of the GSTN resulted in non-monitoring of submission of returns by taxpayers with consequent non-issuance of notice to such taxpayers.

Reply in this regard is still awaited.

2.13.13 Status of Data sharing

With automation of the collection of GST having taken place, it is essential for Audit to have access to GST data to transition from sample checks to a comprehensive check of all transactions. Principal Accountant General (Economic & Revenue Sector Audit) has written to the Commissioner of Commercial Taxes (CCT), West Bengal on 5 February 2018 to provide access to the GST data followed by reminders on 30 May 2018 and 21 December 2018. However, access to data is yet to be provided. The Department could not provide access to data from the GST database. Audit, however, got access to MIS reports as available with the Directorate.

As per Section 16 of the Act, it shall be the duty of the CAG to audit all receipts which are payable into the Consolidated Fund of India and each State. Thus, not having access to the data pertaining to all GST transactions is violation of the provisions of CAG's DPC Act and has come in way of comprehensively auditing the GST receipts.

2.13.14 Conclusion

The total number of taxpayers migrated to GST regime from the old Acts (both Central and State Acts) in the jurisdiction of West Bengal was 2,86,388. Of this, registration certificate in Form GST REG 06 was issued to 2,54,722 (89 per cent) taxpayers. The number of new taxpayers registered under GST was 3,91,053 till 1 January 2019. 'Centralised Helpdesk' at 67 units of the Department were set up to attend to the problems/queries of taxpayers. The Department needs to settle cases relating to the transitional credit and refund expeditiously so as to have a smooth transition to GST.

⁷⁶ Asansol, Park Street and Siliguri.

CHAPTER III

CHAPTER III

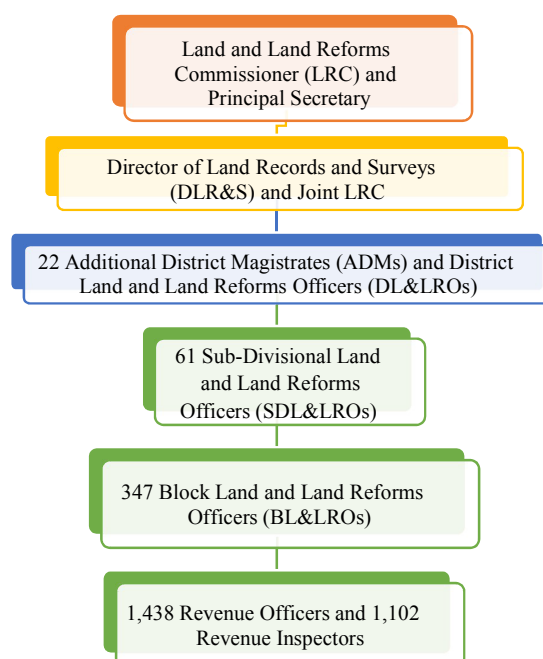
LAND REVENUE

3.1 Tax administration

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

During 2017-18, Land Revenue was administered by the Land and Land Reforms (L&LR) Department. The organisational set up has been shown in the following chart:

Chart 3.1: Tax Administration



3.2 Internal audit

The Internal Audit Wing (IAW) of the L&LR Department was established with the objective of evaluating accountability, compliance to applicable rules and regulations and safeguarding resources against loss.

During 2017-18, the IAW was headed by the Audit Officer cum Ex-officio Joint Secretary who was assisted by 11 Assistant Auditors. While no Internal Audit Officer was posted in the IAW against sanctioned strength of 16, number of Assistant Auditors posted were 11 against the sanctioned strength of 14. The IAW planned to audit 17 DL&LROs, six Land Acquisition (LA) Collectors, one First Land Acquisition (FLA) Collector, one Rent Controller and two Thika tenancies during 2017-18. The IAW conducted audit of 16 DL&LROs, six LA

Collector, one FLA Collector, one Rent Controller and one Thika Tenancy⁷⁷ during the period, which was 92.59 *per cent* of the units planned for audit.

3.3 Results of audit

Test check of the records of one unit showed irregularities involving ₹ 3.37 crore in seven cases.

During the year, the Department accepted underassessment and other deficiencies of ₹ 1.08 crore in 19 cases pertaining to the earlier years. An amount of ₹ 97.56 lakh was realised in 19 cases in 2017-18. The cases mentioned in the succeeding paragraphs are those which came to notice in the course of test audit for the period 2017-18 as well as those which came to notice in 2016-17, but could not be reported in the previous Audit Report. The cases were examined to ascertain the extent of compliance of provisions of the Acts and rules framed thereunder. The findings arising from audit involving ₹ 22.20 crore are discussed in the following paragraphs:

3.4 Non-settlement of long term lease

The Department failed to settle 23 cases of long-term leases involving 48.31 acres of land within the prescribed time limit. The land was under unauthorised occupation.

Rule 238 of the WBL&LR Manual, 1991 provides that Government land, remaining in the possession of a person(s), though unauthorisedly, may be offered to such person(s) on long term settlement for non-agricultural purpose on realisation of rent and *salami*⁷⁸ at the prescribed rates. Further, Rule 225 of the Manual prescribes that the procedure of long term settlement should be completed by the Department within five months from the date of its initiation.

Audit test checked records relating to long-term settlement cases in seven DL&LROs⁷⁹. It found⁸⁰ that 48.31 acres of land was under unauthorised occupation in 23 cases. The occupants had applied between January 1999 and January 2016 for long term settlement of the land for non-agricultural purposes. It was observed that:

- In nine cases, the proposals for long term lease were not forwarded by the concerned DL&LROs to the approving authority, the L&LR Department.
- In the remaining 14 cases, proposals were pending with the L&LR Department.

Thus, the Department failed to settle the land through lease agreement with the unauthorised occupants within the prescribed time limit. Audit calculated

⁷⁷ As per the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001, Thika Tenancy is the tenancy acquired by a person who occupies, whether under a written lease or otherwise, land under another person, and is liable to pay rent to that another person, and has erected or acquired by purchase or gift any structure on such land for residential, manufacturing or business purpose.

⁷⁸ *Salami* means the lump sum amount payable by the lessee in the case of settlement of Government land.

⁷⁹ Birbhum, Jalpaiguri, Murshidabad, North 24 Parganas, Paschim Medinipur, South 24 Parganas and Uttar Dinajpur.

⁸⁰ Between November 2016 and March 2017.

that revenue of ₹ 10.32 crore⁸¹ (*Salami* ₹ 9.94 crore and rent ₹ 37.85 lakh) was realisable from such unauthorised occupants.

No specific reasons, however, were found on records for delay in finalisation of long term lease cases.

Three DL&LROs⁸² accepted⁸³ the audit observations in eight cases involving ₹ 2.11 crore. They, however, did not furnish report on finalisation of the leases. In the remaining cases, the DL&LROs did not furnish any/specific reply (December 2019).

The matter was reported to the Government in August 2018. Their reply was awaited.

Though similar observations were made in earlier Audit Reports, pendency of cases persisted. Cases featured in Audit Reports of the last five years are detailed in the following table:

Table-3.1
Long term lease cases featured in previous Audit Reports

Year of Audit Report	No of cases	Money value involved (₹ in crore)	DL&LROs where cases were found	Reply of the Government
2012-13	5	0.97	Birbhum, North 24 Parganas and Paschim Medinipur	Accepted ⁸⁴
2013-14	6	4.55	Darjeeling, Hooghly, Howrah and North 24 Parganas	No reply
2014-15	12	1.08	Burdwan (East), Cooch Behar, Hooghly, Howrah, Krishnanagar, Murshidabad and Uttar Dinajpur	No reply
2015-16	25	19.49	Birbhum, Burdwan (East), Cooch Behar, Dakshin Dinajpur, Hooghly, Howrah, Jalpaiguri, North 24 Parganas and Purulia	Accepted
2016-17	52	73.90	Bankura, Burdwan, Darjeeling, Howrah, Malda, Murshidabad, North 24 Parganas, Paschim Medinipur and Purba Medinipur	Accepted

Recurrence of such cases of non-settlement shows that the Department was not taking required steps to ensure that settlement of land through long term lease was effected within the prescribed time frame.

3.5 Non/short realisation of revenue on land used for commercial purposes

There was non/short realisation of rent, cess and surcharge of ₹ 7.58 crore in 8,760 cases on land used for commercial purpose.

Sections 22 and 23 of the WBLR Act, 1955 provide that raiyats⁸⁵ using land for commercial purposes are liable to pay land revenue at the prescribed rate. Further,

⁸¹ In the absence of the current market value, the realisable revenue has been calculated based upon the old figures noted in departmental records.

⁸² Jalpaiguri, Murshidabad and Uttar Dinajpur.

⁸³ Between December 2016 and March 2017.

⁸⁴ Except one case involving ₹ 55.79 lakh of DL&LRO Paschim Medinipur.

⁸⁵ Raiyat means a person or an institution holding land for any purpose.

Section 3 of the West Bengal Rural Employment and Production (WBREP) Act, 1976 provides for levy and collection of a surcharge⁸⁶. Different kinds of cess⁸⁷ are also levied on the land revenue payable by raiyats. The *Bhumi Sahayaks* posted in the Revenue Inspectors' offices under the BL&LROs are responsible for collection of land revenue.

Audit test checked *Bhumi Sahayaks*' Collection Registers (Register-III) and Rent Receipt Books in seven DL&LROs⁸⁸. It noticed⁸⁹ that in 8,760 cases, 3,343 raiyats had not paid rent, cess and surcharge of ₹ 7.58 crore on 87,099.45 acres of land. The land was being used for commercial purposes for various periods between 2012-13 and 2015-16. It was observed that:

- In 8,698 cases, the authorities did not collect rent, cess and surcharge of ₹ 7.56 crore on 87,042.74 acres of land. DL&LROs did not initiate any action to realise the dues from them.
- In remaining 62 cases, the authorities collected ₹ 10.30 lakh against the payable amount of ₹ 12.05 lakh on 56.71 acres of land due to application of incorrect rate for realisation of rent.

It was observed that the Department had not instituted any mechanism to review non-collection of rent, cess & surcharge or application of incorrect rate of rent.

There was non/short realisation of rent, cess and surcharge of ₹ 7.58 crore.

After this was pointed out, five DL & LROs⁹⁰ accepted⁹¹ the audit observations in 5,585 cases involving ₹ 3.22 crore. They, however, did not furnish any report on realisation (December 2019).

The matter was reported to the Government in August 2018. Their reply was awaited.

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

In three cases, long term leases were not renewed and lease rent of ₹ 4.20 crore was not realised due to intra-departmental delay in finalisation of current market price of the land.

Rule 219 of the WBL&LR Manual, 1991 provides that a long-term lease shall ordinarily be for a period of 30 years. On expiry of the lease period, the lessee shall be entitled to the option of successive renewal of the lease for the same length of time. Further, Rule 226(i) prescribes that no *salami* shall be charged at the time of the renewal of long term leases. Rent shall, however, be realised at the rate of four *per cent* of the market price of the land at the time of the renewal, if the lease is for industrial or commercial purposes. Rule 225 of the Manual prescribes that the procedure of long-term settlement is to be completed by the Department within five months from the date of its initiation.

⁸⁶ Surcharge 15 paise on each rupee of land rent payable.

⁸⁷ Road cess six paise, public works cess 25 paise and primary education cess 10 paise, rural employment cess 30 paise and surcharge 15 paise on each rupee of land rent payable.

⁸⁸ Birbhum, Jalpaiguri, Murshidabad, North 24 Parganas, Paschim Medinipur, South 24 Parganas and Uttar Dinajpur.

⁸⁹ Between November 2016 and March 2017.

⁹⁰ Birbhum, Murshidabad, Paschim Medinipur, South 24 Parganas and Uttar Dinajpur.

⁹¹ Between December 2016 and March 2017.

Audit test checked files relating to renewal of long-term lease cases in three DL&LROs⁹² between January 2017 and March 2017. It noticed that in three cases, long-term leases involving 54.27 acres of land expired between June 2008 and September 2013. The lessees applied between August 2009 and September 2013 for renewal of leases for further period of 30 years. The leases were, however, not renewed due to intra-departmental delay ranging from 42 months to 105 months in finalisation of current market price of the land. Of these three cases, two were yet to be finalised by the L&LR Department and one case was pending with the DL&LRO. Thus, estimated lease rent of ₹ 4.20 crore⁹³ could not be realised.

After this was pointed out, all DL&LROs accepted (March 2017) the audit observations and stated as follows:

- In case of a land measuring three acres with market value of ₹ 26.56 lakh involving rent of ₹ 4.25 lakh for the period from 2012-13 to 2015-16, DL&LRO, Murshidabad stated (March 2017) that effective action would be taken for early settlement of the lease;
- In a case measuring 20.80 acres of land of market value ₹ 50.58 crore involving rent of ₹ 4.05 crore for the period from 2014-15 to 2015-16, DL&LRO, Paschim Medinipur stated (March 2017) that due rent would be realised after instruction from the L&LR Department;
- In case of a land measuring 30.47 acres with market value of ₹ 68.04 lakh involving rent of ₹ 10.89 lakh for the period from 2012-13 to 2015-16, DL&LRO, Uttar Dinajpur stated (March 2017) that the renewal proposal was yet to be approved by the L&LR Department .

The matter was reported to the Government in August 2018. Their reply was awaited.

3.7 Non-realisation of lease rent and interest

Annual lease rent and interest of ₹ 10.46 lakh in case of four lessees in possession of 29.01 acres of land was not realised.

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

Audit test checked⁹⁴ lease registers and case records of lessees in three DL&LROs⁹⁵. It noticed that annual lease rent and interest of ₹ 10.46 lakh for periods between 2012-13 and 2016-17 was not realised from four lessees in possession of 29.01 acres of land. The DL&LROs did not issue demand notice to realise the annual lease rent and interest. Further, no action was taken against the person responsible for realisation. This resulted in non-realisation of annual lease rent and interest of ₹ 10.46 lakh (annual lease rent ₹ 9.60 lakh and interest ₹ 0.86 lakh) in four cases.

⁹² Murshidabad, Paschim Medinipur and Uttar Dinajpur.

⁹³ Rent has been calculated on the market price of land prevalent at the time of expiry of lease.

⁹⁴ Between December 2016 and March 2017.

⁹⁵ Jalpaiguri, North 24 Parganas and Uttar Dinajpur.

After this was pointed out, the DL&LROs did not furnish any reply (December 2019).

The matter was reported to the Government in August 2018. Their reply was awaited.

The observations above point to the laxity of the Department in enforcing provisions of WBLR Act and WBL&LR Manual for settlement/renewal and collection of rent in respect of long term lease cases. These have led to non/short realisation of revenue. The Department may ensure that revenue is collected and action is taken against erring officials for failure of monitoring and realisation of revenue.

The above paragraphs are based on the results of the test check of records made available to audit. There may be similar irregularities, errors/omissions in other units under the department but not covered in the test audit. Department may, therefore, examine all the units with a view to ensure that the taxes are levied as per provisions of the Act and rules.

CHAPTER IV

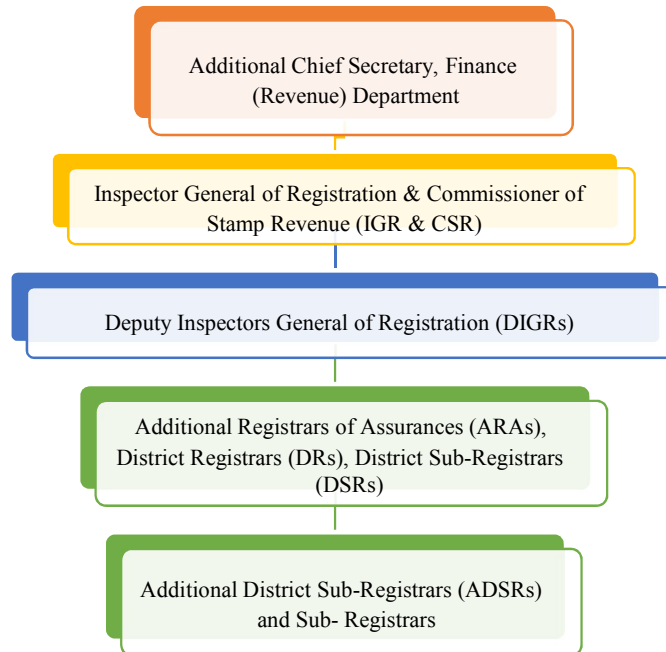
CHAPTER IV

Stamp Duty and Registration Fees

4.1 Tax administration

Receipts from stamp duty and registration fees are regulated under the Indian Stamp Act, 1899, (IS Act); Indian Registration Act, (IR Act) 1908 and the rules framed thereunder as applicable in West Bengal and are administered as detailed in the chart below:

Chart 4.1: Tax Administration



4.2 Internal audit

The Department, though requested (August 2018), failed to furnish details regarding the Internal Audit Wing (IAW). The performance of internal audit wing could not, therefore, be reviewed and reported.

4.3 Results of audit

In 2017-18, test check of the records of 59 units of the Directorate of Registration and Stamp Revenue under the Finance (Revenue) Department, showed non/short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 63.60 crore in 265 cases, which fall under the categories given in **Table 4.1**.

Table-4.1
Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Short levy of stamp duty and registration fees due to misclassification of deed/property	87	49.47
2.	Short levy of stamp duty due to incorrect particulars of amenities	35	8.19
3.	Short assessment/realisation of stamp duty and registration fees due to incorrect consideration of lease period	28	2.33
4.	Short levy of stamp duty and registration fees due to irregular grant of remission	2	0.26
5.	Others	113	3.35
Total		265	63.60

During the course of the year, the Department accepted non- realisation/blockage of revenue and other deficiencies of ₹ 7.14 crore in 85 cases, of which 80 cases involving ₹ 0.49 crore were pointed out during the year 2017-18 and the rest in earlier years. An amount of ₹ 6.47 crore was realised in 2017 -18 in five cases at the instance of audit.

A Performance Audit on “**Assessment and Collection of Stamp Duty and Registration Fees**”, having money value of ₹ 212.02 crore is discussed in the following paragraphs.

4.4 Performance Audit on “Assessment and Collection of Stamp Duty and Registration Fees”

4.4.1 Introduction

‘Stamp duty’ is a tax payable on certain documents specified by statute to make them legally effective. Registration fee refers to the fee levied and collected by the State Government for registration of documents.

Stamp duty on Bills of Exchange, promissory notes, bills of lading, letters of credit, insurance policies, transfer of shares, debentures, proxies and receipts are levied by the Central Government as per Entry 91 of the Union List and are collected by the State Government in which they are levied. Stamp duties on documents other than those mentioned above are levied and collected by the States by virtue of the legislative entry 63⁹⁶ in the State List in the 7th Schedule of the Constitution of India.

In 1999, the Department introduced the system of Computerisation of Registration of Documents (CORD) with the support of the National Informatics Centre (NIC) for bringing transparency in the assessment of market value and for speedy disposal of registration cases. In the CORD system, assessment of revenue and maintenance of records of registration were done on localised servers maintained at each registration office (RO). The erstwhile CORD system was replaced by ‘e-Nathikaran’ software since December 2014, which works on

⁹⁶ Entry 63 in the State List empowers the State Government to prescribe the rates of stamp duty in respect of documents other than those specified in List I.

the same principles as that of the earlier system, the only difference being that it works on a centralised server.

4.4.2 Trend of Revenue

Actual receipts from Stamp duty and Registration fees during the years 2012-13 to 2016-17, along with the total tax receipts during the period are shown in the following table:

Table-4.2
Trend of Revenue

(₹ in crore)

Financial Year	Budget Estimates	Actual Receipts	Variation excess (+)/ shortfall (-)	Percentage of variation to Budget Estimates	Total Tax Receipts of the State	Percentage of Actual Receipts vis-a-vis Total Tax Receipts
(1)	(2)	(3)	(4) (3-2)	(5)	(6)	(7)
2012-13	2,940.74	4,357.23	(+) 1,416.49	(+) 48.17	32,808.50	13.28
2013-14	4,500.00	4,053.07	(-) 446.93	(-) 9.93	35,830.60	11.31
2014-15	5,399.06	4,196.20	(-) 1,202.86	(-) 22.28	39,412.00	10.65
2015-16	4,597.67	4,174.97	(-) 422.70	(-) 9.19	42,492.10	9.83
2016-17	5,199.09	4,382.73	(-) 816.36	(-) 15.70	45,466.50	9.64

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

The actual receipts fell short of the budget estimates substantially each year during 2013-14 to 2016-17. The percentage of variation between budget estimates and actual receipts ranged between 9.19 to 22.28 *per cent* to budget estimates. This indicates that the budget estimates except for the year 2012-13 were always on the higher side and rather unrealistic. Contribution of revenues from stamp duty and registration fees to the total tax receipts of the state decreased steadily from 13.28 *per cent* to 9.64 *per cent* over the period from 2012-13 to 2016-17. Reason for such decrease in revenue collection was not reported by the directorate even though called for.

4.4.3 Rationale for taking up the Performance Audit

A Performance Audit on “Evasion of Stamp Duty and Registration Fees” for the period from 2007-08 to 2011-12 was conducted in 2013 and was featured in Para 5.6 of the Audit Report No. 1 of 2014 of the Comptroller and Auditor General of India (Revenue Sector), Government of West Bengal for the year ended 31 March 2013. In the said Performance Audit, seven recommendations were made for effective administration of registration of documents and realisation of stamp duty and registration fees thereon. The present Performance Audit was conducted to re-assess the system of assessment and collection of stamp duty and registration fees after the introduction of e-Nathikarn software in the Directorate.

4.4.4 Audit Objectives

The objectives of the Performance Audit on Assessment and Collection of Stamp Duty and Registration Fees were to ascertain whether:

- The Directorate has devised an effective mechanism to ensure that documents that are mandatory for registration are presented for registration and proper stamp duty and registration fees are collected on those documents;
- The Directorate has devised an effective Change Management process for the computerised system to ensure correct assessment of stamp duty and registration fees;
- Provisions of the relevant Acts/Rules and departmental instructions are enforced by the Registering Authorities (RAs) to prevent loss of the State revenue; and
- Internal control mechanism of the Department is adequate and effective in ensuring collection of stamp duty and registration fees.

4.4.5 Audit Criteria

The audit criteria were derived from the following Acts and Rules:

- Indian Contract Act, 1872;
- Transfer of Properties Act, 1882;
- Indian Stamp (IS) Act, 1899;
- Indian Registration (IR) Act, 1908;
- West Bengal Registration Rules, 1962;
- West Bengal Stamp Rules, 1994;
- West Bengal (Prevention of Under valuation of Instruments) (WBPUVI) Rules, 2001;
- Business Rules of CORD and e-Nathikaran Software.

4.4.6 Scope and Audit Methodology

Audit Data Analytics

The Performance Audit covering transactions for the period from 2012-13 to 2016-17 was conducted between February 2018 and June 2018.

The Directorate of Registration and Stamp Revenue, Finance (Revenue Department), Government of West Bengal uses an IT application, 'e-Nathikaran' which is hosted @wbregistration.gov.in, for providing online services to the public. The core functions of the Directorate are determination of market Value of property, Registration of Property, Collection of Stamp Duty, Collection of Registration Fees, Issue of deeds to successful registrants. The web-based application is accessed by its stakeholders through State Wide Area Network (SWAN).

Audit was given the data dump of centralised transaction data of 'e-Nathikaran' system from the Directorate of Registration and Stamp Revenue. The data contained 27,97,385 cases registered in the State through the system upto March 2017. Hundred *per cent* of the population of transaction data was analysed using data analytic tool (IDEA) using functions like extraction, appending, joining, summarisation etc.

Audit selected 20⁹⁷ major revenue earning RAs having average revenue collection of ₹ 50 crore and above for the last three years (2014-15 to 2016-17)

⁹⁷ ADSRs – Alipore, Bagdogra, Barasat, Behala, Bidhannagar, Cossipore, Howrah, Rajarhat, Sealdah, ARA – I, II, III, & IV, DSR – Howrah, DSRs – II & III, North 24 Parganas and DSRs – I, II, III & IV, South 24 Parganas.

for checking of compliance issues. These RAs contributed around 46.02 *per cent* of the total revenue collection of the State from Stamp Duty and Registration Fees during 2016-17. Audit performed the following data analytics of the transaction data of the 20 selected audit units:

- Incorrect mapping of rate/ non-mapping of notified areas.
- Delayed / non-updation of mapping of municipal areas in the system.
- Excess allowance of depreciation of market value due to failure of validation checks.

Apart from the data dump, audit also received document data relating to the selected 20 audit units in the form of pdf documents. Audit utilised the transaction data to select the high-risk deeds to be audited based on risk parameters such as location, classification and market value of the property, classification of the transaction. The pdf version of the documents was studied by a central audit team to detect misclassification of instruments, incorrect determination of lease period/lease consideration and irregular allowance of remission of stamp duty and registration fees.

Short levy of stamp duty and registration fees due to deficiencies in the computerised system was analysed in respect of all the RAs. Manual records maintained by the IGR&CSR, three DIGRs and different Public Offices (POs)⁹⁸ were also scrutinised by Audit. Findings of transaction audit have also been suitably incorporated in the report.

The objectives of audit, scope, criteria and methodology were discussed at the Entry Conference with the Additional Inspector General of Registration and other representatives of the Directorate on 20th April 2018. Findings of the Performance Audit were forwarded to the Department in August 2018. The Department, however, did not hold the exit conference to discuss the findings of the Performance Audit despite being requested through letters and reminders⁹⁹.

4.4.7 Acknowledgement

Audit acknowledges the co-operation of DRSR in providing necessary records and information.

Audit Findings

4.4.8 Absence of a system to ensure that mandatory documents are presented and stamp duty and registration fees are paid correctly on all instruments

4.4.8.1 Inadequacies in implementation of provisions of Indian Stamp Act

Provisions of Indian Stamp (IS) Act were not implemented in Public Offices.

Sections 73 and 73A of the IS Act, 1899 provide that the Collector may, where

⁹⁸ Public Office is an office held by a Public Officer as defined in Section 2(17) of the Code of Civil Procedure, 1908.

⁹⁹ 31 October 2018, 14 November 2018 and 3 January 2019.

he has reason to believe that all/any of the instruments have not been charged/incorrectly charged with duty leviable under the said Act, authorise in writing, any officer to enter upon any premises where he has reason to believe that registers, books, records, papers, documents or proceedings relating to any such instrument are kept. Such authorised officer can inspect these records, and take notes/extracts as he deems necessary, seize them and impound them under Section 33 of the Act *ibid*. Every person having in his custody or maintaining such registers, books, records, papers, documents or proceedings shall produce them before the officer authorised by the Collector. He shall also permit such officer to inspect them whenever required.

As per Section 2 of the IS Act, Collector means, the Collector of Calcutta, the collector of a district and also includes the Deputy Commissioner and any officer whom the State Government may, by notification in the Official Gazette, appoint in this behalf.

It was observed that stamp duty and registration fees are assessed and collected by the RAs only in respect of the instruments presented before them for registration.

- (i) From the information furnished by five¹⁰⁰ Collectors (between August and November 2018) it was observed that the Collectors did not have any mechanism to detect the cases of instruments not having been duly stamped. Such cases were dealt with by the Collectors if and when those were either brought to the notice of the Collectors by the party or any impounded documents are received from Arbitrator, Debt Recovery Tribunal or from Hon'ble Court for the assessment of proper stamp duty.
- (ii) Under Section 33 of the IS Act, Public Officers¹⁰¹ in-charge of a PO had to ensure payment of correct amount of stamp duty on instruments produced before them and to impound those which are not duly stamped. Thus, awareness of the public officers in this area is very important to make them cognizant about their responsibilities under the IS Act. It was found in audit that the DRSR had not taken any initiative to sensitise the POs so that the provisions of Section 33 of the IS Act are complied with by them.
- (iii) During scrutiny of records of nine POs it was found that in 399 cases unstamped/inadequately stamped instruments were executed in those offices or produced before the POs. Those instruments were, however, not impounded by them. Audit also found that though the instruments were compulsorily registrable under Section 17 of the IR Act, those were also not presented before the RAs for registration. As POs were not being inspected by the Collectors, such unstamped and unregistered instruments remained undetected. As a result, Government was deprived of the stamp duty and registration fees of ₹ 114.17 crore as discussed in the succeeding paragraphs.

After this was pointed out, no reply has been received from the Department (December 2019).

¹⁰⁰ Collector Howrah, Kolkata, Purba Medinipur, North 24 Parganas and South 24 Parganas.

¹⁰¹ Public Officer as defined in Section 2(17) of the Code of Civil Procedure, 1908 *inter alia* includes every officer in the service or pay of the Government, or remunerated by fees or commission for the performance of any public duty and every officer whose duty it is to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, authenticate or keep any document relating to the pecuniary interests of the Government.

4.4.8.2 Provisions of mandatory registration of deeds not complied with

Non-registration/non-execution of lease agreements of toll plazas and other immovable properties by different government authorities resulted in evasion of stamp duty and registration fees of ₹ 81.18 crore by lessees.

The documents prescribed under Section 17 of the IR Act, such as lease deeds/agreements are required to be registered compulsorily. As per Section 33 of the IS Act, instruments not duly stamped shall not be admitted or received as evidence. Non-registration of documents deprives the State Government of Stamp duty and Registration Fees payable on those documents.

a) Deeds not registered after execution

Audit test checked the records of seven POs to ascertain whether the agreements of leases granted by those offices were duly stamped and presented before the concerned RAs for registration. It found that the aforesaid POs granted leases in 217 cases to private parties at a consideration of ₹ 1,037.29 crore for different periods between December 2011 and March 2017. The lease agreements were found to have been executed on non-judicial stamp papers of ₹ 100 or ₹ 500. The documents were neither duly stamped nor presented before the RAs for registration. This resulted in evasion of stamp duty and registration fees of ₹ 62.37 crore by the lessees as detailed in the following table:

Table-4.3
Deeds not registered after execution

(₹ in crore)

Sl No.	Name of the POs	Nature of deed executed	Period of execution	No. of cases	Lease consideration	SD & RF payable	Remarks
1.	Project Implementation Units of National Highway Authority of India (NHAI)	Toll	Between March 2013 and August 2016	12	866.08	44.17	NHAI granted lease of three ¹⁰² toll plazas located in West Bengal to six private toll operators for the purpose of collection of user fee ¹⁰³ on behalf of NHAI for a period of one year in each case.
2.	Kolkata Metropolitan Development Authority (KMDA) Roads and Bridge sector	Toll	December 2012	1	2.73	0.14	KMDA granted lease of three ¹⁰⁴ toll plazas on Kalyani – Dum Dum Express Way ¹⁰⁵ to a private toll operator for a period of three years.

¹⁰² Dankuni, Palsit and Sonapetaya toll plazas in West Bengal.

¹⁰³ Toll fee paid by the users of the toll.

¹⁰⁴ Toll Gate No. 1 near Sodepur More, Gate No. 2 near Wireless More and Gate No. 3 near Kampa More.

¹⁰⁵ Presently renamed as Barrackpore Kalyani Express Way.

(₹ in crore)

Sl No.	Name of the POs	Nature of deed executed	Period of execution	No. of cases	Lease consideration	SD & RF payable	Remarks
3.	West Bengal Highway Development Corporation Limited (WBHDCL)	Toll	December 2016	1	9.17	0.47	WBHDCL granted lease of three ¹⁰⁶ toll plazas on Kalyani – Dum Dum Express Way ¹⁰⁷ to a private toll operator for a period of three years.
4.	Hooghly River Bridge Commissioner (HRBC)	Toll	January 2014	1	52.20	7.88	HRBC granted the toll on Vidyasagar Setu to a private toll operator for a period of five years.
5.	West Bengal Industrial Infrastructure Development Corporation (WBIIDC)	Lease	Between December 2011 and August 2015	7	2.75	0.20	WBIIDC granted lease of land to seven private parties each for a period of 99 years.
6.	Haldia Development Authority (HDA)	Lease	March 2010	1	63.00	5.10	HDA granted lease of 385 acres of land to West Bengal Industrial Development Corporation (WBIDCL) which in turn sub-leased the entire land to a private party.
		Lease	December 2013	1	36.00	4.13	HDA granted lease of land to a private party for long term lease of 90 years.
7.	Digha Shankarpur Development Authority (DSDA)	Lease	Between July 2012 and March 2017	193	5.36	0.28	DSDA granted lease of 158 stalls of seven ¹⁰⁸ market complex for a period of 3 years in each case and 35 Lavotory, Hotel, Park etc. for a period of 1 year in each case in favour of different private parties.
Total				217	1,037.29	62.37	

Audit found that the documents were executed by the POs but were not got stamped and registered to make them legally effective. Further, none of these offices were inspected by the Collectors. As a result, the evasion remained undetected until pointed out by audit.

After this was pointed out, the Vice-Chairman HRBC accepted the audit observation and stated (June 2018) that according to the practice of HRBC, the

¹⁰⁶ Toll Gate No. 1 near Sodepur More, Gate No. 2 near Wireless More and Gate No. 3 near Kampa More.

¹⁰⁷ Presently renamed as Barrackpore Kalyani Express Way.

¹⁰⁸ Dishari Market Complex, Dishari Math, New Cottage Complex, NOS-1 Ghat, Kshanika Market, Jagannath Ghat, Aparajita Cottage Complex situated in Old Digha.

toll agreement of Vidyasagar Setu was executed on non-judicial stamp paper and was not registered. He also assured to obtain the views of the IGR&CSR in this regard. HRBC being a PO was required to comply with the provisions of the IS/IR Act. Reply of the Department was awaited (December 2019).

The above audit observation is based on test audit. Department should review all its units to ensure compliance with the provisions of sections 33, 73 and 73A of the IS Act.

b) Deeds not executed for registration

Audit also test checked the records of two other POs between March and April 2018. It found that these offices granted lease of lands and ferry ghats in 141 cases to private lessees. The lessees were required to execute lease deeds as per the provisions of the West Bengal Land Reforms Manual (WBLRM), 1991 or as per the conditions of offer letters of leases issued in their favour. It was observed, however, that in all these cases leases were granted to the lessees without execution of lease deeds. Neither the POs nor the DRSR ensured compliance with the extant provisions. This resulted in non-payment of stamp duty and registration fees of ₹ 18.81 crore as detailed in the following table:

Table-4.4
Deeds not executed for registration

(₹ in crore)

Sl No	Name of the POs	Nature of deed executed	Period of execution	No of cases	Lease consideration			SD & RF payable	Nature of irregularities
					Premium	Lease rent	Security Deposit		
1.	Kolkata Port Trust (KOPT)	Lease of land	Between January 2008 and November 2017	53 ¹⁰⁹	173.40	16.03	30.78	18.63	KOPT granted leases to 29 private parties for different periods ranging between 14 and 30 years without execution of the lease deeds. The lessees were required to execute lease deeds as per the conditions of offer letters of leases.
2.	District Land and Land Reforms Officer (DL&LRO), Murshidabad	Lease of ferries	Between 2012 and 2017	88	0	4.47	0	0.18	DL&LRO, Murshidabad granted lease of 21 ferry ghats ¹¹⁰ for a period of one year in each case without execution of lease deeds. The lessees were required to execute lease deed in Appendix IV of the WBLRM, 1991.
Total				141	173.40	20.50	30.78	18.81	

¹⁰⁹ 10 cases of KOPT, Kolkata office and 43 cases of KOPT, Haldia office.

¹¹⁰ Amaniganj, Bhattpara, Chak Islampur, Chatra, Dakshin Ghoshpara, Farajipara, Farasdanga, Goaljan, Khagra Goaljan, Khodaiganj, Jiaganj Azimganj Sadar, Lalbag Sadar, Mahajantuli, Muradpur, Nashipur, Neallispara, Radharghat, Sadekbag, Sahanagar Saikuly, Shibtala and Taltali.

No reply was furnished by the Department in this regard (December 2019).

Recommendation-I

DIGRs may take up periodical inspection of public offices to ensure mandatory registration of deeds and detection of evasion of stamp duty and registration fees.

4.4.8.3 Evasion of stamp duty on issue of debentures

Stamp duty of ₹ 18.28 crore was evaded by 16 companies on issue of debentures due to the absence of a proper mechanism for assessment of stamp duty on debentures.

Stamp duty on issue of debentures is chargeable at the rate¹¹¹ prescribed under Article 27 of Schedule IA of the IS Act. Any incorporated company or other body corporate in the state is required to apply to the Finance Department for payment of consolidated stamp duty on issue of debentures. They are also obliged to pay the required duty before such issue in accordance with the procedures prescribed under Rule 23 of the West Bengal Stamp Rules, 1994.

Audit obtained information from the Registrar of Companies (ROC), Kolkata, in respect of 102 companies having registered offices in West Bengal that had submitted returns on debentures to the ROC during the period from April 2012 to March 2017. From test check of the Annual Reports of 16 out of the 102 companies, it was observed that debentures aggregating ₹ 12,451.55 crore were issued by those companies. The maturity period of these debentures ranged between one to 11 years. The information from the annual reports of the companies was then cross-verified with the records of the DRSR relating to payment of consolidated stamp duty on debentures. Audit found that those 16 companies did not pay any stamp duty on issue of debentures. The DRSR was assessing and collecting the consolidated stamp duty only if a company chose to apply for payment of the duty. DRSR did not have any mechanism to obtain information on issue of debentures from ROC or other sources and to assess the amount of stamp duty payable thereon by the companies. Thus, in the absence of such mechanism, the companies evaded payment of stamp duty of ₹ 18.28 crore on issue of debentures and no action was taken by the DRSR to realise stamp duty from the companies.

After this was pointed out, no reply has been received from the Department (December 2019).

Recommendation-II

Developing a proper mechanism to obtain information on issue of debentures by companies from ROC or other sources for assessment and collection of proper amount of stamp duty thereon.

¹¹¹ 0.05 per cent per year of the face value of the debenture, subject to the maximum of 0.025 per cent or ₹ 25 lakh whichever is lower.

4.4.8.4 Non/incorrect disclosure of lease consideration/ facts affecting chargeability of stamp duty in deeds

Due to non/incorrect disclosure of lease consideration and facts affecting chargeability of stamp duty and registration fees in the registered deeds by KOPT and HDA, there was evasion of stamp duty and registration fees of ₹ 8.14 crore by lessees.

Stamp duty on lease deed is charged in accordance with the rates prescribed under Article 35 of Schedule – IA of the IS Act, 1899. Further, as per explanation-I below Article 35, when a lessee undertakes to pay any recurring charges, which are by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent. Section 27¹¹² of the IS Act also provides that the consideration and all other facts and circumstances affecting the chargeability of duty on any instrument shall be fully and truly set forth therein.

Audit test checked records of the¹¹³ KOPT and HDA between March and May 2018. It found that lease consideration in 17 cases and fact of assignment of leases in two cases were not disclosed/incorrectly disclosed at the time of registration. This resulted in evasion of stamp duty and registration fees as discussed in succeeding paragraphs:

a) KOPT in 16 cases and HDA in one case had granted long-term¹¹⁴ lease of properties in favour of different private lessees between February 2008 and June 2016. Of these, in 15 cases, in addition to lease rent, KOPT and HDA received premium/ structure value/development cost/construction cost/ rehabilitation & resettlement charge/ security deposit aggregating ₹ 68.83 crore from the lessees. Lease deeds of those properties were registered under five¹¹⁵ RAs between November 2012 and October 2017. The information in respect of leases as per records of the KOPT and HDA was cross-verified with that of the registered deeds. It was found that KOPT and HDA disclosed rent as the only lease consideration in these deeds. The premium/ structure value/ development cost/ construction cost/ rehabilitation & resettlement charge/ security deposit paid by the lessees was not disclosed in the deeds. As a result, the undisclosed consideration of ₹ 68.83 crore escaped assessment resulting in non-realisation of stamp duty and registration fees of ₹ 5.27 crore.

In two other cases of KOPT, it was found that premium of ₹ 9.33 crore received by KOPT from one lessee was incorrectly disclosed as first year rent in the lease deeds registered under ADSR, Alipore. Thus, lease consideration by RA stood at ₹ 0.82 crore instead of ₹ 9.78 crore. As a result, the consideration for the two leases were under assessed by the RA to the extent of ₹ 8.96 crore with consequent evasion of stamp duty and registration fees of ₹ 72.43 lakh.

This resulted in evasion of stamp duty and registration fees of ₹ 5.99 crore by the lessees in all the 17 cases.

¹¹² As amended by West Bengal Act No.17 of 1990.

¹¹³ Kolkata and Haldia Dock Complex Office.

¹¹⁴ Thirty years in each case.

¹¹⁵ ADSR Alipore, Sutahata, Howrah, DSRs – I & V and South 24 Parganas.

b) Article 35 and 63 of Schedule 1A of IS Act provides that in case of lease deed, stamp duty is chargeable on the lease consideration paid by the lessee to the lessor in the form of lease rent and or premium. In case of assignment of lease, however, stamp duty is chargeable on the market value of the property if such value is greater than the lease consideration. Therefore, stamp duty on deed of assignment generally attracts higher stamp duty than that of a lease deed.

From the records of KOPT Audit found that it had granted lease of a piece of land in favour a lessee, in March 2011, for a period of 15 years. The lessee applied to KOPT (January 2014) for assignment of its lease held rights, title and interest on the property in favour of two other companies (assignees). The board of trustees of KOPT approved the prayer of the lessee in February 2015 on the condition that the assignees would pay transfer fee ₹ 30.20 lakh and 50 *per cent* of the premium paid by them to the lessee. This was in addition to payment of annual rent of ₹ 15.38 lakh. The two deeds were registered under the ADSR, Alipore between November 2015 and March 2016 by KOPT as lease deeds instead of assignment of lease. The market value of the properties was assessed by the ADSR at ₹ 26.97 crore. As the fact of assignment from the lessee to the assignees was not disclosed in the deeds, stamp duty and registration fees of ₹ 0.03 crore was, however, charged by the RA on average annual rent instead of ₹ 2.18 crore leviable on market value of the properties. By omission of facts KOPT unduly favoured the assignees that resulted in evasion of stamp duty of ₹ 2.15 crore.

The cases detected by Audit are illustrative in nature based on test check of records of KOPT/ HDA and therefore, occurrence of similar irregularities in other cases could not be ruled out. Audit further observed that due to non-conduct of inspection of these offices by the Collectors, such evasion could not be detected by the Department.

After this was pointed out, no reply has been received from the Department (December 2019).

4.4.8.5 Inadequately stamped instruments of assignment of trademark not impounded

Inadequately stamped instruments of assignment of trademarks were not impounded by the trademark registering authority resulting in short levy of stamp duty of ₹ 6.57 crore.

Sections 3 (aa) and 3 (bb) of the IS Act, 1899 as applicable in West Bengal provide that every instrument mentioned as chargeable with duty under in Schedule – IA, if executed in West Bengal or out of West Bengal and relates to any property situated, or to any matter or thing done or to be done in West Bengal and if received in West Bengal, shall be chargeable with the proper amount of duty as specified in that Schedule. Further, as per Section 19A of the IS Act as applicable in West Bengal, where any instrument has become chargeable in any part of India other than West Bengal with duty under the said Act, and becomes chargeable with higher rate of duty in West Bengal as per Section 3(bb) of the Act, the differential duty is chargeable on the instrument.

Audit test checked records of assignment of trademarks in the office of the Deputy Registrar of Trademarks, Kolkata in February 2018. It found that in six cases, the assignors had assigned their registered trademarks in favour of assignees between October 2012 and July 2015 at a consideration of aggregate value of ₹ 164.15 crore. All these deeds were presented to the trademark registry office Kolkata, for changing the records of ownership of the trademarks. From the scrutiny of the deeds of assignment, it was found that three deeds were executed in West Bengal on payment of less stamp duty while the remaining three deeds were executed outside West Bengal on payment of stamp duty at lower rates. In all these cases, stamp duty of ₹ 11.49 crore was chargeable on the instruments. The executants however paid stamp duty of ₹ 4.92 crore only. The public officer of the trademark office while finalising the assignment applications did not impound the instruments on grounds of less payment of stamp duty for their submission to the Collector of Stamps for taking necessary action for realisation of deficit stamp duty. This resulted in short levy of stamp duty of ₹ 6.57 crore.

After this was pointed out, no reply has been received from the Department (December 2019).

The aforesaid evasion, non/short collection was the result of the following deficiencies:

- Absence of a system within the Department to ensure that all the registrable documents are presented before the RAs on payment of proper stamp duty and registration fees;
- Inaction on the part of POs relating to their responsibilities under the IS Act, and
- Conducting no inspection under section 73 and 73 A of the IS Act by the Collectors.

In the previous Performance Audit featured in the C&AG's Audit Report No. 1 of 2014, it was recommended that the system of regular inspection of the POs by the Collectors be implemented to ensure collection of proper stamp duty and registration fees. It was however, observed during the present Performance Audit, that the recommendation was not implemented by the department. As a result, the Department could not realise potential revenue to the extent of ₹ 114.17 crore as pointed out in the previous paras.

4.4.9 Deficiencies in the computerised system

The 'e-Nathikaran' system replaced the erstwhile CORD system from December 2014. The 'e-Nathikaran' system is an advanced version of CORD system. It was a switch over from stand alone system to the centralised system in order to remove the difficulties faced in the decentralised CORD system. In the e-Nathikaran system, market values of all the properties of the State are fed in the central server which caters both to the Registration offices as well as the website accessible by the citizens for the purpose of market value generation.

During the analysis of transaction data of 'e-Nathikaran', Audit found several deficiencies in the system which resulted in under assessment of market value of properties and short levy of stamp duty and registration fees which are discussed in the succeeding paragraphs:

4.4.9.1 Incorrect mapping of rate/ non-mapping of notified areas¹¹⁶ in the computerised system

Incorrect mapping of rate of stamp duty/ non-mapping of notified areas in the e-Nathikaran software resulted in loss of stamp duty of ₹ 40.82 crore.

Under Article 23 of Schedule-IA of the IS Act the rate of stamp duty on deed of conveyance is as follows:

Table-4.5
Rate of stamp duty

Property situated in	Market Value of the Property (₹)	Rate of stamp duty
(a) areas to which Kolkata Improvement Act, 1911 or Howrah Improvement Act, 1956 extend	>40,00,000	7 per cent
	≤ 40,00,000	6 per cent
(b) areas under any Municipal Corporation/ Municipality/ Notified Area other than those included in (a) above	>40,00,000	7 per cent
	≤ 40,00,000	6 per cent
(c) areas other than those included in (a) or (b) above	>40,00,000	6 per cent
	≤ 40,00,000	5 per cent

From the table it is evident that the rate of stamp duty on sale deeds in respect of properties situated under the areas covered by the Howrah Improvement Act 1956 (HIA)/Kolkata Improvement Act, 1911 (KIA) /Municipal Corporations/ Municipalities/Notified areas is one *per cent* higher than those not covered by such authorities. The same rates of stamp duty are applicable in respect of assignment of lease as per Article 63 of Schedule –IA of the IS Act. Moreover, no rates for stamp duty have been prescribed exclusively for panchayat areas.

Audit found from the analysis of data of ‘e-Nathikaran’ and ‘CORD’ software that the areas covered by the HIA, the notified areas of HDA and Burdwan Development Authority (BDA) had not been correctly mapped in the computerised system. As a result, stamp duty of ₹ 40.82 crore was levied short in 95,942 cases as detailed in the following table:

Table-4.6
Incorrect mapping of rate/ non-mapping of notified areas in the computerised system

(₹ in crore)

Sl. No.	Name of the areas not correctly mapped	Nature of deeds	Period of execution	No of RAs involved	No of cases	Market value of the properties	Short levy of stamp duty	Nature of irregularities
1.	Areas of Howrah Improvement Act (HIA), 1956	Sale/ deeds of assignment	Between May 2015 and June 2017	11 ¹¹⁷	41,402	2,875.39	28.75	Howrah Improvement Act (HIA), 1956 extends to the whole district of Howrah, irrespective of

¹¹⁶ Notified area is an area declared by way of issue of notification under the West Bengal Town and Country (Planning and Development) Act, 1979 for planned development.

¹¹⁷ ADSRs Amta, Bagnan, Bargachia, Domjur, Howrah, Pancharul, Ranihati, Shyampur, Uluberia, ARA-I and DSR Howrah.

(₹ in crore)

Sl. No.	Name of the areas not correctly mapped	Nature of deeds	Period of execution	No of RAs involved	No of cases	Market value of the properties	Short levy of stamp duty	Nature of irregularities
								jurisdiction of local bodies. Therefore, stamp duty is leviable as per Article 23(a) of the Schedule – IA of the IS Act. However, Stamp duty was levied short by one <i>per cent</i> in each case due to incorrect application of rates under Article 23 (c) instead of 23 (a).
2.	HDA	Sale deeds	Between March 2012 and June 2017	22 ¹¹⁸	54,286	1132.69	11.33	Panchayat areas (Appendix-III) were notified for inclusion in the planning area of Haldia Development Authority, as per the West Bengal Town and Country Planning Act, 1979. Therefore, stamp duty was leviable as per Article 23(b) of the Schedule – IA of the IS Act. However, stamp duty was levied short by one <i>per cent</i> in each case as the rate of stamp duty had been mapped as per Article 23(c) instead of Article 23(b).
3.	BDA	Deeds of assignment	Between July 2013 and May 2015	1 ¹¹⁹	254	73.69	0.74	Stamp duty was levied short by one <i>per cent</i> in each case for the areas covered under the BDA, a notified area ¹²⁰ as the rate of stamp duty was mapped as per Article 23(c) instead of Article 23(b) of Schedule – IA of the IS Act.
Total				34	95,942	4,081.77	40.82	

¹¹⁸ ADSRs Bagnan, Balichak, Bhagwanpur, Bhupatinagar, Contai – I, Hanschara, Khanchi, Khejuri, Kolaghat, Mahishadal, Moyna, Nandigram, Panskura, Patashpur, Pathar Pratima, Pingla, Rudranagar, Sabang, Tamluk, ARA – III, DSR – I, Paschim Midnapore and DSR – I, Purba Midnapore.

¹¹⁹ ADSR, Burdwan.

¹²⁰ Notification No.1489/ T&CP/0-10/87 (II) dated 18 April, 2002.

Moreover, Department could not provide to Audit any documentation regarding any laid down process for obtaining data from other Departments required for updating the software to ensure correct levy of stamp duty.

After this was pointed out, ADSR Burdwan stated (October 2017) that the details of mouzas under the BDA was not available with the RA. The fact however, remains that the DRSR ought to have collected the notified mouzas from the Urban Development Department for their mapping in the system. Reply of the Department is awaited (December 2019).

Audit highlighted similar deficiency relating to incorrect/non-mapping of areas in the erstwhile CORD system in Para 5.6.7.1 of the C&AG’s Audit Report for the year ended March 2013. This deficiency, however, still persists in the newly developed “e-Nathikaran” software and the Government is losing revenue on a recurring basis.

4.4.9.2 Mapping of municipal areas in the system delayed/not updated

Delayed/non-updating of municipal areas in the e-Nathikaran software resulted in short levy of stamp duty of ₹ 1.25 crore.

As per Article 23(b) of Schedule – IA of the IS Act, 1899, the rate of stamp duty on conveyance deed of properties situated in a municipality/notified area is one *per cent* higher than those not covered by such areas.

The Department of Municipal Affairs, Government of West Bengal constituted Haringhata, Buniyadpur and Domkal municipalities in the districts of Nadia, Dakshin Dinajpur and Murshidabad respectively between January 2014 and May 2015. Audit collected the respective Notifications relating to constitution of the aforesaid municipalities from the Department of Municipal Affairs and found that the following panchayat areas had been included in those municipal areas:

Table-4.7

Details of conversion of panchayat areas into municipalities

Sl. No.	Name of Municipality	Notification of constitution of the municipality	Name of the mouzas (JL No ¹²¹) included in the municipality	Remarks
		Date of constitution		
		Month of mapping in e-Nathikaran		
1.	Haringhata Municipality	01/MA/O/C-4/1M-20/2010 dated 02.01.2014	Balindi (7), Murugacha (8), Ganguria (44), Laupala (43), Subarnapur (42), Simhat (45), Mobarakpur (57), Santoshpur (56), Kapileshwar (54), Dakshin Brahamapur (60), Jaguli (53), Digha (55), Khorda Manpur (52), Sirajanpara (51), Hatikanda (49), Manpur (50), Haringhata Farm (90)	Full Mouzas had been included in the Municipal area
		02.01.2014		
2.	Buniyadpur Municipality	98/MA/O/C-4/1M-16/2011 dated 26.02.2015	Khushipur (253), Sherpur (254), Buniyadpur (263), Narayanpur (205), Selimabad (203), Thingur (264), Amai (265), Kharkha (270), Shibpur (259), Koil (261), Barail (255),	
		01.03.2015		

¹²¹ Jurisdiction List (JL) is a list maintained by every District Land and Land Reforms Officer showing the jurisdiction of every village under a police station and identified by a separate jurisdiction number.

Sl. No.	Name of Municipality	Notification of constitution of the municipality	Name of the mouzas (JL No) included in the municipality	Remarks
		Date of constitution		
		Month of mapping in e-Nathikaran		
		Not mapped	Rashidpur (256), Aligara (262), Haldi (258), Joydebpur (260), Mirjatpur (257), Math Khidirpur (252), Rangapukur (206), Sarai (195), Malam (200), Chaksadulla (266)	
3.	Domkal Municipality	278/MA/O/C-4/1M- 8/2001 dated 18.05.2015	Shambhunagar (13), Meheubnagar (14), Jitpur (15), P. T. Rasulpur (25), Domkal (42), Laxminathpur (43), Baganpur Ramna (11), Bajitpur (12), Hitanpur (10), Mosimpur (9), Sekhalipara (27), Mamudpur (32), Gobindapur (34), Chak Vikari (33), Dakshinnagar (75), Jhouberia (76), Juginda (74), Aminabad (77)	
		18.05.2015		

During the course of audit, data of 'e-Nathikaran' were analysed. It was found that:

- mouzas under the Buniyadpur Municipality were not yet mapped as municipal areas in the system.
- mouzas under Domkal and Haringhata Municipalities were mapped in the system as municipal areas after a delay of 14 and 32 months, respectively.

In 4,324 cases, deeds of properties of the aforesaid municipalities involving market value of ₹ 125.24 crore were executed and registered under nine¹²² RAs between April 2015 and June 2017. While furnishing details for assessment of market value of the properties, the registrants had declared that the properties fall under panchayats, instead of municipalities. Due to delayed/non-updating of the mouzas as municipal areas in the system, it was observed that based on incorrect information the system was calculating stamp duty at panchayat rates instead of the applicable municipal rates.

Due to such deficiencies in the system, stamp duty was levied short by one *per cent* in these cases considering the properties to be situated in panchayat areas. This resulted in short levy of stamp duty of ₹ 1.25 crore.

After this was pointed out, no reply has been received from the Department (December 2019).

Recommendation-III

Government may consider to take action for ensuring that the master data of municipal areas, notified areas, rates of stamp duty are correctly mapped/timely updated in the e-Nathikaran system and proper validation control in place to ensure correct levy of stamp duty.

4.4.9.3 Excess allowance of depreciation of market value due to failure of validation checks

Due to absence of proper validation controls in the e-Nathikaran software, excess depreciation of market value of properties was allowed by the system, resulting in short levy of stamp duty and registration fees of ₹ 65.54 lakh.

¹²² ADSRs Buniyadpur, Domkal, Haringhata, Kalyani, ARA-II, IV Kolkata, DSRs Dakshin Dinajpur, Murshidabad and Nadia.

As per Rule 3B 10(b) of the West Bengal Stamp (Prevention of Under- Valuation of Instruments) Rules, 2001 as amended in December 2015¹²³, for the purpose of assessment of market value of any newly built flat or building or apartment in any municipal area, having a height more than 7 metres (22.96 feet), approach road lesser than 2.40 metre (7.87 feet) shall not be accepted by the e-Nathikaran software. Further, as per Para 2.2.1 of the Business Rules of the e-Nathikaran software, if the flat or building or apartment was located on a by-lane, depreciation on property was allowed as per the rates mentioned in the **Table 4.8**.

Table-4.8
Rate of depreciation

Width of road (in feet)	Rate of depreciation
Less than 8	20%
=8 but <16	15%
=16 but <25	10%
=25 but <40	5%
>=40	No depreciation

It was observed that the market value of flats/apartments were generated through the system on the basis of information provided by registrants. For that purpose, the registrants were required to declare the floor number (Field Name: “Flat Floor”) on which the flat was located. Further, the registrants were mandatorily required to declare whether the building in which the flat was located had more than two floors or not (“Yes/ No” option). If a building had more than two floors (i.e. “Yes” option is chosen), the system did not allow entering approach road as less than 8 feet in accordance with Rule 10(b) of the WBPUVI Rules. If the number of floors in the building had been declared to be less than or equal to two floors (i.e. “No” option is chosen) by the registrants, the system allowed entering of approach road of less than 8 feet in the system. In the latter case, the system allowed 20 *per cent* as the rate of depreciation of market value.

Audit found that the width of approach road has been mapped with the “Yes/ No option” regarding the building having/not having more than two floors and not with the “Flat Floor”. Now, if the “Flat Floor” was declared to be two and above, the next field i.e. whether the number of floors in the building is more than two, should by default take the value as “Yes” and should not allow entering of approach road of less than eight feet in the system. Audit, however, found that the said validation control did not exist in the system, owing to which the registrants could declare that the building did not have more than two floors while their flats existed at a floor above second floor.

From the analysis of data of e-Nathikaran software Audit found that, in 706 cases, sale deeds of flats involving assessed market value of ₹ 143.77 crore were registered between April 2015 and June 2017 under 51 RAs. As per declaration made in the deeds, the flats were located on the second floor and above, but due to absence of validation controls in the system, registrants could declare that the buildings did not have more than two floors, which was illogical. System accepted the approach road to be of less than 8 feet in those cases. As a result, depreciation of market value at 20 *per cent* (₹ 35.94 crore) was allowed by the system in these cases against the maximum allowable limit of 15 *per cent*

¹²³ Notification No. 2052-F.T. dated 7 December 2015, Department of Finance, Government of West Bengal.

(₹ 26.96 crore). This resulted in excess allowance of depreciation of market value by ₹ 8.98 crore and consequent short levy of stamp duty and registration fees of ₹ 65.54 lakh.

No reply has been received from the Department (December 2019).

4.4.10 Compliance deficiencies by the RAs

During the Performance Audit it was found that the provisions of the Acts / Rules, departmental instructions were not complied with properly by the RAs. This resulted in under assessment of market value of properties, short levy of revenue and irregular remission of stamp duty and registration fees. A few illustrative cases are discussed in the following paragraphs:

4.4.10.1 Misclassification of instruments

Due to misclassification of instruments, stamp duty and registration fees of ₹ 44.72 crore was levied short by the RAs.

Rate of stamp duty depends on the nature of instrument. The recitals¹²⁴ of an instrument play pivotal role in determining its actual nature. Misclassification of an instrument into a different category often leads to short levy of stamp duty and registration fees. Thus, the instruments are required to be scrutinised properly by the RAs to avoid any misclassification. During the course of audit, misclassification of instruments were noticed in a number of cases resulting in short levy of stamp duty and registration fees. A few illustrative cases of larger values are indicated in the following table:

Table-4.9

Cases of misclassification of instruments

No.	Registering Authority	No. of cases	Instruments classified	SD & RF levied	Instruments actually classifiable	SD & RF leviable	Short/Non levy of SD and RF
1.	ADSR Alipore, Behala, Burdwan and ARA - I, Kolkata.	four	Mortgage Deeds	₹ 4 lakh SD + ₹ 1.65 lakh RF	Mortgage (with possession) Deeds	₹ 33.98 crore	₹ 33.92 crore
After this was pointed out, two RAs stated that possession of the mortgaged properties had not been transferred by the mortgagor and that the power of attorneys were given for securing repayment of the loan amount. But the fact is that irrevocable power of attorneys were given or agreed to be given by the mortgagors to the mortgagees which should have been considered by RAs as giving possession of the properties and stamp duty as conveyance should have been charged. In the remaining two cases, RAs did not furnish any specific reply.							
2.	21 ¹²⁵ RAs	99	Gift Deeds	₹ 53 lakh	Settlement Deeds	₹ 7.37 crore	₹ 6.84 crore
Five RAs stated that 20 cases involving ₹ 21.48 lakh had been forwarded to the concerned DIGRs under section 47A of the IS Act for adjudication. In 31 cases, involving ₹ 1.67 crore, seven RAs stated that the gifts were made voluntarily and without any consideration. Therefore, the instruments were classified as gift deeds. Out of the 31 cases, in three cases the donees had reserved their right on the gifted property till their life time. In remaining 28 cases the gifts were made either for making provisions for the donees or for the purpose of distribution of properties for avoiding future disputes among the family members. These come under the definition of settlement as per Section 2 (24) (b) of IS Act. In the remaining 48 cases, RAs did not furnish any specific reply.							

¹²⁴ Narration of facts and events.

¹²⁵ ADSRs –Alipore, Bagdogara, Barasat, Cossipore, Dakshin Barasat, Diamond Harbour, Falta, Ghateswar, Howrah, Mathurapur, Rajarhat Sealdah, Serampore, Siliguri, Usthi, ARA - I and IV, Kolkata, DSR-I, II, III and IV, South 24 Parganas.

No.	Registering Authority	No. of cases	Instruments classified	SD & RF levied	Instruments actually classifiable	SD & RF leviable	Short/Non levy of SD and RF
3.	nine ¹²⁶ RAs	39	Gift Deeds	₹ 5.72 lakh	Conveyance Deed	₹ 65.43 lakh	₹ 59.71 lakh
<p>After this was pointed out by Audit, four RAs in 11 cases involving ₹ 12.97 lakh stated that the cases were forwarded to the respective DIGRs for taking necessary action. In one case involving ₹ 16.23 lakh, it was stated that the lessor had gifted his lease hold right of the property in favour of family member without any consideration and therefore was rightly classified as gift. Since the donor had transferred his property on the condition that the donee shall repay all the dues in respect of the loan taken by the donor, it comes under the definition of consideration.</p> <p>In 24 cases involving ₹ 23.90 lakh, it was stated (January 2018) that the donors had merely wished that the donees will take care of them and make expenses for their livelihood and medical expenses till their death. In all these cases, however, the donees had also accepted the conditions of the donors and as such, it cannot be stated to be mere wish of the donors. In the remaining three cases involving ₹ 6.61 lakh, no reply has been received.</p>							
4.	ARA-I, Kolkata	6	Lease/sub-lease agreements	₹ 4 lakh	Assignment of lease	₹ 1.57 crore	₹ 1.53 crore
<p>ARA-I, Kolkata did not furnish any reply.</p>							
5.	ARA - I, II, III and IV, Kolkata and DSR – III, South 24 Parganas.	21	Gift Deeds	₹ 4 lakh	Assignment of lease	₹ 1.97 crore	₹ 1.83 crore
<p>Two¹²⁷ RAs accepted the audit observations in 11 cases involving ₹ 1.02 crore and stated that the cases were referred to the concerned DIGRs for taking necessary action.</p> <p>In five cases involving ₹ 28.34 lakh RAs stated that the properties were transferred between family members without any consideration and therefore were correctly classified as gift deeds. But transfer of lease hold right on property to family members is classifiable as assignment and liable to be charged stamp duty at higher rate. In the remaining five cases the RAs did not furnish any specific reply (December 2019).</p>							
Total							₹ 44.72 crore

Hence, misclassification of deeds of (i) mortgage (with possession) as simple mortgage (without possession), (ii) settlement/conveyance as gift, (iii) assignment of lease as lease/sub-lease/gift resulted in short levy of stamp duty and registration fees amounting to ₹ 44.72 crore.

Matter was brought to the notice of the Government in August 2018. Reply was awaited (December 2019)

Recommendation-IV

Issuance of proper guidelines to all the RAs for correct classification of instruments and for correct allowance of remissions.

4.4.10.2 Incorrect determination of lease period/lease consideration

Due to incorrect determination of lease period and lease consideration stamp duty and registration fees of ₹ 3.91 crore levied short.

The rate of stamp duty on lease deed depends on the period for which the lease is granted and also on the consideration paid for the lease. Stamp duty on lease

¹²⁶ ADSRs Dakshin Barasat, Diamond Harbour, Falta, Ghateswar, Jamalpur, Mankar, Mograhat, Howrah and ARA – II, Kolkata.

¹²⁷ ARA – IV and DSR – III, South 24 Parganas.

deeds up to 30 years depends on the period of lease and is chargeable on the average annual rent and or premium paid for the lease. In these cases, different slab rates of stamp duty have been prescribed for different periods of lease. In case of lease deed of properties for a period exceeding 30 years, however, stamp duty is charged on the market value of the property and not on the consideration value. Thus, correct determination of lease period and lease consideration are important factors for ensuring levy of correct amount of stamp duty. During the course of audit, several cases of incorrect determination of lease period and lease consideration resulting in short levy of stamp duty and registration fees were noticed. These are discussed in the following paragraphs:

a) Incorrect determination of lease period

Explanation-II below the Article 35 of Schedule – IA of the IS Act provides that, apart from the lease period stated in the lease document, any prior/ subsequent period in continuation of the present lease shall also be added with the present lease period for the purpose of determination of the lease period, provided that the lessor and lessee for both the periods are same.

Audit test checked lease deeds under seven¹²⁸ RAs between August 2017 and May 2018. It found that 13 lease deeds were registered in those offices between October 2013 and June 2017. These RAs levied stamp duty and registration fees on average annual rent and or premium paid for the leases. In all these cases, the RAs considered the lease period ranging between six years and 30 years as specified in the lease deeds. From scrutiny of recitals of five deeds, it was observed that the present leases were renewal of the previous leases without any break in period between the earlier and present leases. In the remaining eight cases, it was found that the tenure of the leases was renewable for further period mentioned in those deeds. Therefore, the previous/subsequent lease periods were required to be added to the lease periods stated in the instant deeds for determination of the lease period of the present leases. The RAs while determining the lease periods, did not, however, consider the previous/subsequent lease periods. As a result, the lease periods were determined short by the RAs and consequently stamp duty and registration fees of ₹ 0.13 crore only was levied at lower rates instead of ₹ 2.89 crore leviable on higher slab rate/market value of properties. This resulted in short levy of stamp duty and registration fees of ₹ 2.76 crore.

After this was pointed out, in one case involving ₹ 1.76 lakh, ARA – III stated (December 2017) that the present lease deed was not an extension of the previous lease but a fresh lease. As the present lease was granted in continuation of the previous period and therefore the previous period was required to be added with the present lease period. In the remaining cases, the RAs did not furnish any specific reply.

b) Incorrect determination of lease consideration

As per Explanation-I below the Article 35 of Schedule IA of the IS Act, 1899, where lessee undertakes to pay any recurring charges, such as Government revenue which is by law recoverable from the lessor, the amount so agreed shall be deemed to be part of the rent for assessing the stamp duty. Again, in terms of

¹²⁸ ADSRs – Alipore, Bagdogra, Behala, Bishnupur, Siliguri, ARA – I and III, Kolkata.

a Notification¹²⁹ of August 2015 issued by the Finance Department, Government of West Bengal, if an assignor makes a joint venture with the Government and assigns the leasehold government land to a private entity, stamp duty and registration fee are to be charged on the consideration paid for the assignment instead of the market value of the property. This is subject to the condition that the consideration value was approved by the Government.

Audit test checked lease deeds in nine¹³⁰ RAs between March 2017 and May 2018. It found that one deed of assignment and 27 lease deeds were registered in those offices between September 2014 and March 2017. In each of these cases, stamp duty and registration fees were paid by the individual registrant on the basis of assessment slips generated through the e-Nathikaran software. The consideration value for determination of stamp duty and registration fees was disclosed by the registrants at the time of generation of assessment slips.

As per the recitals of deed of assignment in one case, the assignee paid assignment fee of ₹ 1.42 crore to the L&LR Department for lease assignment on behalf of the assignor. The transfer fee amounting to ₹ 1.42 crore, which was a part of consideration was, however, not disclosed by the registrant at the time of generation of assessment slip.

In the remaining 27 cases, the average annual rent, different taxes¹³¹, facility charges¹³² and refundable security deposits paid by the lessors to lessees were not correctly disclosed by the registrants as consideration at the time of generation of assessment slips.

The RAs were required to cross check the consideration amount disclosed in the deeds with that of the assessment slips to ensure the correctness of payment of stamp duty and registration fees in these cases. Audit however found that the RAs did not cross-check the information; consequently, the lease consideration was determined short and stamp duty and registration fees of ₹ 2.80 crore was levied instead of ₹ 3.95 crore chargeable for these 27 cases. This resulted in short levy of stamp duty and registration fees of ₹ 1.15 crore.

After this was pointed out, four¹³³ RAs accepted the audit observation (between September 2017 and April 2018) in 18 cases involving ₹ 64.57 lakh and stated that the matters were forwarded to the concerned DIGRs under section 47A of the IS Act. ADSR Bidhannagar, stated in one case involving ₹ 4.08 lakh, that there was no short levy of stamp duty and registration fees while in the other two cases involving ₹ 2.33 lakh stated that actual short levy was ₹ 1.19 lakh, which would be referred to the concerned DIGR. As per explanation I below Article 33 of Schedule –IA of the IS Act, if a lessee undertakes to pay recurring charges to the lessor it will form a part of the consideration; however, the recurring payment of different facility charges by the lessees were not taken as consideration by the RA while calculating leviable stamp duty and registration fees. In the remaining seven cases involving ₹ 43.88 lakh, RAs did not furnish any/ specific reply (December 2019).

¹²⁹ Notification No .1348-FT dated 5 August 2015.

¹³⁰ ADSRs Alipore, Bidhannagar, Cossipore, Dakshin Barasat, Howrah, Siliguri, ARA – I, DSRs I and V, South 24 Parganas.Kolkata

¹³¹ Municipal taxes, service taxes and cesses.

¹³² Maintenance charges, AC facility charges etc.

¹³³ ADSRs – Dakshin Barasat, Howrah, DSRs I and V, South 24 Parganas.

4.4.10.3 Irregular allowance of remission of stamp duty and registration fees

There was irregular allowance of remission of stamp duty and registration fees of ₹ 1.92 crore in registration of 45 deeds of conveyance executed between cooperative housing societies and its members and 14 deeds of assignment of Government.

The State Government is empowered to remit stamp duty and registration fees under Section 9 of the IS Act and Section 78 of the IR Act, respectively. State Government may remit stamp duty and registration fees either generally or specifically by way of issue of notification in the official gazette. The RAs are required to examine remission cases with prudence and exercise their power judiciously before allowing any remission to ensure that they are in conformity with the Government orders. During the course of audit, following instances of irregular allowance of remission were found:

a) Irregular remission to members of cooperative housing societies

In terms of Notification No. 1117-F.T. dated 1 July 2015, in case of execution and registration of deed of conveyance of house/ flat between a cooperative society and its members, the difference of stamp duty and registration fees applicable on the market value and construction cost of the house/ flat would be remitted. The remission was allowable subject to the condition that the member had built such flat/ house through the Cooperative Housing Society and not through a promoter and the registration was done on or before 31 December 2015. Further, the remission was not allowable in case of second or subsequent transfer of the property by a member of any cooperative society. Thus, the remission was allowable only to the original/founder member of a cooperative society.

Audit test checked records of four¹³⁴ out of 20 RAs sampled between December 2017 and May 2018. It found that in 45 cases, the RAs allowed remission of stamp duty and registration fees of ₹ 1.51 crore on deeds involving transfer of properties. The deeds were executed between 10 cooperative housing societies and their members. The market value of the properties involved in such deeds stood at ₹ 22.96 crore. Audit found from scrutiny of recitals of these deeds that (i) the members were not the founder members of the society or (ii) had built the flats at their own cost or (iii) had purchased ready built flats from promoters or (iv) had registered their property after the due date fixed for availing of the remission. Thus, they were not eligible for remission of stamp duty and registration fees. The stamp duty and registration fees leviable on the market value of the properties stood at ₹ 1.79 crore. The RAs levied stamp duty and registration fees of ₹ 0.28 crore only on the construction cost of the properties. This resulted in irregular allowance of remission of stamp duty and registration fees of ₹ 1.51 crore as shown in the following table:

¹³⁴ ADSR Kalyani, Rajarhat, ARA – I, Kolkata and DSR – I, South 24 Parganas.

Table-4.10
Irregular allowance of remission

(₹ in lakh)

Name of the RA	Nature of irregularity	Number of cases	Market value of the properties	SDRF leviable	SDRF levied	Irregular allowance of remission
(1)	(2)	(3)	(4)	(5)	(6)	(7) (5-6)
ARA-I, Kolkata	The flats were built by the members at their own cost and not by the cooperative housing society.	4	488.14	39.54	1.02	38.52
ARA-I, Kolkata	The housing project was completed between January and March 2014 and the registration was required to be done by December 2015; however, execution and registration of the deeds were done between February and March 2016.	22	1296.17	101.90	20.77	81.13
ADSR Rajarhat						
ADSR Kalyani	The member's remissions were not the founder members and as such remission was not allowable to them.	11	327.48	24.72	6.43	18.29
ADSR Rajarhat						
DSR – I, South 24 Parganas	The members of the society purchased ready built flats from promoters instead of building the flats through the cooperative society.	8	183.78	13.05	0.16	12.89
Total		45	2,295.57	179.21	28.38	150.83

After this was pointed out, two RAs¹³⁵ stated (between December 2017 and March 2018) that remissions of ₹ 26.86 lakh were allowed in 10 cases to the individuals as they were the members of the society. The reply is not tenable as the members to whom the remissions were allowed were not founder members of the societies and therefore not eligible to get remission.

In eight cases involving ₹ 12.89 lakh, DSR – I, South 24 Parganas stated (March 2018) that the remissions were allowed by the e-Nathikaran software. The system makes assessment on the basis of the information furnished by the registrants and therefore the RAs were required to scrutinise individual deeds to ensure correctness of the information before registering the instruments. In these cases, the members purchased ready built flats from a promoter for which remissions was not allowable. In the remaining 27 cases involving ₹ 1.11 crore, no reply has been received (December 2019).

b) Irregular remission allowed on deeds of assignment

Article 63 of Schedule-IA of the IS Act, 1899 provides that any instrument of transfer of lease by way of assignment is chargeable with stamp duty on the market value of the property at the same rate applicable for sale deeds. If an assignor assigns any government lease hold property to a family member as defined under Article 33 of the IS Act, stamp duty as applicable for gift to

¹³⁵ ADSR Kalyani and ARA – I, Kolkata.

family members is leviable. Such lower rate of stamp duty is applicable if the assignment was done with the prior permission of the Government of West Bengal. The differential stamp duty on assignment and gift to family members in these types of cases has been allowed as remission by the Government of West Bengal in terms of a Notification¹³⁶ issued in June 2010.

Audit test checked records of three RAs¹³⁷ between December 2017 and May 2018. It found that 14 instruments of assignment of Government land involving market value of ₹ 6.90 crore were registered in those offices between March 2016 and June 2017.

In nine deeds registered under two RAs¹³⁸, it was observed that permission from the Government was not obtained before making assignments. In the remaining five deeds registered in one RA, land was assigned to persons¹³⁹ not falling within the definition of family members as per Article 33 of the IS Act. Thus, the assignors were not eligible for remission. Based on the market value of the properties, Stamp duty leviable in these cases stood at ₹ 44.47 lakh. The RAs levied stamp duty of ₹ 3.46 lakh only at the rate applicable to gift to family members. The differential stamp duty was allowed as remission. This resulted in irregular allowance of remission of ₹ 41.02 lakh.

After this was pointed out, in one case involving ₹ 9.52 lakh, ARA – IV stated (December 2017) that the transferor and transferee got the ownership of the government lease hold property as per will of the original lessee and therefore they were eligible for the remission. The reply is not tenable because the transferor and transferee had defined shares on the property and therefore the transferor was required to take permission of the government for transferring his share in order to be eligible for the remission, which was not done. In eight cases involving ₹ 14.62 lakh, District Sub-Registrar (DSR) – II, South 24 Parganas stated (March 2018) that the assignments were made after taking permission from the government. However, the fact remains that neither any copy of such permission was available on records nor any mention about such permission was found recited in the deeds. No reply has been received in the remaining five cases involving ₹ 16.88 lakh.

4.4.11 Internal control

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

¹³⁶ Notification No.884-FT/FT/0/2E-22/10 Stamp dated 15 June 2010.

¹³⁷ ADSR Bagdogra, ARA – IV, Kolkata and DSR – II, South 24 Parganas.

¹³⁸ ARA – IV, Kolkata and DSR – II, South 24 Parganas.

¹³⁹ Father-in-Law and Grandfather.

Table-4.11

Deficiencies in the internal control mechanism

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
Absence of MIS Reports of cases referred for adjudication	All processes relating to registration of documents were computerised by the Department. A centralised database and MIS reporting was therefore necessary for proper monitoring of functions and for taking appropriate decision at different levels of hierarchy.	<ul style="list-style-type: none"> No register has been prescribed in the WBPUVI Rules, 2001 to be maintained by the DIGRs to monitor receipt and disposal of cases referred to them for adjudication . No MIS reports had been designed to monitor receipt, disposal and pendency of cases referred to DIGRs for adjudication in the e-Nathikaran software even though such cases are processed electronically. 	In the absence of such MIS, DIGRs were not in a position to ascertain the total number of cases referred to them, amount involved therein, number of cases disposed of by them and the number of cases pending at a particular time period. As a result, the realisable amount of stamp duty and registration fees remained indeterminate and the Department also could not furnish such information to Audit.

Recommendation-V

To build proper MIS reports in the computerised system for effective monitoring of the referred cases.

Absence of coordination between DIGRs and RAs	<p>In case of manual registration of document, If any registrant wants to pay the deficit amount of stamp duty and registration fees in respect of a document referred to DIGR for adjudication, the concerned RA who referred the case shall accept such payment and register the document. The RA was required to intimate such registration to DIGR as per Rule 4 of the WBPUVI Rules, 2001 and in such case the referred case deemed to have been withdrawn.</p> <p>However, the said rule is not applicable for deeds registered through the computerised system.</p>	<ul style="list-style-type: none"> Audit found that intimation regarding payment of deficit stamp duty in respect of referred cases was not communicated by the RAs to the DIGRs for withdrawal of such case. The computerised system also did not automatically send payment information to the DIGRs in such cases. 	In the absence of such coordination between the RAs and DIGRs, number of referred cases settled at the end of the RAs could not be ascertained by the DIGRs and those cases remained pending at the DIGRs level.
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Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
Absence of target for inspection of Registration Offices	Rule 5A of the WBPUVI Rules, 2001, provides for inspection of Registration Offices by DIGRs and to check electronically registered documents to ensure correctness of assessment of market value by the computerised system. If any document is found incorrectly assessed by the system during such inspection, DIGRs shall re-assess the market value and stamp duty payable on such document.	<ul style="list-style-type: none"> • Department did not prescribe any norms /target/ periodicity of inspection of ROs by the DIGRs. • The methodology of selection of the documents for checking was also not prescribed. • The inspection conducted by the DIGRs was also not monitored at the Directorate level. • From the records of three DIGRs Audit found that none of the ROs were inspected by those DIGRs during the period of audit. 	The Directorate lacking oversight on the RAs.
Absence of prescribed forms and time limit for issue of notices by the DIGRs	In case of manually registered documents, the DIGRs were required to issue hearing notices in Form-VIII for adjudication within 30 days from the date of receipt of any case from concerned RA and to issue demand notices in Form-IX as per Rule 5 of the WBPUVI Rules, 2001.	<ul style="list-style-type: none"> • Rule 5 of the WBPUVI Rules, 2001 are not applicable for documents registered through computerised system in terms of a notification issued in October 2010. Therefore, the forms of notices prescribed under such rules are also not applicable in such cases. • The Rule also does not prescribe any time limit for issuance of hearing notices. • Rule 5A of the WBPUVI Rules, 2001 is applicable for electronically registered deeds. The Rule provides for inspection of Registration Offices by the DIGRs and to check documents to ascertain correctness of assessment of market value by the computerised system and re-assess those cases which were not correctly assessed by the system owing to furnishing of incorrect property details. However, this Rule does not prescribe the form for hearing/demand notices. 	Notices prescribed under Rule 5 of the WBPUVI Rules, 2001 are being issued by the DIGRs to the concerned parties for adjudication of cases registered electronically even though Rule 5 is not applicable in such cases. The situation may give rise to unwanted litigations which may hinder the adjudication process.

Recommendation-VI

Prescribing new forms for hearing/demand notice and time limit for issue of notices by the DIGRs to the concerned parties.

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness																		
<p>Pendency in disposal of referred cases</p>	<p>Rule 5A of the WBPUVI Rules, 2001, provides for inspection of Registration Offices by DIGRs and to check electronically registered documents to ensure correctness of assessment of market value by the computerised system. If any document is found incorrectly assessed by the system during such inspection, DIGRs shall re-assess the market value and stamp duty payable on such document.</p>	<ul style="list-style-type: none"> No time limit had been prescribed in the WBPUVI Rules, 2001, for disposal of referred cases by the DIGRs. The electronic process of adjudication by the DIGRs was found to be cumbersome which caused hindrance in the efficiency of disposal of referred cases. DIGRs were not given full access to all the modules of the computerised system such as deed view, query view which were required for their proper functioning. As a result, there was sluggish disposal of pending cases at the DIGRs level. 	<p>From the records of three DIGRs, it was found by Audit that 5,718 cases were forwarded to the DIGRs by the RAs between September 2000 and January 2017 for determination of market value of properties. From the test check of the referred cases it was found by Audit that 943 out of the 5,718 cases were pending for final disposal at the DIGR level involving deficit stamp duty and registration fees of ₹ 4.58 crore assessed by the RAs as shown in the following table:</p> <p style="text-align: right;">(₹ in lakh)</p> <table border="1" data-bbox="948 779 1345 1144"> <thead> <tr> <th>Range of pendency (Year)</th> <th>No of cases</th> <th>SDRF involved</th> </tr> </thead> <tbody> <tr> <td>Upto 5 years</td> <td>638</td> <td>283.79</td> </tr> <tr> <td>>5 years and upto 10 years</td> <td>212</td> <td>162.18</td> </tr> <tr> <td>>10 years and upto 15 years</td> <td>68</td> <td>9.90</td> </tr> <tr> <td>>15 years</td> <td>25</td> <td>2.57</td> </tr> <tr> <td>Total</td> <td>943</td> <td>458.44</td> </tr> </tbody> </table> <p>Of these, hearing notices were not issued to the concerned parties in 740 cases involving deficit stamp duty and registration fees of ₹ 2.55 crore.</p>	Range of pendency (Year)	No of cases	SDRF involved	Upto 5 years	638	283.79	>5 years and upto 10 years	212	162.18	>10 years and upto 15 years	68	9.90	>15 years	25	2.57	Total	943	458.44
Range of pendency (Year)	No of cases	SDRF involved																			
Upto 5 years	638	283.79																			
>5 years and upto 10 years	212	162.18																			
>10 years and upto 15 years	68	9.90																			
>15 years	25	2.57																			
Total	943	458.44																			
<p>Absence of centralised data analysis wing</p>	<p>The whole process of registration was an automated process in which enormous data was captured in the centralised server of the Directorate.</p>	<ul style="list-style-type: none"> Analysis of the centralised data would provide the Directorate important insights about various trends and also to highlight any abrupt deviations from usual trends. The analysis of the data would also help the Directorate to identify cases of probable evasion or short levy of duty/fee due to furnishing of incorrect property details by the executants and send those cases to the concerned DIGRs for adjudication as is done in the Commercial Tax Directorate. No data analysis wing had been established by the Directorate. 	<p>As a result, the enormous data captured remained unutilised.</p>																		

Recommendation-VII

Establishing a centralised data analysis wing for better utilisation of the electronic data to check revenue loss.

4.4.12 Status of implementation of recommendation of previous Performance Audit

A Performance Audit on the similar topic was featured in Paragraph No. 5.6 of the Audit Report No. 1 of 2014 of the Comptroller and Auditor General of India (Revenue Sector), Government of West Bengal for the year ended 31 March 2013. The present Performance Audit revealed that the recommendations made in Audit Report No. 1 of 2014 was not implemented by the Department. Though similar nature of irregularities/ deficiencies in the software was pointed out in our earlier Audit Report they were not rectified and therefore such type of irregularities are still persisting.

CHAPTER V

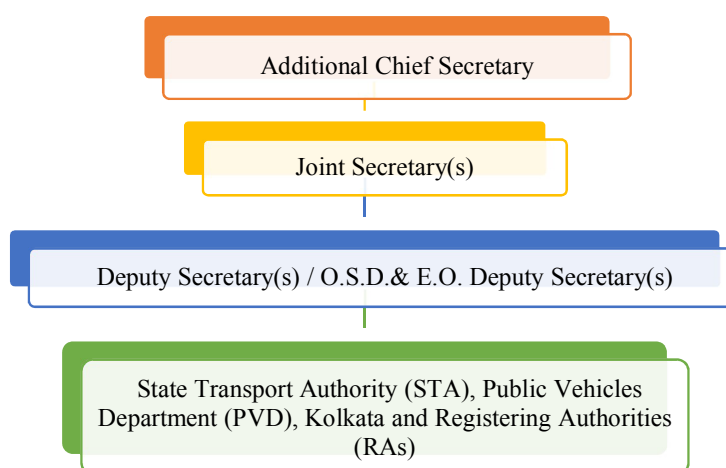
CHAPTER V

MOTOR VEHICLES TAX

5.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and Rules made thereunder and are under the administrative control of the Transport Department as detailed in the chart below:

Chart 5.1: Tax Administration



5.2 Internal audit

The Department, though requested (August 2018), failed to furnish details regarding the Internal Audit Wing (IAW). The performance of internal audit wing could not, therefore, be reviewed and reported.

Absence of internal audit wing in the Department was earlier pointed out in the Audit Report 2010 (No.5 Government of West Bengal) – “Performance audit on collection of Motor Vehicles Taxes, fees and fines of Government of West Bengal” (paragraph 4.15). It was concluded in the said Report, that in absence of internal audit, weakness in the functioning of the department remained undetected (paragraph 5.1). Further Audit recommended establishment of internal audit wing for conducting periodical audit and preparing a manual on internal control mechanism in the Department (paragraph 5.2), which was not done by the Department.

5.3 Results of audit

In 2017-18, test check of the records of 16 units conducted relating to road tax, additional tax, special tax, audio fee, special fee, video fee, dealer’s tax, permit fee and penalties showed under assessment of tax and other irregularities involving ₹ 430.21 crore in 124 cases, which fall under the following categories shown in the **Table 5.1**.

Table - 5.1
Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non-realisation of	15	371.53
	• Tax, additional tax and penalty (LMV)		
	• Tax, additional tax and penalty (transport/commercial vehicles)	16	29.54
	• Permit fees	13	24.19
	• Special fee	14	1.17
	• Audio fee	13	0.31
2.	Short realisation of	13	1.72
	• Road taxes from contract carriage vehicles		
	• Road tax from LMV/Omni buses (Pvt. Use)	13	0.18
	• Fines for delayed production of vehicles for Certificate of Fitness (C/F)	15	1.45
3.	Others	12	0.12
Total		124	430.21

During the course of the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 277.98 crore in 321 cases, of which 19 cases involving ₹ 13.56 crore were pointed out in audit during the year 2017-18 and the rest in earlier years. An amount of ₹ 1.45 crore was realised in 47 cases at the instance of audit.

5.4 Audit Methodology

Audit Data Analytics

The Transport Department of West Bengal uses an IT application, ‘e-VAHAN’, a software developed by National Informatics Centre (NIC), New Delhi as per the Memorandum of Understanding signed with Ministry of Road Transport and Highways (MoRTH), Government of India, for providing online services to the public. The core functions of the Department, i.e., issue/renewal of driving licenses, registration/cancellation of registration/renewal of registration, insertion/deletion of hypothecation of vehicles, collection of taxes, fees and fines, issue/renewal of Certificate of fitness to motor vehicles etc., have been computerised.

The stakeholders and Regional Transport Authorities (RTAs), access e-VAHAN through a web enabled application. The public (citizens) can access e-VAHAN application through the Government of India website (www.parivahan.gov.in) and app-based software “mParivahan”.

Upto December 2016, data relating to VAHAN was received in dump (dmp). After implementation of e-VAHAN, the data is received in the form of Comma Separated Value (.CSV) files from the Department. On the basis of data received, 16 high risk audit units were planned for audit in 2017-18, using risk parameters such as revenue collections and year of last audit.

The dump data was analysed using data analytic tool (IDEA) using functions in IDEA like extraction, appending, joining, summarisation etc. Hundred *per cent* population of the transaction data was analysed to detect exceptions for the selected 16 high risk units as follows:

1. Extraction of cases where lesser than applicable rates of taxes were realised based on data available in Owner table with Road tax collection tables.
2. Extraction of cases where fees levied is lesser than applicable rates based on data available in Fitness fees table.
3. Extraction of cases where there is no levy of tax based on data in Owner table and Road tax collected tables.
4. Extraction of cases where there is no realisation of Special tax based on data in Owner table and Additional Road tax collected tables.
5. Extraction of cases where there is no realisation of Special fees based on data in Owner table and Special fee tables.
6. Extraction of cases where there is no realisation of Audio fees based on data in Owner table and Audio fee tables.
7. Other similar analysis on additional tax, life tax and any other applicable taxes and fees.

Regular establishment audit, verification of receipts with treasuries and issue audit observations based on the audit analysis of the data was done by the field audits.

A detailed compliance audit on “**Working of check-posts under Transport Department**” with money value ₹ 162.32 crore and audit observations involving ₹ 257.70 crore made on the basis of test check of records in the Transport Department are discussed in the following paragraphs.

5.5 Detailed Compliance Audit on “Working of check-posts under Transport Department”

5.5.1 Introduction

The functioning of the Transport Department is governed by the Motor Vehicles (MV) Act, 1988, the Central Motor Vehicles (CMV) Rules, 1989, the West Bengal Motor Vehicles (WBMV) Rules, 1989 and notifications issued thereunder, from time to time. West Bengal has a road network of 19 State Highways (SH)¹⁴⁰ and 28 National Highways (NH)¹⁴¹ of length of 4505 km and 2997.8 km respectively. As on 31 March 2017, there were six inter-state¹⁴² and intra-state¹⁴³ check-posts¹⁴⁴ and two

¹⁴⁰ Official website of West Bengal Traffic Police, www.wbtrafficpolice.com as on 19.09.2018.

¹⁴¹ Data collected from Ministry of Road Transport and Highways (MoRTH) as on 30.06.2017.

¹⁴² ‘Inter-state’ means relating to two States- referred for the check-post located near State border.

¹⁴³ ‘Intra-State’ means within a State – referred for the check-post not located near State border.

¹⁴⁴ ‘Inter-state’ check-post- Beltala, Baxirhat, Rampur and Srirampur. ‘Intra-state’ check-post- Palsanda and Shaktigarh.

weighbridges¹⁴⁵ on NHs in West Bengal for enforcement of the provisions of MV Acts and Rules as shown in the following table:

Table - 5.2
Motor Vehicles Check-posts and weighbridges as on 31 March 2017

Sl. No	Name of Check- post	Year of establishment of Check-posts	Highway on which Check-post was set up	Whether Weighbridge set up/ Year of operation	Name of the District where the check-post/ weighbridge was set up
Inter-state check-posts					
1.	Rampur	1996	NH-2	No	Paschim Bardhaman
2.	Beltala	1998	NH-6	No ¹⁴⁶	Paschim Medinipur
3.	Barobisa, now Srirampur	2007/2014	NH-31C	Yes, by the concessionaire ¹⁴⁷ , M/s SIPL (2014)	Coochbehar
4.	Baxirhat	2010	NH-31	Yes, by the concessionaire, M/s TCECPL (2014)	Coochbehar
Intra-state check-posts					
5.	Saktigarh	2015	NH-2	No	Purba Bardhaman
6.	Palsanda	2016	NH-34	No	Murshidabad

Under the provisions of MV Acts/Rules any vehicle entering West Bengal from other States/plying within the State is required

- to carry a number of valid documents viz., Certificate of Fitness, national/temporary/special Permit, Pollution Control Certificate, Driving Licence etc.;
- to deposit certain fees and taxes viz., Additional Tax¹⁴⁸, Composition Fee¹⁴⁹;
- to follow certain road safety norms viz., carrying double driver in case of national permit holder, avoiding dangerous/rash driving, carrying side/back projection; and
- not to ply with excess height and excess weight as per Rules prevailing in the State.

¹⁴⁵ Operated by M/s Shamiyana Infrastructure Pvt. Ltd. (SIPL) and M/s Toofanganj Construction and Engineering Co. Pvt. Ltd. (TCECPL) at Coochbehar District near Assam border. Another weighbridge was established in August 2017 at Paschim Medinipur District being operated by M/s. West Bengal Motor Vehicles Weighbridge Corporation Ltd. (WBMVWCL).

¹⁴⁶ One weighbridge started operation in August 2017 after the completion of audit period.

¹⁴⁷ Right to run a business, especially in a building belonging to another business.

¹⁴⁸ Additional Tax means the tax leviable in respect of all vehicles as described in Schedule I of Section 3 of the WBAT&OT Act, 1989. In case of a motor vehicle registered outside West Bengal and is being used or is plying in West Bengal, additional tax in respect of such vehicle shall be realised at the prescribed rates for the period during which such vehicle is plying or staying in West Bengal.

¹⁴⁹ Section 200 of the MV Act -Any offence punishable u/s 177, 178, 179, 180, 181, 182,183(1&2), 184, 186, 189,190(2),191, 192, 194, 196 and 198 be compounded by such officers/authorities and as such amount the State Government may, by notification in the Official Gazette, specify in this behalf.

Non-observance of any of these conditions makes the driver/owner of vehicle liable to pay penalty and fine as per provisions of Motor Vehicles Acts and Rules. Further in order to ensure follow up of all the conditions, detailed checking of all the vehicles is essential at check-post/weighbridge.

During the period from 2014-15 to 2016-17, revenue realised in the form of penalty and fines from compounding of offences at the six check posts and weighing fees realised at two weighbridges was ₹ 153.53 crore and ₹ 2.80 crore¹⁵⁰ respectively.

5.5.2 Audit objectives, scope and methodology

Audit was undertaken with a view to ascertain whether:

- activities of check-posts and weighbridges conform with the provisions of the Acts, Rules and notifications made there under;
- agencies under Public Private Partnership (PPP) models were working as per extant provisions of Rules; and
- relevant provisions of Acts/Rules are being implemented effectively to safeguard State revenue.

Audit was conducted between January 2018 and June 2018 in the office of Transport Department and five out of the six check-posts¹⁵¹ in the State. It covered the period from April 2014 to March 2017. Information collected from two weighbridges¹⁵² was cross-checked with the records of the check-posts. Information/data from other Departments¹⁵³ were also collected and cross verified with the VAHAN data to ascertain if there were overloading of vehicles.

5.5.3 Audit findings

5.5.3.1 Computerisation of check-posts not done

Computerisation in Motor Vehicles Offices started from the year 2000 with software 'Transport Information System (TIS)' by the Transport Department, West Bengal. Under National e-Governance Plan (NeGP), customised Software 'VAHAN' and 'SARATHI' were implemented from the year 2004 in phased manner in Transport Department.

It was observed that none of the five check-posts, selected in audit, had been computerised. The process of verification of documents, estimation of penalty and its collection at these check-posts were being done manually. Under the manual system, inspection of all vehicles passing through these check-posts was not possible within limited time due to heavy traffic movement. Further, in the absence of digital data of check-posts, it was very difficult to identify the repeat offences¹⁵⁴. In the absence of computerisation of the check-posts, there

¹⁵⁰ **Compounding fees** for 2014-15 ₹ 40.37 crore, 2015-16 ₹ 52.30 crore and 2016-17 ₹ 60.86 crore; **Weighing fees (SIPL)** 2014-15 ₹ 12.88 lakh, 2015-16 ₹ 72.58 lakh and 2016-17 ₹ 60.49 lakh; **Weighing fees (TCECPL)** 2014-15 ₹ 12.08 lakh, 2015-16 ₹ 37.29 lakh and 2016-17 ₹ 84.36 lakh

¹⁵¹ Except Palsanda check post operational from 2016.

¹⁵² SIPL and TCECPL.

¹⁵³ Data/information of Excise Department and Public Works Department relating to vehicles used for carrying goods .

¹⁵⁴ First offence, 2nd offence, 3rd offence and subsequent offences, committed by the vehicle owners.

was bound to be loss of Government revenue in the form of taxes, fees and penalties from vehicles plying in contravention of Act.

After this was pointed out in May 2018, the Additional Secretary, Transport Department stated (August 2018) that a new software namely, e-Challan i.e Computerised system for enforcement activities was undergoing testing phases and was expected to be implemented shortly in this State under e-VAHAN and e-Sarathi which are being used nationally. This issue of non-computerisation of check-posts which defeated the very purpose of introduction of VAHAN, was pointed out in Para 5.7.7 of the C&AG Audit Report 2011 (No. 5 of Government of West Bengal). The Department has, however, failed so far to computerise the check-posts.

5.5.3.2 Shortfall in establishment of Check-posts/weighbridges

The Transport Department identified 17 different locations in 2008 for setting up check-posts with weighbridges. Only one check-post and two weighbridges were, however, set up under Build Own Operate (BOO) basis. Thus, only four check-posts including three existing check-posts and two weighbridges were operational on National Highways (NH) crossing the inter-state border against network of 47 Highways (28 NH and 19 SH) in the State.

Check-posts and weighbridges were to be set up at 17 specified locations on Build Own Operate (BOO) basis under Public Private Partnership (PPP) model. Audit noticed irregularities in establishment of check-posts and weighbridges as detailed in the succeeding paragraphs.

In 2008, the Transport Department, Government of West Bengal, decided to set up check-posts/weighbridges with Motor Vehicle Offices and other facilities on both sides of the National Highway (NH) and State Highway (SH) in West Bengal.

The objective of setting up of weighbridges/check-posts was to enforce the provisions of Motor Vehicles Acts, Rules and regulations related to various kinds of permits, excess weight, realisation of Government revenue¹⁵⁵ etc.

Through bidding process (February 2008), three¹⁵⁶ private partners were selected (February 2008) out of six vendors¹⁵⁷ for installation of the weighbridges and with liability to construct the Motor Vehicle Office/Check-posts with all other facilities. The Department executed “concession agreement” with three parties between March 2008 and July 2008 for 14 locations. For construction of Check-posts/installation of weighbridges at the remaining three locations of existing check-posts, further action, if any, taken was not found on record.

¹⁵⁵ U/s 177 to 198 of MV Act.

¹⁵⁶ TCECPL, SIPL and WBMVWCL.

¹⁵⁷ As per record of West Bengal Transport Infrastructure Development Corporation Limited (WBTIDCL) @ 10,000 for each locations as bid money deposited by the bidders namely- (i) K.S. Softnet for 17 locations, (ii) M/s Amritlal Chatterjee Pvt. Ltd for 12 locations, (iii) M/s Refcon Projects for 12 locations, (iv) M/s West Bengal Motor Vehicles Weigh Bridge Corporation Ltd. for 15 locations, (v) M/s Tufanganj Construction & Engineering Pvt. Ltd. (for one location) and (vi) M/s Shamiyana Infrastructure Pvt. Ltd. (for one location). WBTIDCL is a State Government undertaking corporation functioning under the Transport Department. Recital of the Agreement between Government and concessionaire shows that concessionaires were directed to deposit ‘performance security’ to WBTIDCL.

It was observed that against these 14 check-posts/weighbridges, only one inter-state check-post with one weighbridge at Baxirhat (NH-31) and one weighbridge¹⁵⁸ at Srirampur both in Coochbehar district (NH-31C) were established under the concession agreement.

As regards other 13 check-posts/12 weighbridges¹⁵⁹, the Department in its reply stated (August 2018) that the work was stalled due to court cases/litigation on different issues. At Shaktigarh, Purba Bardhaman (NH-2) and at Palsanda, Murshidabad (NH-34), however, two intra-state check-posts were set up by the Department itself during the year 2015 and 2016, respectively.

The status of establishment of check-posts/weighbridges at Highways is depicted in the following map:



(Not to scale)

Thus, only six check-posts and two weighbridges were operational¹⁶⁰ on 47 highways (28 NHs and 19 SHs) as on 31 March 2017 which cannot be considered adequate to curb various transport offences through enforcement of provisions of MV Acts and Rules. In the absence of check-posts and weighbridges, there was bound to be loss of Government revenue in the form of taxes, fees and penalties from vehicles plying in contravention of Acts.

After inadequacy of check-posts was pointed out (May 2018), the Additional Secretary, Transport Department stated (August 2018) that the Transport Department had engaged concessionaires to install 14 Motor Vehicle check-posts¹⁶¹ through BOO model covering all the major roads/points at the inter-state

¹⁵⁸ Two weighbridges were made operational in June 2014 and December 2014 respectively.

¹⁵⁹ One weighbridge at Beltala, Paschim Medinipur (NH-6) was made operational in August 2017 under Concession agreement.

¹⁶⁰ One weighbridge was made operational in August 2017, after the completion of the Audit period.

¹⁶¹ Only one check-post was established at Baxirhat in Coochbehar district out of these 14 check posts.

borders which was later stalled due to court cases and litigations on different issues. The fact is, Department could not establish the targeted number of check posts and weighbridges even after a lapse of more than 10 years of awarding work. Moreover, the Department could also have established more check-posts like it did in Purba Bardhaman (NH-2) and Murshidabad (NH-34) in the year 2015 and 2016, respectively.

5.5.3.3 Discrepancies/deviations relating to Concessionaire agreement

As discussed in para 5.4.3.2 above, the 'Concession agreements' were executed between the Department and the owners of weighbridges on Build-Own-Operate (BOO) basis to set up weighbridges at different locations in West Bengal. In this connection, we observed as follows:

(i) Uniform percentage of Government share from weighing fees not maintained

Government shares on collection of weighing fee were fixed at different rates for different concessionaires.

Article 6.2 of the "concession agreement" prescribes that the concessionaires were to pay a share of the revenue collected as weighing fees to the State Government on a monthly basis. The weighing fees were to be realised @ ₹ 100 each from all goods vehicles having up to six wheels and @ ₹ 200 each from all goods vehicles having more than six wheels.

The share of Government revenue to be paid by the concessionaires from the weighing fees collected by them at weighbridges was fixed at different rates for the two vendors. While share of revenue from collection of weighing fees from the weighbridge operated by M/s TCECPL was initially seven *per cent*, subsequently revised to 14 *per cent* of the collection, that from other weighbridge operated by SIPL was initially 5.27 *per cent*, subsequently revised to 11.5 *per cent* of the collection. Share of weighing fees of ₹ 84.22 lakh was realised from M/s TCECPL in case of 3,51,215 vehicles and of ₹ 60.25 lakh from M/s SIPL in case of 2,85,742 vehicles in 2016-17.

The basis of fixation of different rates for Government dues to be collected from these two vendors, initially and at the time of revision, could not be ascertained from the records of the Department. Thus, fixation of fees at different rates led to estimated loss of Government revenue amounting to ₹ 13.10 lakh @ 2.5 *per cent* of weighing fee collected from each vehicle that passed through the weighbridges operated by SIPL.

After this was pointed out (May 2018), the Additional Secretary, Transport Department accepted the audit observation and stated (August 2018) that the Transport Department would consider to make government share uniform for all the concessionaires.

(ii) Violation of terms and condition of 'Concession Agreement'

Performance security of ₹ 13 lakh was not deposited by successful bidders.

As per the "Concession Agreement" successful bidders were to pay performance security at the rate of ₹ one lakh for each weighbridge to be set up by them

after seven days of the execution of the agreements. The performance security was payable in the form of Bank Draft or Bank Guarantee in favour of “West Bengal Transport Infrastructure Development Corporation Ltd” (WBTIDCL). Thus, performance security of 14 lakh was payable by the three bidders for 14 specified locations.

Audit found from records maintained by WBTIDCL that except for one bidder who paid ₹ one lakh as performance security in July 2008 for setting up one weighbridge station, the other two bidders did not pay the requisite performance security. As a result, performance security of ₹ 13 lakh for setting up of 13 weighbridge stations remained unrealised from two bidders. Thus, the Department could not monitor and ensure the collection of security deposit from the successful bidders.

After this was pointed out (May 2018), the Additional Secretary, Transport Department accepted the audit observation and stated (August 2018) that the WBTIDCL was being requested to furnish a report to the Department.

(iii) Loss of revenue due to non-realisation of weighing fees during 21 days after demonetisation

There was non-realisation of revenue as share of weighing fees of ₹ 8.44 lakh due to absence of transactions of weighing for 21 days.

Article 6.2 of the “concession agreement” prescribes the percentage of share of Government from weighing fees at seven¹⁶²/ 5.27¹⁶³ per cent, payable on a monthly basis, by the concessionaires. The weighing fees was to be collected @ ₹ 100 each from all goods vehicles having upto six wheels and @ ₹ 200 each from all goods vehicles having more than six wheels. The percentage of share of Government was further revised to 14¹⁶⁴/ 11.5¹⁶⁵ per cent payable from weighing fees. In the wake of demonetisation¹⁶⁶, Finance Department, Government of West Bengal, issued instructions to the RTOs/ARTOs, to not collect taxes/fees/penalties in cash with effect from 14 November to 2 December 2016. There was however no restriction in making payments by other modes including electronic payment.

During the course of audit, it was noticed from analysis of data in respect of the two weighbridges¹⁶⁷ that weighing fees at these weighbridges were not realised for 21 days from 15 November 2016 to 5 December 2016. The weighbridges attached to these check-posts concerned deferred collection of weighing fees. As a result, non-realisation of revenue as share of weighing fees worked out in audit on average basis, amounted to ₹ 8.44 lakhs (₹ 3.52 lakh¹⁶⁸ and ₹ 4.92 lakh¹⁶⁹) in 21 days.

After this was pointed out (May 2018), the Additional Secretary, Transport Department stated (August 2018) that the DM, Coochbehar was requested to look into the matter.

¹⁶² TCECPL.

¹⁶³ SIPL.

¹⁶⁴ TCECPL.

¹⁶⁵ SIPL.

¹⁶⁶ Indian currency of ₹ 500 and ₹ 1,000.

¹⁶⁷ TCECPL and SIPL.

¹⁶⁸ Average share of GOWB of ₹ 5.04 lakh per month on ₹ 60.49 lakh in the year 2016-17- SIPL.

¹⁶⁹ Average share of GOWB of ₹ 7.03 lakh per month on ₹ 84.36 lakh in the year 2016-17- TCECPL.

5.5.3.4 Irregularities in check-posts at West Bengal-Assam border

There are two weighbridges and two check-posts at the Assam-West Bengal border at Baxirhat and Srirampur. Data of the two weighbridges¹⁷⁰ was obtained from the RTO, Coochbehar and found that 12,51,233 transport vehicles¹⁷¹ crossed the two check-posts during the period from June 2014 to March 2017. This data was cross-checked with the manual data maintained at the check-posts. The audit observations are discussed in the succeeding paragraphs:

(i) Temporary permit and special permit not issued at check-posts

Not a single case was found registered against any vehicle in three years for not having valid permit in either check-post

Under Sections 87 and 88(8) of the Motor Vehicles Act, 1988 temporary permit¹⁷² and Special permit¹⁷³ will be issued by RTA (Regional Transport Authority)/STA (State Transport Authority) to vehicles coming from other States for limited period of time. In cases where transport vehicles enter the State without valid permits, RTA of the check-post concerned shall issue permits after realisation of permit fees and compounding fine under Section 192A of the Act for not carrying permits.

While 12,51,233 vehicle crossed Baxirhat and Srirampur check-posts between June 2014 to March 2017, inspection of the compounding registers of these check-posts, revealed that not a single offence case was registered under Section 192A against any vehicle. It was highly unlikely that out of 12,51,233 goods vehicles entering the state, all of them possessed valid permits or had no offense cases to be registered against them. This indicates that defaulting vehicles were allowed to enter the State through these check-posts without issuing temporary or special permits and without collection of permit fees and compounding fines. Moreover, the DM, Coochbehar in August 2017 had informed the Transport Department that the estimated loss of revenue at the two check-posts due to non- issuance of Temporary Permits was ₹ 55 lakh per month.

After this was pointed out (May 2018), the Additional Secretary, Transport Department accepted the audit observation and stated (August 2018) that issue of permits from check-posts could not be commenced as posting of Motor Vehicle Inspectors (MVIs) at Baxirhat was delayed because of shortage of manpower and time taken for engagement of contractual MVIs. Shortage of manpower, however, cannot justify such huge loss of revenue due to non- issuance of permits at the check posts.

(ii) Short levy of penalty

Cases were not compounded at higher rate for the second and subsequent offences of overloading committed by the owners or drivers of vehicles.

As per Notification¹⁷⁴ issued in November 2004, rate of penalty for compounding

¹⁷⁰ SIPL and TCECPL.

¹⁷¹ 5,21,791 vehicles crossed from Baxirhat check-posts from April 2015 to March 2017 and 7,29,442 vehicles crossed Srirampur check-post from June 2014 to March 2017.

¹⁷² To be issued by RTA/STA for the period not exceeding four months to authorise the use of transport vehicles temporarily in other State.

¹⁷³ To be issued by RTA/STA to any public service vehicles for the convenience of the public for carrying passenger(s) for hire or reward under a contract.

¹⁷⁴ Notification no.4985 WT/3M-80/2002 dated 8 November 2004.

offence committed under section 194(a) and (b) of the Act, i.e., driving vehicle exceeding permissible weight, is prescribed as ₹ 2,000 for first offence, ₹ 3,000 for second offence and ₹ 5,000 for third and subsequent offences.

Audit test checked Compounding Registers maintained manually at Baxirhat and Srirampur check-posts. It found that 1,532 cases of overloading at Baxirhat check-post and 5,671 cases of overloading at Srirampur check-post were detected during the period between December 2014 and March 2017. It was observed from analysis of these cases that 53 vehicles were caught overloaded two to seven times (123 cases) at Baxirhat check-post and 439 vehicles were caught overloaded two to eight times (1,013 cases) at Srirampur check-post. Penalty for compounding offence at the rate of ₹ 2,000, applicable for the first offence, was realised from these vehicles even for subsequent offences. Thus, due to non-imposition of penalty at higher rates for second and subsequent offences committed by these vehicles, there was short realisation of penalty of ₹ 10.73 lakh (Baxirhat check-post-₹ 1.38 lakh and Srirampur check-post-₹ 9.35 lakh).

As the check-posts maintained manual records, there was no mechanism to detect vehicles that were repeat offenders, hence, compounding at higher rates was not done.

After this was pointed out (May 2018), the Additional Secretary, Transport Department accepted the audit observation and stated (August 2018) that in absence of a computer system and database of offences already committed, it was hard to detect the second or subsequent offences on spot instantly at the time of checking. After commencement of e-challan system, the new version of software, it would be possible to detect such offences and the system would calculate the compounding fine to prevent such loss of revenue.

(iii) Non-levy of penalty on overloaded vehicles

Penalty from overloaded vehicles was not levied in 3,79,349 cases.

Under Section 194 of the Motor Vehicles Act 1988, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provision of Section 113 or 114¹⁷⁵ shall be punishable with minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per tonne of excess load, together with the liability to pay charges for off-loading of the excess load.

Analysis of data of two weighbridges, M/s SIPL and M/s TCECPL, at Coochbehar revealed that 12,51,233 goods vehicles (M/s SIPL-7,29,442 vehicles and M/s TCECPL-5,21,791 vehicles) were weighed during the period between December 2014 and March 2017. Of these, 3,87,539 goods vehicles were found to have carried load in excess of their registered laden weight. From the records of Srirampur check-post (SIPL) and Baxirhat check-post (TCECPL) it was revealed that penalty amounting to ₹ 3.46 crore was realised in 8,190

¹⁷⁵ Section 113 of MV Act deals with limits of weight and limitations on use. Section 114 provides provisions regarding power to have vehicle weighed.

cases. No penalty was levied in 3,79,349 cases for overloading amounting to ₹ 162 crore as detailed in the table below:

Table - 5.3

Weighbridge operated by	Period	Goods vehicles weighed as per weighbridge data	Vehicles found overloaded	Penalty realised during the period (in ₹)	Non levy of Penalty (in ₹)	Remarks
M/s SIPL Srirampur	December 2014 and March 2017	7,29,442	2,45,197 (33.6 per cent)	2.81 crore (6,640 cases)	80.69 crore (2,38,557 cases)	
M/s TCECPL ¹⁷⁶ Baxirhat	April 2015 to May 2016	2,17,793	1,00,876 (46.32 per cent)	nil	63.62 crore (1,00,876 cases)	Non deployment of Enforcement Wing
	June 2016 and March 2017	3,03,998	41,466 (13.64 per cent)	64.70 lakh (1,550 cases)	17.68 crore (39,916 cases)	
Total		12,51,233	3,87,539	3.46 crore (8,190 cases)	161.99 crore (3,79,349 cases)	

After this was pointed out (May 2018), the Additional Secretary, Transport Department accepted the audit observation and stated (August 2018) that at Baxirhat check-post though the concessionaire completed installation of check-post in time, there was no enforcement activity from April 2015 to May 2016 in absence of any Motor Vehicle officer. Moreover, enforcement activities at both check-posts could not be done round the clock due to inadequate number of officers.

(iv) Non-realisation of compounding fines

Compounding fines were not realised from owners of overloaded tankers due to non-interception at the check-post.

In terms of Section 194 read with Section 113 of the Motor Vehicles Act, 1988 and Notification¹⁷⁷ issued in November 2004, whoever drives a motor vehicle with laden weight in excess of the permissible limit shall be punishable with minimum fine of ₹ 2,000 per vehicle plus an additional amount of ₹ 1,000 for each ton and part thereof.

Audit cross-checked records of two¹⁷⁸ breweries located at Asansol, Paschim Bardhaman, with the records of Rampur and Shaktigarh check-posts. It noticed that 208 tankers of spirit with laden weight in excess of the permissible limit were carried from four states¹⁷⁹ through Rampur check-post between June 2014 and March 2017 for preparation of alcoholic beverages. Further 29 tankers of spirit from a company¹⁸⁰ in South 24 Parganas, Kolkata was carried through Shaktigarh check-post between January 2016 and March 2017 also having

¹⁷⁶ Already incorporated in CAG'S Audit Report 2016-17 para no.4.8.

¹⁷⁷ No. 4985-WT/3M-80/2002 dated 8 November 2004.

¹⁷⁸ M/s United Spirit Ltd and M/s Pincon Spirit Ltd.

¹⁷⁹ Punjab, Bihar, Jharkhand and Chandigarh.

¹⁸⁰ IFB Agro Industries Ltd.

excess load beyond permissible limit prescribed in their RC. The tankers entered West Bengal through these two check-posts, without being intercepted. As a result, no penal action was taken against those defaulting tankers for carrying excess load. This resulted in non-levy of compounding fine amounting to ₹ 8.03 lakh and ₹ 1.37 lakh at the Rampur and Shaktigarh check-posts, respectively. Further, due to non-interception at check-post these tankers continued plying without off-loading of their excess weight.

After this was pointed out (May 2018) the Additional Secretary, Transport Department accepted (August 2018) that the check-post at Rampur was established long before and was still not equipped with the facilities or infrastructure with separate lane and barricades and weighbridge for checking every vehicle passing through. As a result, vehicles were not checked at that check-post and overload offences could not be detected and compounding of such offence could not be done. The reply of the Transport Department is not tenable as it is the responsibility of the Department to develop adequate infrastructure required for revenue collection at the check-posts. In case of Shaktigarh check-post, the Additional Secretary, Transport Department did not furnish specific reply (December 2019).

5.5.3.5 Partial enforcement of Carriage by Road Act leading to improper monitoring of cases of overloading at check-posts

Cases of overloading by common carriage operators were not monitored in the absence of information/returns submitted by them as prescribed in the Carriage by Road Act.

As per Section 4 (1&2) of the Carriage by Road Act, 2007, any person who is engaged or intends to engage in the business of a common carrier, shall apply for the grant or renewal of a certificate of registration for carrying on the business of common carrier to the registering authority (RA)¹⁸¹. As per Section 7 of the Act *ibid*, the holder of certificate under this Act should furnish information and return, giving the details of goods carried by the common carrier to RA as may be prescribed. Further, Section 8(4) of the Act prescribes that a common carrier shall not load the motor vehicles beyond the gross vehicle weight mentioned in the registration certificate. Section 5(3) of the Act authorises the RA to impose penalty in cases of overloading.

It was noticed from Profession Tax data obtained from Directorate of Commercial Taxes (DCT), West Bengal, that 260¹⁸² common carriage operators were registered as transporters. On cross verification of the DCT data with the records of the RA, Purba Bardhaman, it was found that out of 260 operators, only one common carriage operator was registered in this RA. Thus, the remaining 259 common carriage operators, though operated their business as transporters, remained unregistered with the RA concerned. As such, cases of overloading by these operators could not be identified in the absence of information/returns submitted by them.

¹⁸¹ Registering authority means a State Transport Authority or a Regional Transport Authority constituted under Section 68 of the Motor Vehicles Act, 1988.

¹⁸² Registered under schedule 2(h) of profession tax, under Asansol charge, Durgapur charge and Bardhaman charge - (64 transporters).

After this was pointed out (May 2018), the Additional Secretary, Transport Department stated (August 2018) that the DM, Paschim Bardhaman was requested to look into the matter.

These are the results of the test check of records made available to audit. There may be similar irregularities, errors/omissions in other units under the department but not covered in the test audit. Department may, therefore, examine all the units with a view to ensure that the taxes are levied as per provisions of the Act and rules.

5.5.3.6 Lack of Infrastructure and manpower at the check-posts

There was lack of basic infrastructure such as barricades, by-lanes, building, manpower etc. required for enforcement of provisions of Act and Rules of Motor Vehicles effectively.

Basic infrastructure like barricade to stop the vehicles, by-lane attached to the main road, public utility facilities, close circuit television, police personnel, are required at check-posts for enforcement of provisions of Act and Rules of Motor Vehicles.

It was noticed that out of five¹⁸³ check-posts audited, in three¹⁸⁴ check-posts, there was no basic infrastructure to carry out enforcement activities effectively as detailed below:

- **Barricades:** There was no barricade to stop the vehicles for detailed checking at Rampur and Saktigarh check-posts. Without barricades, it was life threatening for the enforcement officials to stop the speeding vehicles on the highway for verification of documents and penalise the defaulters.
- **By-lanes:** There were no by-lanes on the highway at Rampur and Saktigarh check-posts to stop and queue commercial vehicles for detailed checking without affecting normal movement of other vehicles.
- **Building:** Shaktigarh check-post was a temporarily built, container based housing. Such accommodation seemed insufficient to work and store the office records like seizure lists, compounding slips, case registers, temporary permit registers and other related files. Further, Rampur check-post had no public utility facilities .
- **Police Deployment:** The average daily collection of revenue at Rampur check-post was ₹ 7.26 lakh¹⁸⁵ and at Shaktigarh check-post was ₹ 3.84 lakh. The nearest police station was situated at about six to seven kilometers away from these check-posts. However, no police personnel were deployed at the Rampur check-post to provide security. Audit also found that the Saktigarh check-post was ransacked in July 2016 and staff had to flee to save their lives.
- **CCTV camera:** NO CCTV cameras were installed at Rampur, Saktigarh and Beltala check-posts.
- **Manpower:** Check-posts are to be manned full time for vigilance, monitoring of movement of vehicles and enforcement of provisions of

¹⁸³ Baxirhat, Srirampur, Beltala, Rampur and Shaktigarh.

¹⁸⁴ Rampur, Beltala and Saktigarh check-posts.

¹⁸⁵ Calculated on the basis of annual collection for the year 2016-17.

MV Acts and Rules. As check-posts were yet to be computerised, adequate officials were required for manual processing, assessment and collection of taxes, fees and penalties. Enforcement activity were affected adversely due to shortage of manpower to their sanctioned strength.

Thus, the Department failed to ensure establishment of sufficient infrastructure for smooth working at check-posts. Reason for non-establishment of proper infrastructure could not be ascertained from the records.

After this was pointed out (May 2018), the Additional Secretary, Transport Department stated (August 2018) that infrastructure including public utilities and CCTVs would be set up; police authorities had been requested to provide security at check-posts. He further accepted that there was acute shortage of MVI and ARTO level officers under Transport Department.

Audit had earlier pointed out on the lack of proper infrastructure in Rampur Motor Vehicles Check-post in Para 4.13 of the CA&G Audit Report 2010 (No.5 Government of West Bengal)– “Performance audit on collection of Motor Vehicles Taxes, fees and fines of Government of West Bengal”. The Department, however, had not taken corrective measures and therefore infrastructure was still deficient.

5.6 Other Compliance issues

Apart from detailed compliance audit on “Working of Check posts in Transport Department”, data in respect of 71,03,615 vehicles was obtained from 16 out of 28 Registering Authorities (RAs) during 2017-18 and analysed to ascertain the extent of compliance of provisions of the Acts and rules framed thereunder. The findings in respect of 2,94,263 vehicles (4.14 *per cent*) out of 71,03,615 vehicles across various RAs involving ₹ 257.70 crore are discussed in the following paragraphs:

5.6.1 Non-mapping of provisions of the Acts and Rules in the VAHAN software

Collection of motor vehicles taxes, fees and fines is guided by provisions laid down in the WBMVT Act, 1979, the WBAT&OTMV Act, 1989, the Motor Vehicles (MV) Act, 1988 and the Central Motor Vehicles (CMV) Rules, 1989. For effective implementation of these provisions, it was essential that all the provisions were mapped properly in the VAHAN software to prevent any non/short realisation of Government revenue.

During analysis of data of 16 RAs, it was observed that various provisions of the Acts and Rules (Transport Department) were either not mapped or were mapped partially in VAHAN software for realisation of revenue due at the time of payment of taxes by owners of the vehicles. This resulted in non/short realisation of revenue of ₹ 257.70 crore as detailed in the subsequent sub-paragraphs.

5.6.1.1 Tax, additional tax, penalty and special fee not realised

Tax, additional tax, penalty and special fee of ₹ 240.52 crore were not realised from owners of 1,23,361 vehicles.

Section 3 of West Bengal Motor Vehicles Tax Act (WBMVT) Act, 1979 and Sections 3 and 4 of the West Bengal Additional Tax & One-time Tax on Motor Vehicles (WBAT&OTMV) Act, 1989 prescribe the rates of tax and additional tax on vehicles. Further, Sections 11 and 10 of the Acts respectively, provide for imposition of penalty in case of non-payment of taxes. Rule 26 of the West Bengal Motor Vehicles Tax (WBMVT) Rules, 1957 prescribes that the RA shall maintain a Tax Demand Register (TDR) in Form 'J', showing registration number of the vehicle, name and address of the owner, tax due etc. The RA shall review the register in order to see whether the tax is regularly paid and shall take prompt action against owners for non-payment of tax. However, with the introduction of VAHAN software in July 2004, the RAs discontinued maintenance of TDRs manually.

In addition, Rule 121 of the West Bengal Motor Vehicles (WBMV) Rules, 1989 prohibits plying of heavy goods vehicles having gross vehicle weight (GVW) above 22,542 kg within the State Government of West Bengal relaxed this provision in February 1991. Plying of such vehicles is now permitted on payment of a special fee at varying rates depending on the GVW.

Audit analysed data relating to payment of taxes, fees and fines obtained from 21 RAs during the period between January 2017 and February 2018. It was found that the VAHAN software did not have the provision to maintain TDR electronically to monitor payment of taxes, fees etc., falling due from the owners of vehicles. VAHAN also did not have any provision to generate a report providing information as required in the TDR, by collating data spread across various tables created in the software. However, by analysing the data across different tables in VAHAN software, Audit calculated taxes and penalty of ₹ 239.44 crore which was realisable from the defaulting owners of 1,23,361 vehicles during 2013-2017. Out of these, owners of 5,506 vehicles were also liable to pay special fees¹⁸⁶ of ₹ 1.07 crore during the period. Thus, non-maintenance of TDRs deprived the Department of monitoring and taking necessary action against tax defaulting owners of vehicles. The software only generated the list of defaulting vehicles, without details of the period of default and amount involved therein. Though the Department was aware of these deficiencies in the software, which were pointed out in earlier Audit Reports, no corrective measures were taken to address these.

Thus tax, additional tax¹⁸⁷, penalty and special fee of ₹ 240.52 crore were not realised as detailed in table:

¹⁸⁶ Payable by vehicles having GVW above 22,542 kg plying within the State.

¹⁸⁷ Any motor vehicle in respect of which tax has been paid is altered in such a manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the person who keeps such vehicle shall be liable to pay an additional tax of a sum which is equal to the difference between the tax already paid in respect of vehicle after its being so altered.

Table - 5.4
Tax, additional tax, penalty and special fee not realised

(₹ in lakh)

Sl.No.	Name of the RA	Period of default	Tax, additional tax and penalty		Special fee		Total amount of non-realisation
			Total no. of defaulting vehicles	Amount of non-realisation	Total no. of defaulting vehicles	Amount of non-realisation	
1.	Alipore	2014-17	34,141	7,783.28	1,049	17.23	7,800.51
2.	Bankura	2015-17	1,518	169.72	71	0.85	170.57
3.	Barasat	2015-16	6,422	991.99	244	5.70	997.69
4.	Barrackpore	2015-16	3,621	727.92	520	11.78	739.70
5.	Birbhum	2015-17	2,885	318.27	572	5.91	324.18
6.	Burdwan	2013-16	6,967	1,025.42	384	12.13	1,037.55
7.	Contai	2014-17	1,974	251.23	172	1.78	253.01
8.	Cooch Behar	2015-17	1,638	216.14	Nil	Nil	216.14
9.	Durgapur	2013-16	2,637	778.52	152	4.40	782.92
10.	Howrah	2015-16	3,918	439.66	206	5.72	445.38
11.	Jalpaiguri	2014-16	2,075	223.54	Nil	Nil	223.54
12.	Kalimpong	2014-16	88	11.03	Nil	Nil	11.03
13.	Malda	2015-17	3,834	652.53	493	6.28	658.81
14.	Nadia	2014-17	5,837	667.91	95	2.39	670.30
15.	Paschim Medinipur	2015-17	12,679	1,549.95	785	11.08	1,561.03
16.	Purba Medinipur	2015-16	1,771	297.66	231	5.62	303.28
17.	Purulia	2015-17	1,549	146.05	56	0.61	146.66
18.	Public Vehicles Department (PVD), Kolkata	2015-16	17,446	5,603.81	113	3.55	5,607.36
19.	Siliguri	2013-16	7,797	1,788.60	289	10.50	1,799.10
20.	Uluberia	2015-17	1,761	26.49	Nil	Nil	26.49
21.	Uttar Dinajpur	2014-16	2,803	274.71	74	1.78	276.49
Total			1,23,361	23,944.43	5,506	107.31	24,051.74

After Audit pointed out the cases,

- 15 RAs¹⁸⁸ accepted¹⁸⁹ audit observations in 65,351 cases involving tax, additional tax and penalty of ₹ 143.97 crore. Of these, six RAs¹⁹⁰ intimated realisation of ₹ 1.04 crore in 864 cases.
- In respect of special fees, seven RAs¹⁹¹ accepted¹⁹² audit observations in 1,625 cases involving ₹ 43.27 lakh. Of these, five RAs¹⁹³ realised ₹ 1.95

¹⁸⁸ Alipore, Barrackpore, Burdwan, Contai, Durgapur, Howrah, Jalpaiguri, Kalimpong, Nadia, Purba Medinipur, Purulia, PVD; Kolkata, Siliguri, Uluberia and Uttar Dinajpur.

¹⁸⁹ Between November 2017 and April 2018.

¹⁹⁰ Alipurduar, Burdwan, Cooch Behar, Hooghly, Howrah and PVD, Kolkata.

¹⁹¹ Barrackpore, Burdwan, Durgapur, Howrah, Nadia, Purba Medinipur and Uttar Dinajpur.

¹⁹² Between November 2017 and April 2018.

¹⁹³ Barrackpore, Burdwan, Howrah, Nadia and Raiganj.

lakh in 101 cases. In respect of the 289 cases involving ₹ 10.50 lakh, ARTO, Siliguri contested the audit observation stating that enforcement programme were being made on a regular basis and vehicles had been blacklisted. As such, non-realisation of special fee did not arise. The reply of ARTO, Siliguri was not tenable, as special fees were not realised, although the vehicles involved in these cases were blacklisted. Moreover, there is no provision under the Act for blacklisting of defaulting vehicles.

- In the remaining cases, RAs did not furnish any specific reply (December 2019).

The matter was reported to the Government in July 2018. Their reply was awaited.

5.6.1.2 Permit fee not realised

RAs did not realise permit fee of ₹ 12.87 crore from owners of 15,011 transport vehicles plying with expired permits.

Section 66 of the Motor Vehicles (MV) Act, 1988 provides that the owner of a transport vehicle¹⁹⁴ can use his vehicle in a public place only after obtaining a permit from the prescribed authority. Rules 126 and 127 of the WBMV Rules, 1989 prescribe that fees for application and grant/renewal of permit in respect of different kinds of vehicles are realisable as per rates specified in Schedule-‘A’ of the Rules.

Audit checked permit registers and analysed data of 15 RAs between February 2017 and February 2018. It was found that 15,011 public transport vehicles were plying with expired permits during 2013-17. Audit also noticed that owners of those vehicles were paying fitness fees and road taxes, indicating that those vehicles were plying on road and were not lying idle. The RAs, however, did not realise permit fees from them while collecting other taxes as there was no provision in the system to raise an alert regarding non-payment of permit fee at the time of collection of other taxes. Thus, there was non-realisation of permit fee of ₹ 12.87 crore as detailed in the following table:

Table - 5.5
Permit fee not realised

(₹ in lakh)

Sl. No.	Name of the RA	Period of default	No. of vehicles	Permit fee not realised (including fines)
1.	Alipore	2014-17	604	54.04
2.	Bankura	2015-17	2,644	224.46
3.	Barasat	2015-16	372	33.52
4.	Birbhum	2015-17	1,522	127.80
5.	Burdwan	2013-16	58	3.75
6.	Cooch Behar	2015-17	139	11.75
7.	Howrah	2015-16	227	24.19
8.	Malda	2015-17	2,780	234.23
9.	Nadia	2016-17	1,970	177.69

¹⁹⁴ Vehicle used for plying on hire or reward.

(₹ in lakh)

Sl. No.	Name of the RA	Period of default	No. of vehicles	Permit fee not realised (including fines)
10.	Paschim Medinipur	2015-17	3,763	318.01
11.	Purba Medinipur	2015-16	49	3.22
12.	Purulia	2015-17	620	52.27
13.	PVD, Kolkata	2015-16	145	12.77
14.	Siliguri	2013-16	11	0.69
15.	Uttar Dinajpur	2015-16	107	8.89
Total			15,011	1,287.28

Though similar observations were made in earlier Audit Reports, Department has not intimated about any action initiated to customise the VAHAN software.

After the cases were pointed out, six RAs¹⁹⁵, admitted (between November 2017 and March 2018) the audit observations in 1,110 cases involving ₹ 0.97 crore. Out of the accepted cases, RAs, Burdwan, Howrah and PVD, Kolkata realised dues of ₹ 0.05 crore¹⁹⁶ in 66 cases. In the remaining 13,901 cases, involving dues of ₹ 11.90 crore, the RAs did not furnish any reply/specific reply (December 2019).

The matter was reported to the Government in July 2018. Their reply was awaited.

5.6.1.3 Short realisation of fitness fee

RAs realised fee for conducting test of fitness at normal rates instead of 150 *per cent* of the fee for delayed production of vehicles. This resulted in short realisation of fitness fee of ₹ 1.86 crore in case of 1,46,053 vehicles.

Rules 62 and 81 of the Central Motor Vehicles (CMV) Rules, 1989, prescribe that for obtaining/renewal of certificate of fitness (CF), the owner of a transport vehicle shall make application and produce the vehicle for inspection for conducting test of fitness. The periodicity of obtaining CF is two years for new vehicles¹⁹⁷ and one year for renewal thereof in other cases. Rates of fee are also prescribed for application and conducting test of fitness. Further, Rule 57(6) of the WBMV Rules, 1989, provides that the application for renewal of CF should be made, not less than one month before the date of expiry of the CF. If the owner fails to apply or fails to produce the vehicle within stipulated time¹⁹⁸, he shall be liable to pay 150 *per cent* of prescribed fee for conducting test of fitness.

Audit analysed data of 20 RAs between January 2017 and February 2018 and found that in case of 1,46,053 transport vehicles, the owners delayed in submission of application and production of vehicles for inspection for renewal of CF between April 2013 and March 2017. The duration of delay ranged from

¹⁹⁵ Burdwan, Howrah, Purba Medinipur, Purulia, PVD; Kolkata and Siliguri.

¹⁹⁶ Burdwan: ₹ 1.06 lakh in 16 cases, Howrah: ₹ 0.44 lakh in five cases, and PVD, Kolkata: ₹ 3.34 lakh in 45 cases.

¹⁹⁷ Two years from the date of first registration of new vehicles.

¹⁹⁸ Date and time mentioned in the CF. If no date and time for next inspection is endorsed on the CF, an application for the renewal of a CF shall be made not less than one month before the date of expiry of the certificate.

15 days to more than two months in each RA. RAs, however, realised the higher fee for delay in application only. Fee for conducting test for fitness was charged at normal rates instead of 150 per cent, as the relevant provisions were not mapped in the VAHAN software. This resulted in short realisation of fitness fee of ₹ 1.86 crore as detailed in the following table:

Table - 5.6
Short realisation of fitness fee

(₹ in lakh)

Sl. No.	Name of the RA	Period of default	No. of Vehicles involved in delay	Fee realisable (inclusive of application fee @ ₹ 100 per vehicle)	Fee realised (inclusive of application fee @ ₹ 100 per vehicle)	Short realisation
1	2	3	4	5	6	7= (5-6)
1.	Alipore	2014-17	21,994	89.44	66.95	22.49
2.	Bankura	2015-17	3,969	18.37	13.57	4.80
3.	Barasat	2015-16	11,195	53.62	39.48	14.14
4.	Barrackpore	2015-16	7,591	45.71	33.00	12.71
5.	Birbhum	2015-17	3,195	17.87	12.98	4.89
6.	Burdwan	2013-16	13,935	74.97	54.63	20.34
7.	Contai	2014-17	2,543	12.39	9.11	3.28
8.	Cooch Behar	2015-17	2,217	9.66	7.18	2.48
9.	Durgapur	2013-16	4,656	25.88	18.81	7.07
10.	Howrah	2015-16	4,907	25.52	18.65	6.87
11.	Jalpaiguri	2014-16	2,504	11.93	8.79	3.14
12.	Kalimpong	2014-16	381	1.96	1.44	0.52
13.	Malda	2015-17	6,619	34.49	25.20	9.29
14.	Nadia	2014-17	8,009	38.45	28.30	10.15
15.	Paschim Medinipur	2015-17	12,183	63.74	46.56	17.18
16.	Purba Medinipur	2015-16	3,122	17.38	12.63	4.75
17.	Purulia	2015-17	1,802	8.21	6.07	2.14
18.	PVD, Kolkata	2015-16	18,568	73.81	55.40	18.41
19.	Siliguri	2013-16	12,828	62.12	45.69	16.43
20.	Uttar Dinajpur	2014-16	3,835	19.58	14.33	5.25
Total			1,46,053	705.10	518.77	186.33

Though similar observations were made in earlier Audit Reports, Department has not intimated any action initiated to customise the VAHAN software.

After this was pointed out, four RAs¹⁹⁹, admitted (between November 2017 and February 2018) the audit observation in 14,598 cases involving ₹ 20.56 lakh. They, however, did not furnish any report on realisation (December 2019).

RA, Barrackpore replied (November 2017) that in 7,591 cases involving ₹ 12.71 lakh the vehicles had paid fitness fees as per Rule 81 of CMV Rules and hence there were no dues. Reply of the RA was not tenable, as Rule 57(6) of the WBMV Rules, 1989, provides that the owner of the vehicle shall be

¹⁹⁹ Howrah, Paschim Medinipur, Purba Medinipur and Purulia.

liable to pay 150 *per cent* of fee prescribed under Rule 81 of CMV Rules for conducting test of fitness if he fails to produce the vehicle within the prescribed time limit, which was not insisted upon by the RA in case of the vehicles in question.

RAs, Jalpaiguri and Siliguri stated²⁰⁰ in 15,332 cases involving ₹ 19.57 lakh that all fees and fines were auto-generated through the system and had been fully realised as mapped in the system, hence, there was no short realisation of fee. The replies were not tenable as the relevant provision regarding realisation of fee for CF at the rate of 150 *per cent* in case of delayed production of vehicles was not customised in the VAHAN software.

In the remaining 1,08,532 cases involving ₹ 133.49 lakh, the RAs did not furnish any specific reply (December 2019).

The matter was reported to the Government in July 2018. Their reply was awaited.

5.6.1.4 Short realisation of tax from contract carriage vehicles

RAs realised tax of ₹ 19.76 lakh instead of ₹ 1.20 crore from the owners of 1,344 contract carriage vehicles. This was due to incorrect mapping in VAHAN software. This resulted in short realisation of tax of ₹ one crore.

Schedule to Section 3 of the WBMVT Act, 1979, prescribes different rates of annual tax for stage carriage vehicles²⁰¹ and contract carriage vehicles²⁰² to be paid in advance for the whole year. Tax prescribed for contract carriage vehicles is higher than that prescribed for stage carriage vehicles. An amendment²⁰³ made in August 2012 prescribes tax for contract carriage vehicles including luxury taxis at 1.2 *per cent* of the value of the vehicle or ₹ 8,000, whichever is higher, for vehicles with seating capacity up to seven. Tax for vehicles with seating capacity beyond seven is prescribed at 1.2 *per cent* of the value of the vehicle or ₹ 14,000, whichever is higher. Amendments in WBAT&OTMV Act, 1989, were to be updated and mapped in the VAHAN software to ensure correct assessment and realisation of revenue.

Audit analysed data of 10 RAs for the period 2013-17 and found²⁰⁴ that the RAs realised²⁰⁵ tax ₹ 19.76 lakh instead of ₹ 1.20 crore, from the owners of 1,344 contract carriage vehicles. The vehicles comprised 1,326 maxi cabs²⁰⁶ registered as contract carriage vehicles, 17 luxury taxis and a bus of an educational institute. It also observed that in case of maxi cabs, the system incorrectly mapped them as stage carriage vehicles, on which lower rates of taxes were applicable. Similarly, the amended rate of tax on luxury taxis was also not found mapped

²⁰⁰ In December 2017 and March 2018 respectively.

²⁰¹ A motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers.

²⁰² A motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole.

²⁰³ West Bengal Motor Vehicles Tax (Amendment) Act, 2012 vide notification no. 1181-L dated 10 August 2012.

²⁰⁴ Between February 2017 and February 2018.

²⁰⁵ Between April 2013 and March 2017.

²⁰⁶ Maxi cab means any motor vehicle constructed or adapted to carry more than six passengers, but not more than 12 passengers, excluding the driver, for hire or reward.

in the system. This resulted in short realisation of tax of ₹ one crore as detailed in the following table:

Table - 5.7
Short realisation of tax from contract carriage vehicles

(₹ in lakh)

Sl. No.	Name of the RA	Period of default	No. of Cases	Tax realisable	Tax realised	Short realisation 7= (5-6)
1	2	3	4	5	6	
1.	Barasat	2015-16	8	0.59	0.20	0.39
2.	Birbhum	2015-17	7	0.85	0.13	0.72
3.	Contai	2014-17	337	26.89	4.78	22.11
4.	Cooch Behar	2015-17	133	11.49	1.98	9.51
5.	Kalimpong	2014-16	4	0.24	0.04	0.20
6.	Malda	2015-17	332	35.95	5.53	30.42
7.	Nadia	2014-16	23	2.29	0.37	1.92
		2016-17	311	24.65	3.70	20.95
8.	Paschim Medinipur	2016-17	157	13.99	2.51	11.48
9.	Siliguri	2013-16	29	2.35	0.38	1.97
10.	Uttar Dinajpur	2014-16	3	0.63	0.14	0.49
Total			1,344	119.92	19.76	100.16

Though similar observations were made in earlier Audit Reports, Department has not intimated about any action initiated to customise the VAHAN software. After this was pointed out, three²⁰⁷ RAs admitted (between February 2018 and April 2018) the audit observations in 364 cases involving ₹ 24.23 lakh. However, they did not furnish any report on realisation. In the remaining cases, concerned RAs did not furnish any specific reply (December 2019).

The matter was reported to the Government in July 2018. Their reply was awaited.

5.6.1.5 Audio fees not realised

RAAs did not realise audio fees of ₹ 42.77 lakh from the owners of 7,578 vehicles fitted with audio sets.

Schedule F to Rule 218(7) of the WBMV Rules, 1989 provides for realisation of annual audio fees at prescribed rates for installation of radio set, gramophone, tape recorder, cassette recorder or any kind of apparatus producing sound effect or voice in vehicles. However, the State Government by a notification issued in August 2012 exempted payment of audio fees by the owners of motor cars and omnibuses (with seats up to 14 and not registered as transport vehicles), other than battery operated motor vehicles with effect from 3 September 2012.

Audit analysed data of 12 RAs between January 2017 and February 2018 and found that audio fees were not realised from the owners of 7,578 vehicles²⁰⁸ fitted with audio sets due to non-customisation of the VAHAN software. This

²⁰⁷ Contai, Kalimpong and Nadia.

²⁰⁸ Registered as transport vehicles.

resulted in non-realisation of audio fees of ₹ 42.77 lakh for the period from 2013-14 to 2016-17 as detailed in the following table:

Table - 5.8
Audio fees not realised

(₹ in lakh)

Sl. No.	Name of the RA	Year of default	Total No. of defaulter Vehicles	Audio fee realisable
1.	Alipore	2014-17	1,988	12.06
2.	Barasat	2015-16	1,069	5.27
3.	Barrackpore	2015-16	621	3.07
4.	Burdwan	2013-16	49	0.61
5.	Durgapur	2013-16	93	1.07
6.	Howrah	2015-16	455	2.26
7.	Nadia	2014-17	499	3.60
8.	Paschim Medinipur	2016-17	149	0.75
9.	Purba Medinipur	2015-16	380	1.87
10.	PVD, Kolkata	2015-16	1,987	9.94
11.	Siliguri	2013-16	236	1.80
12.	Uttar Dinajpur	2014-16	52	0.47
Total			7,578	42.77

Though similar observations were made in earlier Audit Reports, no action has yet been initiated to customise the VAHAN software.

After Audit pointed out the cases, 10²⁰⁹ RAs accepted audit observations in 5,280 cases involving ₹ 31.31 lakh. RA, Burdwan, PVD, Kolkata and RA, Uttar Dinajpur also reported realisation of ₹ 3.15 lakh in 616 cases.

Further, RA, Barrackpore, in 426 cases involving ₹ 2.12 lakh, stated that the vehicles had paid the fees due up to 2 September 2012 and were not liable to pay audio fees any further. The reply was not tenable as the vehicles involved were transport vehicles, which were not exempt from payment of audio fees.

The replies furnished by the RAs also indicate differences in interpretation of provisions of the Act within the Department.

In the remaining 1,872 cases involving ₹ 9.34 lakh, four²¹⁰ RAs did not furnish any specific reply (December 2019).

The matter was reported to the Government in July 2018. Their reply was awaited.

²⁰⁹ Alipore, Barasat, Barrackpore, Burdwan, Durgapur, Howrah, Nadia, PVD, Kolkata, Siliguri and Uttar Dinajpur.

²¹⁰ Alipore, Nadia, Paschim Medinipur and Purba Medinipur.

5.6.1.6 Short realisation of road tax from Light Motor Vehicle (LMV)/Omni bus (Private use)

Improper mapping of the provisions of the Act/notification in the system resulted in short realisation of road tax of ₹ 76.77 lakh in 705 cases.

The WBAT&OTMV (Amendment) Act, 2012 prescribes the rates of tax for non-transport vehicles²¹¹ according to engine capacity, value, age, option exercised for payment of tax etc. However, in case of the non-transport light motor cars and Omni buses having seating capacity upto 14 persons, the payment of taxes has been made mandatory as one-time or life-time tax with effect from 3 September 2012. Further, the Act provides for rebate to non-AC vehicles having engine capacity upto 800 cc at the time of payment of taxes.

Audit analysed data of 15 RAs²¹² between January 2017 and February 2018. It found that road tax of ₹ 2.43 crore was assessed and realised in place of ₹ 3.19 crore in case of 705 light motor cars/omni buses during 2013-17. Of these, in 62 cases, the system allowed rebate to AC vehicles/vehicles having engine capacity of more than 800 cc, which were not eligible for rebate under the provisions of the Act. In the remaining 643 cases, the system failed to calculate the realisable tax as per the prescribed rate due to improper mapping of the provisions of the Act/notification in VAHAN software. This resulted in short realisation of road tax of ₹ 76.77 lakh in 705 cases as detailed in the following table:

Table - 5.9
Short realisation of road tax

(₹ in lakh)

Sl. No.	Name of the RA	Total no. of cases	Tax realisable	Tax realised	Short realisation of road tax 6= (4-5)
1	2	3	4	5	
1.	Alipore	28	9.70	7.32	2.38
2.	Bankura	10	3.11	2.46	0.65
3.	Barasat	42	15.58	12.05	3.53
4.	Barrackpore	7	1.66	1.33	0.33
5.	Birbhum	15	3.88	3.19	0.69
6.	Burdwan	74	32.78	21.95	10.83
7.	Contai	17	4.83	4.12	0.71
8.	Durgapur	29	19.29	13.52	5.77
9.	Howrah	16	5.34	4.37	0.97
10.	Jalpaiguri	4	1.60	1.00	0.60
11.	Malda	7	2.79	2.08	0.71
12.	Nadia	8	2.33	1.87	0.46
13.	Paschim Medinipur	5	1.08	0.88	0.20
14.	PVD, Kolkata	385	196.89	150.89	46.00
15.	Siliguri	58	18.62	15.68	2.94
Total		705	319.48	242.71	76.77

Though similar observations were made in earlier Audit Reports, Department has not intimated any action initiated to customise the VAHAN software.

²¹¹ Vehicles not used for plying on hire or reward.

²¹² Alipore, Bankura, Barasat, Barrackpore, Birbhum, Burdwan, Contai, Durgapur, Howrah, Jalpaiguri, Malda, Nadia, Paschim Medinipur, PVD, Kolkata and Siliguri.

RAs, Barrackpore and Burdwan, while admitting²¹³ the observation in 81 cases involving ₹ 11.16 lakh reported realisation of ₹ 0.23 lakh in six cases. Four RAs²¹⁴ admitted²¹⁵ the audit observation in 45 cases involving ₹ 2.74 lakh, but did not furnish any report on realisation of the road tax.

PVD, Kolkata, in 385 cases involving ₹ 46 lakh, accepted (March 2018) the short realisation and reasoned that it occurred due to incorrect sale value of vehicles in the database. It further stated that sale values had been rectified. The reply of PVD, Kolkata is not tenable as sale values of a vehicle is not the only criterion for determination of road tax of a vehicle. Therefore, even after the rectification of sale value in the database, revenue of ₹ 46 lakh in 385 cases remained short realised. In the remaining 194 cases involving ₹ 16.87 lakh, the RAs did not furnish any specific reply (December 2019).

The matter was reported to the Government in July 2018. Their reply was awaited.

5.6.1.7 Special tax from air-conditioned vehicles not realised

RAs did not realise special tax and penalty of ₹ 24.63 lakh from the owners of 211 vehicles.

Section 3 of the WBMVT Act, 1979 and Sections 9B and 10 of the WBAT&OTMV Act, 1989 provide for realisation of special tax from air-conditioned vehicles. Rates of the tax have been prescribed based on their use, seating capacity, engine capacity and category of the vehicle. Sections 11 of the WBMVT Act, 1979 and 10 of WBAT&OTMV Act, 1989 provide for imposition of penalty in case of non-payment of taxes. The owner of motor car and omnibus (with seats up to 14 and not registered as transport vehicles), other than battery operated motor vehicles and contract carriage vehicles with seating capacity up to 14, however, shall not be liable to pay special tax with effect from 3 September 2012²¹⁶.

Audit analysed data of six RAs between February 2017 and March 2017. It found that owners of 211²¹⁷ vehicles were liable to pay special tax for different periods between 2013-14 and 2015-16, which they did not pay and for which they were liable to pay penalty also. The RAs also failed to monitor such non-payments and did not issue demand notices to the defaulters for realisation of dues as the relevant provisions were not mapped in the VAHAN software. Thus, special tax and penalty of ₹ 24.63 lakh remained unrealised as detailed in the following table:

²¹³ In November 2017 and February 2018 respectively.

²¹⁴ Contai, Howrah, Jalpaiguri and Nadia.

²¹⁵ Between March 2017 and February 2018.

²¹⁶ Government Notification Nos.1181 L and 1182 L both dated 10 August 2012.

²¹⁷ Which included goods vehicles, heavy public vehicles and vehicles with seating capacity of more than 14.

Table - 5.10
Special tax from air-conditioned vehicles not realised

(₹ in lakh)

Sl. No.	Name of the RA	Period of default	No. of defaulter vehicles	Amount not realised
1.	Alipore	2014-16	20	1.74
2.	Burdwan	2014-16	9	0.60
3.	Durgapur	2014-16	18	1.50
4.	Howrah	2015-16	114	11.61
5.	PVD, Kolkata	2015-16	16	1.77
6.	Siliguri	2013-16	34	7.41
Total			211	24.63

Though similar observations were made in earlier Audit Reports, Department has not intimated any action initiated to customise the VAHAN software.

RAs, Burdwan and PVD, Kolkata, while admitting²¹⁸ the observation involving an amount of ₹ 2.37 lakh in 25 cases, reported realisation of ₹ 0.12 lakh in one case and ₹ 0.20 lakh in nine cases respectively. Four²¹⁹ RAs admitted²²⁰ the audit observation in 186 cases involving ₹ 22.26 lakh. They, however, did not furnish any report on realisation (December 2019).

The cases were reported to the Government in July 2018; their reply was awaited.

5.7 Inaction of Government in taking remedial action on deficiencies in VAHAN

Audit observations of similar nature on deficiencies in VAHAN software were reported upon previously also as detailed in the following table:

Table - 5.11
Deficiencies in VAHAN reported in earlier Audit Reports

Para No.	Nature of observation	Year of Audit Report	Para no. of the Audit Report	Money Value (₹ in crore)
5.6.1.1	Tax, additional tax, penalty and special fee not realised	2009-10	3.13	750.48
		2010-11	5.9 , 5.10	73.84
		2012-13	4.8 , 4.10	200.38
		2013-14	4.10	125.68
		2014-15	4.3	202.22
		2015-16	4.5	205.64
5.6.1.2	Permit fee not realised	2016-17	4.5	272.41
		2011-12	4.11	0.33
		2012-13	4.11	0.29
		2013-14	4.12	0.78
		2014-15	4.4	12.75
		2015-16	4.4.6, 4.7	5.57
		2016-17	4.6	20.15

²¹⁸ In February 2018 and December 2017.

²¹⁹ Alipore, Durgapur, Howrah and Siliguri.

²²⁰ Between November 2017 and March 2018.

Para No.	Nature of observation	Year of Audit Report	Para no. of the Audit Report	Money Value (₹ in crore)
5.6.1.3	Short realisation of fitness fee	2009-10	3.3	2.53
		2011-12	4.10	0.44
		2012-13	4.9.2	0.98
		2013-14	4.5	1.04
		2014-15	4.8	1.26
		2015-16	4.8	1.19
		2016-17	4.9	1.69
5.6.1.4	Short realisation of tax from contract carriage vehicles	2016-17	4.12	0.53
5.6.1.5	Audio fees not realised	2009-10	3.7	0.33
		2011-12	4.12	0.29
		2012-13	4.9.5	1.08
		2013-14	4.4	1.83
		2014-15	4.7	1.98
		2016-17	4.13	0.17
5.6.1.6	Short realisation of road tax from Light Motor Vehicle (LMV)/Omni bus (Private use)	2014-15	4.9	0.29
		2015-16	4.9	0.77
		2016-17	4.11	0.72
5.6.1.7	Special tax from air-conditioned vehicles not realised	2009-10	3.6	2.93
		2011-12	4.9	0.89
		2013-14	4.11	20.77
		2014-15	4.6	4.77
		2016-17	4.14	0.12
Total				1,917.12

Government did not take any remedial action, which led to recurrence of similar irregularities over the years resulting in loss/non-realisation of revenue to Government.

In all the paragraphs discussed above, the primary reason for non/short realisation of revenue was the failure of the Department to ensure that the VAHAN software was kept updated with the revised provisions of the relevant Acts and Rules. Accordingly, corrective measures need to be taken immediately to make good the deficiencies in the software, to ensure that there is no shortfall in revenue realisation.

CHAPTER VI

CHAPTER VI

OTHER TAX RECEIPTS

6.1 Tax administration

This Chapter relates to receipts from Excise Duty, Profession Tax and Amusement Tax. The tax administration for these is governed by Acts and Rules framed separately for each tax head. These taxes are administered by the Finance Department headed by the Additional Chief Secretary who is assisted by the concerned Directorates.

6.2 Results of audit

In 2017-18, test check of the records of 39 units relating to Excise Duty, Profession Tax and Amusement Tax showed underassessment of tax and other irregularities amounting to ₹ 53.45 crore in 215 cases, which fall under the following categories as indicated in **Table 6.1**.

Table - 6.1
Results of audit

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A. State Excise			
1.	Non-realisation of fees for unaccounted foreign liquor/spirit	21	22.00
2.	Non/short levy of Excise Duty due to issue of overstrength spirit/wastage fee on chargeable wastage of rectified spirit/India Made Foreign Liquor	27	6.77
3.	Non-realisation of regulatory fees	19	4.59
4.	Non-realisation of Additional Excise Duty	19	3.91
5.	Non-realisation of fees for change in management	19	1.56
6.	Non/short realisation of licence fee/renewal fee/initial grant fee/pass fee etc.	10	0.93
7.	Other cases	40	0.83
Total		155	40.59
B. Profession Tax			
1.	Non-realisation of profession tax against enrolled certificate holders	1	0.37
2.	Non-realisation of profession tax due to non- enrolment	26	0.33
3.	Other cases	7	0.07
Total		34	0.77
C. Amusement Tax			
1.	Non/short levy/realisation of tax/interest/penalty	14	11.45
2.	Short levy of Luxury Tax due to irregular allowance of internal sale	2	0.51

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
3.	Non-initiation of recovery process of assessed dues of tax	2	0.06
4.	Others	8	0.07
Total		26	12.09
Grand Total		215	53.45

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 8.90 crore in 122 cases, of which 62 cases involving ₹ 4.64 crore were pointed out in the year 2017-18 and the rest in the earlier years. An amount of ₹ 1.07 crore was realised in 60 cases during the year 2017-18.

A detailed compliance audit on “Assessment and Collection of Profession Tax” having money value ₹ 26.59 crore and an audit observation on State Excise involving ₹ 2.73 crore are discussed in the following paragraphs.

6.3 Detailed Compliance Audit on “Assessment and Collection of Profession Tax”

6.3.1 Introduction

Profession Tax (PT) is levied by the State Government on professions, trades, callings and employments. Assessment and collection of PT within West Bengal is regulated by the West Bengal State Tax on Professions, Trades, Callings and Employments (WBSTPTCE) Act, 1979 and West Bengal State Tax on Professions Trades, Callings and Employments (WBSTPTCE) Rules, 1979. Those who are liable to pay PT under the Act have been divided into two categories:

- (i) Person who is engaged in any profession, trade, calling and employment. It includes a Hindu Undivided Family, Firm, Company, Corporation or other Corporate body, any Society, Club or Association so engaged, but does not include any person who earns wages on a casual basis on being employed for a period not exceeding 180 days in a year.
- (ii) Employer, i.e., the person or the officer who is responsible for disbursement of salary or wages, and includes the head of any office or any establishment as well as the manager or agent of the employer.

PT is payable at the rates specified in the Schedule²²¹ to the WBSTPTCE Act 1979, subject to a maximum of ₹ 2,500 per annum²²². A person who becomes eligible to pay PT is required to obtain Certificate of Enrolment (EC) and pay tax annually. No return is, however, required to be filed by an EC holder. An employer is required to obtain Certificate of Registration (RC), pay tax monthly and file an annual Return. If an EC holder fulfils the eligibility conditions to become an employer, then he is also liable to be registered as an employer and is to deduct and pay tax on behalf of employees as mentioned in the Section 4 of the WBSTPTCE Act.

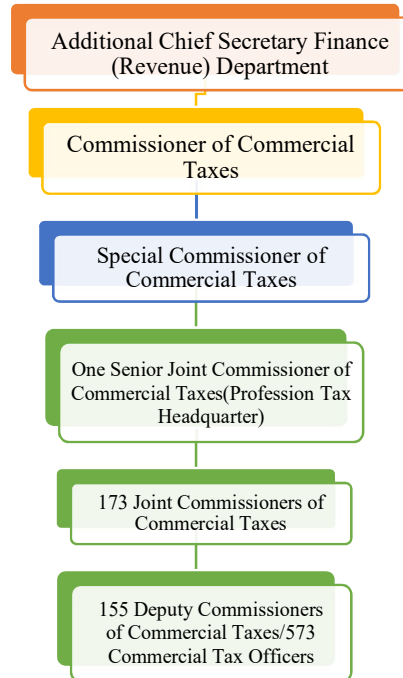
²²¹ The current Schedule is effective from 1 April 2014 and replaced previous Schedule vide notification no.- 440L dated 11 March 2014.

²²² Clause (2) of Article 276 of the Constitution of India.

6.3.2 Organisational set up

Profession Tax is administered by the Profession Tax wing of the Directorate of Commercial Taxes (DCT), West Bengal as detailed in the following Chart:

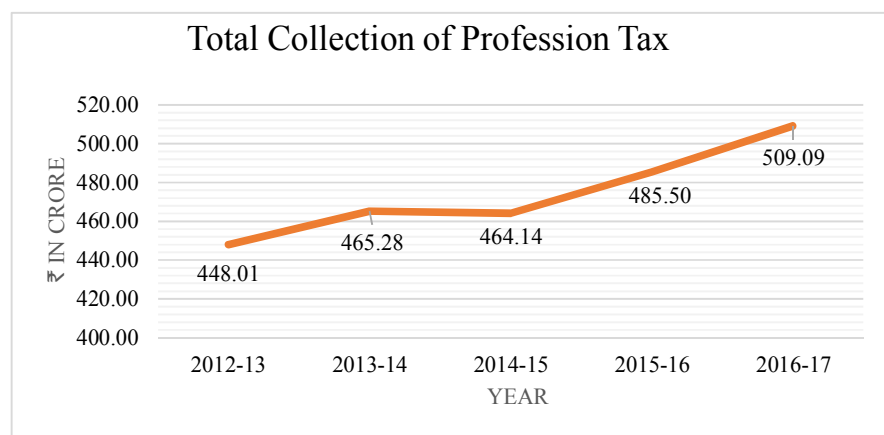
Chart - 6.1: Organisational set up



PT wing of the DCT has emerged to be a fully automated tax administration wing. Starting from registration (or enrolment) process to internal record keeping in respect of tax payers, all issues are managed and controlled by web-based application software with effect from 8 August 2014. DCT has a dedicated website for PT, namely www.wbprofessiontax.gov.in.

The trend of collection from PT during the last five years is shown in the following chart.

Chart-6.2: Collection of Profession Tax during the last five years



It was observed that collection of revenue increased by nearly five *per cent* in 2016-17 compared to 2015-16.

The year-wise comparison of growth rate of total revenue of the state and the revenue through PT is shown in the following table:

Table - 6.2
Growth of PT in respect of total tax revenue
(₹ in crore)

Year	Total tax revenue collected in the state	Total collection of PT	Percentage of PT to total tax revenue
2012-13	32,808.49	448.01	1.37
2013-14	35,830.56	465.28	1.30
2014-15	39,411.98	464.14	1.18
2015-16	42,492.08	485.50	1.14
2016-17	45,466.46	509.09	1.12

Apart from developing an IT based work platform, the PT wing has completed the Commercial Tax- Profession Tax merger process in the light of the State Government Notification²²³ issued to that effect. The jurisdiction of the authorities over the persons and employers enrolled/registered under PT is shown in the following table:

Table - 6.3
Jurisdiction of Authorities

Sl.No	Authority	Class of persons and employers covered
1.	39 Commercial Tax Charge offices	Any Person or an Employer having registration as a dealer in the charge under the West Bengal Value Added Tax (WBVAT) Act,2003 and West Bengal Sales Tax (WBST) Act,1994.
2.	29 Specified Commercial Tax Charge offices with which Range and Units of PT have been merged.	Along with those mentioned above, any Person or an Employer in accordance with the geographical location of their places of work and coming under the territorial jurisdiction of the merged Range/Unit of PT.

6.3.3 Audit Objective

The detailed compliance audit was conducted to seek assurance if the existing provisions on assessment and collection procedures under the Acts/Rules were being followed by the Department; and internal controls were in place and effective.

6.3.4 Scope and Audit Methodology

Audit Data Analytics

Audit was conducted during the period between January 2018 and May 2018 covering the period from April 2014 to March 2017. The Directorate office at Kolkata and its 12 Charge offices out of 29 Specified Commercial Tax Charge offices (41.38 per cent) were selected for the purpose of Audit. The selection of Charge offices was made on the basis of average collection of PT during the period from 2014-15 to 2016-17. Together these 12 selected Charge offices covered the 56 per cent of the total revenue towards Profession tax (PT).

²²³ Order No 646-F.T. dated 30 April 2015 of West Bengal.

The Professional Tax (PT) database is maintained in a web-based application software. The data regarding Enrolled persons for PT was requisitioned from PT (HQ) in different fields i.e., EC number, Owner name /Trade name, VAT number (in case of VAT dealers), PAN numbers, PT paid during the year 2014- 17.

The data was provided to audit in excel format. Besides, the data from IMPACT²²⁴ database in respect of the VAT dealers for the period 2013-14 and 2014-15, was utilised for obtaining information regarding VAT number, Owner name/ Trade name and annual gross turnover (AGT).

The data from these two sources, in respect of the selected units, was analysed using data analytic tool (IDEA) using functions like extraction, appending, Joining, summarisation etc. as follows:

- Extraction of cases where payment of PT has not been done, and determination of the PT payable based upon the turnover (AGT) available in the data.
- Extraction of cases where short payment of PT was done by VAT dealers based upon their AGT.
- Extraction of cases where permit holders of transport vehicles had not enrolled in the PT database.

During the course of the audit, information and data were called for from various departments/agencies in respect of persons engaged in any business/ profession. This information was cross-verified with the records maintained in the database of PT to ascertain whether those persons were enrolled/registered and discharging their PT liabilities. Information such as turnover of dealers registered under WBVAT Act, 2003 maintained in IMPACT (Information Management for Promotion of Administration in Commercial Taxes) database was also cross-verified with the database. This was done to ascertain that registered dealers under VAT had not defaulted and had paid the correct amount of PT. It was also examined whether demand notices to defaulting dealers were issued under the provisions of the Act/Rules.

Audit also test checked assessment case records of employers in 12 Commercial Tax Charge offices for compliance of Acts/Rules. Provisions of the WBSTPTCE Act, 1979 and WBSTPTCE Rules, 1979 and notifications and circulars issued by the Government of West Bengal were used as a source of criteria for the audit.

Audit findings

The audit revealed various system and compliance deficiencies as well as weaknesses in internal control mechanism in the Directorate, which are discussed in the following paragraphs:

6.3.5 Data not exchanged with other departments to widen the tax base

Integration of data with other related departments can be an effective tool to identify and bring unenrolled persons under the tax net. The Department did not put in place any system to exchange information/data with other departments such as the Transport Department, Health Department, Department of Municipal

²²⁴ Database of PT and Database of IMPACT both are maintained under the DCT.

Affairs etc. to bring under its tax net, persons not enrolled to pay profession tax. Audit obtained data from various sources like Transport Department, Chief Medical Officer of Health (CMOH), Municipal Authorities etc. in respect of classes of persons eligible to pay PT and cross verified them with the database of PT. The findings of Audit are discussed in the following paragraphs:

6.3.5.1 Non-enrolment of permit holders of Transport Vehicles

The Department did not collect data of PT from other departments to widen its tax net. As a result, 25,266 permit holders of heavy transport vehicles liable to pay PT of ₹ 15.93 crore, could not be brought under tax net.

As per the provisions of the Section 3(2) of the WBSTPTCE Act, 1979, a person engaged in any profession, trade/calling and falling under any of the other classes mentioned in the Schedule to the WBSTPTCE Act, 1979 are liable to pay PT at the prescribed rate. Under Entry No. 2(h) of the Schedule, holders of permits granted or issued under the Motor Vehicles Act, 1988, for transport vehicles²²⁵, are liable to pay tax at specific rate²²⁶.

Audit obtained data from Transport Department in respect of transport permit holders to whom permits were issued²²⁷ and who were paying road tax during the period 2014 to 2017. On cross verification of the data so obtained with the database of PT, it was observed that 25,266 permit holders of heavy vehicles²²⁸ had not been enrolled for payment of PT. These persons were liable to pay PT of ₹ 15.93 crore²²⁹ for the period between 2014-15 to 2016-17.

As there was no system to cross-verify PT data with that of other departments, DCT could not bring these transport permit holders under tax net. This resulted in non-realisation of ₹ 15.93 crore. DCT may consider to integrate databases within the Department and also link their databases with those of other Departments like Transport for cross-verification of data sets to prevent continuous loss of revenue.

After this was pointed out, PT headquarters did not furnish any reply.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.5.2 Non-enrolment of persons engaged in different professions and trade

Information available with other departments and permit/license issuing authorities was not collected for detection of unenrolled persons. This resulted in non-realisation of profession tax of ₹ 56.33 lakh in case of 770 persons.

Audit obtained data/information in respect of persons engaged in different

²²⁵ Which are adapted to be used for hire or reward, like auto –rickshaws, three wheeler goods vehicles, taxi including luxury taxi, trucks, trailers or buses.

²²⁶ The rate of tax ranges from ₹ 480 to ₹ 2,500 per annum depending on the annual gross income of the permits holder in the preceding year. Further, explanation (6) under the Schedule states that even if annual gross income of a person does not exceed the minimum threshold limit of ₹ 60,000, but if he intends to get himself enrolled or intends to continue his enrolment, as the case may be, he shall be liable to pay ₹ 480.

²²⁷ As per the provision of Section 66 of MV Act, 1988 no transport vehicle can be used without a valid permit.

²²⁸ HGV (Heavy Goods Vehicles) & HPV (Heavy Passenger Vehicle).

²²⁹ Money value is calculated, considering PT from HGV (Heavy Goods Vehicles) and HPV (Heavy Passenger Vehicle) at the rate ₹ 2,500.

professions and trade from various sources²³⁰ such as CMOH, Municipal Authorities, Government websites etc. On cross verification of this data with that of enrolled persons under DCT, it was observed that 770²³¹ persons like owners of nursing homes, legal and medical practitioners etc., liable to pay PT during the period 2014-17 did not get themselves enrolled with DCT. The jurisdictional Charge offices²³² also failed to bring them into the ambit of profession tax. This resulted in non-realisation of profession tax of ₹ 56.33 lakh due to non-enrolment during the period 2014-17 as detailed in the table below:

Table-6.4
Non-Enrolment of persons during the period 2014-17

Sl. No.	Description of the Person	Sl.No of the relevant Schedule	Name of the Charge office	Source of data/ information	Number of Persons	Amount of tax payable annually (in ₹)	Non-realisation of PT due to non-enrolment (₹ in lakh)
1	Owners or Occupiers or licensees of Nursing homes, pathological laboratories including diagnostic centres.	4(s)	Asansol, Barasat and Behala	Chief Medical Officer of Health of the district	116	2,500	7.30
2	Air Conditioned (AC) Beauty Parlours or spa and AC hair dressing saloons	4(i) and (k)	Durgapur	Municipal Authority	27	2,500	2.02
3	Legal Practitioners including Solicitors	2(a)	Different Charge offices in West Bengal	List of advocates contesting election of Bar Council of West Bengal	65	2,500	4.87
4	Medical Practitioners including medical consultants and dentists	2(b)	Behala, Parkstreet, Shibpur, Siliguri and Srirampur	Online appointment website	202	2,500	15.15
5	Owners or occupiers of cold storages	3(j)	Srirampur	Website of West Bengal Agricultural Marketing Board	115	2,500	8.62
6	Owners or Occupiers or licencees or lessees of residential hotels including guest houses, lodges	3(l)	Siliguri and Tamluk	Online Booking website for Hotels	93	2,500	6.97

²³⁰ As mentioned in column number 5 of the table 6.4.

²³¹ The figures are only indicative and DCT should access the full database to assess the number of persons who were not enrolled.

²³² Asansol, Barasat, Behala, Durgapur, Parkstreet, Shibpur, Siliguri, Srirampur and Tamluk.

Sl. No.	Description of the Person	Sl.No of the relevant Schedule	Name of the Charge office	Source of data/ information	Number of Persons	Amount of tax payable annually (in ₹)	Non-realisation of PT due to non-enrolment (₹ in lakh)
7	Authorised stockists of lottery tickets in West Bengal	4(n)	Different Charge offices in West Bengal	West Bengal Lottery Stockists Syndicate Pvt. Ltd	152	2,500	11.40
Total					770		56.33

Integrating the data from relevant departments could enable DCT to identify persons liable to pay PT DCT but unenrolled in the system.

After this was pointed out, the Charge offices of Behala, Siliguri and Tamluk stated that notices will be issued to the non-enrolled nursing homes and hotels. In rest of the cases, the Charge offices did not furnish any specific reply.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.6. Inadequate monitoring of PT dues from persons/entities enrolled with DCT

Audit analysed data of the dealers registered under WBVAT Act, obtained from IMPACT database to ensure that PT paid by the enrolled persons were in accordance with the Annual Gross Turnover (AGT) of the dealers as shown in the database. Findings of audit are discussed in the following paragraphs:

6.3.6.1 Inadequate monitoring of payment of PT by enrolled persons registered as dealers under WBVAT Act.

Turnover of enrolled persons registered as dealers under WBVAT Act was not cross verified with that available in the database of DCT. This resulted in non /short realisation of profession tax of ₹ 5.13 crore.

Under entry 3(a) of the Schedule, every person as defined in Section 2(f) of this Act, registered as dealer under the WBVAT Act or WBST Act is liable to pay PT at specific rate depending upon the AGT in the preceding year as mentioned in **Appendix-IV**²³³. As per provisions of Section 8 of the Act, the amount of PT, due from any person who stands enrolled before the commencement of any year, shall be paid by him on or before 31 July of that year.

The annual turnover of enrolled persons having registration under WBVAT Act was available in the database maintained by DCT. PT was to be paid annually online by each dealer. Audit analysed data in respect of enrolled persons in 12 Charge offices²³⁴ and ascertained their AGT from the IMPACT database. Audit findings are as follows:

Audit found that 34,867 Enrolment Certificate (EC) holders, also registered as dealers under WBVAT Act, did not pay PT for one to three years in 45,016 cases during the period 2014-17. The AGT of these dealers as per database

²³³ Based on entry 3 (a) of the Schedule.

²³⁴ Asansol, Barasat, Barrackpore, Behala, Bhowanipur, Bowbazar, Krishnanagar, Parkstreet, Shibpur, Siliguri, Srirampur and Tamluk.

accessed through IMPACT software was found to be in the range of ₹ 0.05 crore to ₹ 115.50 crore, based on which PT due from these EC holders worked out to ₹ 3.99 crore. The Charge offices did not ascertain the AGT from the database to raise demand against the defaulting EC holders. This resulted in non-realisation of PT of ₹ 3.99 crore.

Audit also found that 8,241 dealers in 11,666 cases paid PT of ₹ 0.67 crore for the period from 2014-15 to 2016-17. As per AGT shown in the database of DCT, tax payable by these EC holders for the aforesaid period stood at ₹ 1.81 crore. The Charge offices did not make use of the database of the dealers to ascertain their AGTs for determining PT payable by them. As a result, PT paid short by the EC holders could not be detected. This resulted in short realisation of PT of ₹ 1.14 crore.

It was observed that there was a need for integrating PT and IMPACT databases of the Directorate. In absence of such integration, data on defaults and short-payments of PT by VAT dealers could not be cross verified by the DCT. This resulted in non/short realisation of PT of ₹ 5.13 crore from dealers registered under WBVAT in test checked Charge offices.

After this was pointed out, six²³⁵ Charge offices accepted the audit observations and stated that notices would be issued for realisation of PT. In the remaining cases, the Charge offices did not furnish any/specific reply (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.6.2 Non/short realisation of PT from enrolled persons not registered as dealers under WBVAT Act

Non-payment of PT by persons enrolled under serial numbers 2 and 3 of the Schedule in accordance with the Annual Gross Income (AGI) and Annual Gross Turnover (AGT) respectively, resulted in non/short realisation of ₹ 4.86 crore.

Persons engaged in any profession, trade or calling and enrolled under serial number 2 (persons engaged in any profession or calling but not engaged as an employee) and serial number 3 (persons engaged in any profession or trade involving supply of goods or services) of the Schedule are liable to pay tax at specific rates depending upon the AGI and AGT, respectively. The AGI and AGT are available in database of PT and are based upon self-declaration given at the time of enrolment. In addition to this, persons enrolled under Serial No.4²³⁶ are liable to pay PT at the fixed rate of ₹ 2,500 per annum.

Audit analysed database of PT of EC holders not registered as dealers under WBVAT Act in 12 Charge offices²³⁷. Audit findings are as follows:

- Audit analysis of database of PT of EC holders not registered as dealers under WBVAT Act revealed that 28,065 persons paid PT of ₹ 1.93 crore, during the period 2014-15 to 2016-17. It was, however, calculated that

²³⁵ Asansol, Barrackpore, Bowbazar, Krishnanagar, Siliguri and Tamluk.

²³⁶ Person engaged in any profession under Sl. 4 is liable to pay PT at fixed rate irrespective of his AGI/AGT.

²³⁷ Asansol, Barasat, Barrackpore, Behala, Bhowanipur, Bowbazar, Krishnanagar, Parkstreet, Shibpur, Siliguri, Srirampur and Tamluk.

the PT payable on the basis of the AGI and AGT declared²³⁸ and available in database of PT was at ₹ 3.43 crore. The Charge offices failed to detect any case of short payment of PT and did not issue any demand notice for its realisation. This resulted in short realisation of PT to the tune of ₹ 1.50 crore.

- It was also found that 24,502 EC holders did not pay their annual PT for one to three years during the period 2014-15 to 2016-17. According to status of the EC holders, as shown in the database of PT, the enrolled persons were active in their profession and trade. This resulted in non-realisation of PT of ₹ 3.36 crore.

The Charge offices, however, did not issue demand notices for realisation of outstanding PT under Section 17A of the WBSTPTCE Act. This resulted in non/short realisation of PT of ₹ 4.86 crore from dealers not registered under WBVAT in test checked Charge offices.

After this was pointed out, four²³⁹ Charge offices accepted the audit observations and stated that notice would be issued for realisation of PT. In the remaining cases, the Charge offices did not furnish any/specific reply (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.6.3 PT not realised due to non-enrolment/registration of branches of Banks

DCT could not ensure that each bank branch had an RC and an EC so that it could pay PT on its own behalf as well as on behalf of its employees.

Under Serial No.4 of the Schedule, Banking Companies as defined in the Banking Regulation Act, 1949 were liable to pay PT at the rate of ₹ 2,500 per annum as an entity. In addition, as per Explanation (5) below the Schedule²⁴⁰ to the Act, a Bank and its branches are deemed as separate assesseees and tax is required to be collected from each of the branches. Thus, each branch of a bank is required to get both Enrolment Certificate (as an entity) and Registration Certificate (as an employer), for payment of PT on its own behalf and on behalf of its staff.

1. Data was analysed in respect of four banks²⁴¹ from PT database and obtained their PAN/VAT details. By using this information, Audit identified their Profession Tax Payment Certificates²⁴² (PTPC) and observed that these four Banks got RCs for 2,674 branches located at different places. Further, it was found from EC/RC Master details²⁴³ that the banks did not get EC against 148 such branches. As each branch

²³⁸ At the time of application for EC, the person has to declare his AGI/AGT himself to the DCT. This is required as PT payable is determined on the basis of AGI/AGT.

²³⁹ Barrackpore, Krishnanagar, Siliguri and Tamluk.

²⁴⁰ The rate of tax payable by each branch or office of a firm, company, corporation or other corporate body shall be the same as that payable by that firm, company, corporation or other corporate body as the case may be, in accordance with any entry of the Schedule.

²⁴¹ Axis Bank, Indian Overseas Bank, State Bank of India and United Bank of India.

²⁴² As per provisions of Sec 6C, of the Act, PTPC can be generated by an EC/RC holder from the PT website.

²⁴³ Complete details of a person/employer as per EC/RC.

was required to get EC for payment of PT, ₹ 11.10 lakh²⁴⁴ for the period 2014-17 could not be realised from these branches for enrollment. Thus, there was no mechanism in place to ensure that a branch having RC had also EC so that realisation of PT against each branch could be ensured

2. It was further observed in case of four²⁴⁵ banks that as against 2,560 ECs issued to as many branches, no RCs were issued to 194 branches. Thus, 194 branches though enrolled with the Charge offices concerned, were not registered as employers.

As a result, DCT could not ascertain whether these bank branches had in their capacity as employers, deducted PT from their employees and deposited the same to the Government account.

DCT could not ensure that each bank branch had an RC and an EC so that it could pay PT on its own behalf as well as on behalf of its employees.

The observation was issued to PT Headquarters and two²⁴⁶ concerned Charge offices (March 2018 to June 2018), Barrackpore Charge office stated that notice in Form XII²⁴⁷ for enrolment would be issued to the concerned Bank branches. Bhowanipur Charge stated that matter would be looked into in consultation of the PT Headquarter.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.7 Inadequate monitoring of payment of PT by enrolled persons

The Department did not assess or gather information about AGI/AGT of the enrolled persons as per the requirement of current Schedule. As a result, the correctness of PT paid by enrolled persons could not be ensured.

In the old Schedule²⁴⁸ the amount of PT payable was fixed as per the class/type of the profession. As per the current Schedule, however, which was effective from April 2014, PT payable by a person engaged in any profession or trade is based on AGI/AGT.²⁴⁹

PT payable by persons mentioned under serial number 2 (persons engaged in any profession or calling but not engaged as an employee) of the revised Schedule are to be determined according to the AGI of the persons. In all, nine slabs of AGI have been prescribed in the revised Schedule for determination of the PT payable by such persons as mentioned in **Appendix-V**. DCT did not have any access to the data of Income Tax Department. In the absence of any other source of information, DCT was not able to ensure correctness of the AGI self-declared by EC holders.

In case of persons enrolled under serial number 3 (persons engaged in any profession or trade involving supply of goods or services) of the revised Schedule, the PT payable was determined according to their AGT as mentioned in **Appendix-IV**. It was observed that integration of PT database and IMPACT database which are under the control of DCT would ensure that the correct

²⁴⁴ ₹ 2,500 × three years × 148 Branches.

²⁴⁵ HDFC, Indian Overseas Bank, State Bank of India and United Bank of India.

²⁴⁶ Barrackpore and Bhowanipur.

²⁴⁷ Issued to a person, who is liable to pay PT but failed to get himself enrolled.

²⁴⁸ Valid upto 31 March 2014.

²⁴⁹ AGI/AGT of the preceding year.

AGT (reflected in IMPACT) is considered for assessment of PT. Similarly, in case of PT assessed on AGI, the correct AGI could have been considered for assessment if the PT database is linked to the database of service tax. As a result, correctness of payments of PT made by the EC holders could not be ensured by the Charge offices. DCT did not put in place any system to assess or gather information about AGI/AGT as specified in the current Schedule.

It was observed that the tool integrated in the Website of PT Directorate for generation of Profession Tax Payment Certificates (PTPCs) does not assess the PT slab on the basis of AGI/AGT. The tool assesses the PT slab on the basis of PT paid by the EC holder during the year. As a result, possibility of evasion of tax payable by suppression of AGI/AGT could not be ruled out. It was observed that there was non/short realisation of PT of ₹ 5.13 crore and ₹ 4.86 crore as mentioned in paragraph no. 6.3.6.1 and 6.3.6.2 respectively.

As per the provisions of Section 17(C) of the Act, the tax, penalty or interest payable cannot be determined after expiry of three years from the end of such year. Hence, the outstanding PT from enrolled persons for the period 2014-15 would not be realised due to the cases being barred by limitation of time.

After this was pointed out, DCT accepted the observation and stated that there was no option for cross reference as there was no compulsory assessment/tax determination procedure for enrolled persons.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.8 Systemic Deficiencies and lack of internal controls in the Directorate with respect to assessment and collection of Profession Tax

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

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
(i) Deficiencies in format of returns	As per the provisions of Section 7B of the WBSTPTCE Act, 1979 the return furnished by a registered employer under Section 6 is deemed to be summarily assessed on the date of its submission. Further, as per provisions of Rule 12 (7) of WBSTPTCE	Audit test checked e-returns filed and PTPC generated by four ²⁵⁰ companies under two ²⁵¹ Charge offices. It was observed that each company had filed one consolidated return in respect of all their branches for the year 2016-17. As per the consolidated returns filed	In the absence of suitable provisions for other employers ²⁵² with multiple branches, those filing consolidated e-returns and required to provide complete list of all places of work with their registration numbers, could not

²⁵⁰ Arambagh Hatcheries, CESC, ICICI, and Khosla electronics.

²⁵¹ Bowbazar and Bhowanipur.

²⁵² Who are neither contract manpower users nor manpower supply agencies.

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
	<p>Rules, 1979 a registered employer having more than one place of work under the jurisdiction of different authorities, may, furnish a consolidated return. He can pay taxes from his principal place of work, subject to the condition that the return in Form III shall accompany a complete list of all places of work with their respective registration numbers.</p>	<p>by these companies, PT was paid for the number of employees between 36 and 9,479. PT paid by them for the year 2016-17 stood between ₹ 0.64 lakh to ₹ 213.79 lakh. From these consolidated returns no details of the branches and their registration numbers were ascertainable. Audit checked from the PTPC that the number of branches under these companies were between 38 and 151. It also observed that the system module for filing of e-return does not provide any option to submit the details of the branches and their registration numbers as the format of Annexure to Form III has two Parts. Part A is meant for 'contract manpower user' and Part B is for 'manpower supply agency.'</p>	<p>furnish the details of the branches and their registration numbers.</p> <p>In absence of such information, DCT could not ascertain that PT collected from each branch, was duly deposited and reflected correctly in the return.</p>
(ii) Role of Internal Audit Wing	<p>Internal Audit Wing (IAW) of the Directorate of Commercial Taxes is a permanent in-house mechanism for scrutinising the assessments of Sales Tax/VAT cases and detecting irregularities, if any. This wing also checks the records and registers of different offices under the DCT to ascertain the effectiveness of the internal control system.</p>	<ul style="list-style-type: none"> • It was observed that man power deployment in the IAW was inadequate as there was only one Sr.JCCT (in charge of DDO and service matters) and two CTOs in position. • No audit of Profession Tax was done by IAW during the period covered by audit and no register or records were maintained in this regard. • There was no target fixed for the IAW by CCT or the IAW itself for PT. No audit manual was formulated on the working procedure of IAW. 	<p>In absence of audit by IAW, the assessment and collection of receipts from profession tax were not scrutinised. Therefore, the possibility of revenue leakage cannot be ruled out.</p>

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
(iii) Irregular cancellation of ECs	As per the provisions of the WBSTPTCE Act, 1979 dealers as defined under WBVAT Act 2003 and West Bengal Sales Tax (WBST)Act, 1994 fall under serial number 3(a) of the Schedule. Their enrolment is mandatory irrespective of whether or not they are liable to pay tax under the aforesaid Acts. Further as per the provisions of the rule 7(2) of the WBSTPTCE Rules, 1979, EC granted to a dealer may be cancelled only after ensuring that his liability to pay tax has ceased.	Audit analysed data of EC holders in six ²⁵³ Charge Offices. It found that 105 ECs were granted to 97 ²⁵⁴ persons having registration certificates under WBVAT Act. The ECs of these persons were subsequently cancelled between May 2015 and February 2018. Audit also found that the dealers whose ECs were cancelled, were active and found to have filed their returns under WBVAT Act. Thus, they continued their business activities even after cancellation of their ECs. Moreover, scrutiny of the returns filed by 29 dealers revealed that their quarterly turnover ranged between ₹ 0.30 lakh and ₹ 493 lakh without having any liability to pay PT as detailed in the Appendix- VI.	It was observed that there were no internal controls in place to ensure that VAT registration of a dealer ²⁵⁵ was cancelled before cancellation of EC.
(iv) Migration of dealers from VAT to GST regime without having EC	As per the provisions under Section 3 (2) of the WBSTPTCE Act, 1979, enrolment of dealers registered under WBVAT Act 2003 is mandatory. At the time of transition to the Goods and Services Tax (GST) regime, dealers getting GST Identification Number (GSTIN), through VAT number, therefore, should have a valid EC.	Audit found that there was no mechanism in place to ensure that dealers migrating to GST regime have valid ECs in their possession. It was observed from database of dealers accessed through IMPACT software that 52 dealers whose ECs were cancelled between May 2015 and December 2016 got their provisional GSTIN through their VAT numbers.	Such deficiencies in the internal controls poses challenge to the DCT in its endeavour to widen the tax base.

²⁵³ Barrackpore, Krishnanagar, Shibpur, Silliguri, Srirampur and Tamluk.

²⁵⁴ Two VAT dealers had two and eight branches respectively against which ECs were issued.

²⁵⁵ Registered under the same charge.

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
(v) Application of incorrect entry of the schedule in enrolment	PT of a class of person has been fixed according to trade/profession as specified in the relevant entry of the Schedule. Application of incorrect entry at the time of enrolment of person may result in incorrect determination of PT.	During the course of audit, data of enrolled persons in database of PT was test checked to ascertain that PT was realised according to the profession/trade specified in the relevant entry of the Schedule. It was observed that 53 out of 166 Motor training schools were not enrolled according to their profession/trade as specified in relevant entries of the Schedule as detailed in the Appendix- VII.	Motor training schools were not enrolled according to their profession/trade as specified in relevant entries of the Schedule due to which their proper monitoring for tax compliance could not be ensured.

6.3.9 Rush of assessments

During the period covered under audit, 66 per cent to 100 per cent of total cases were assessed in the last three months of the period prescribed for assessment.

As per sub-Sections 2, 3 and 4 of Section 7 of WBSTPTCE Act, 1979 if the prescribed authority is not satisfied with the correctness and completeness of the returns filed and the amount of tax paid, he shall assess the tax due by giving notice and calling for related accounts and papers for examination.

Further, sub-Section 4 (a) provides that no assessment shall be made after the expiry of two years from the end of the year in respect of which or part of which the assessment is made. However, assessment of cases in respect of the year or part of the year ending on or before the 31 March 2014, was to be made on or before 31 December 2016²⁵⁶.

As per information provided by the Charge offices, status of assessments under Section 7 for the periods of assessments 2012-13 to 2014-15 was as follows:

Table-6.5
Rush of assessments

Period of assessment	Number of Charge offices which furnished specific information	Total No. of cases assessed	No. of cases assessed month- wise in the last three months of the period prescribed for assessment			Percentage of assessments made in the last three months of the period prescribed for assessment
			1st month	2nd month	3rd month	
2012-13	7	5,553	2,552	1,273	1,728	100
2013-14	12	17,527	774	1,995	13,892	95
2014-15	11	7,983	1,512	1,200	2,602	66

It is evident from the table that for the periods of assessments 2012-13 to 2014-15, 66 per cent to 100 per cent of total cases were assessed in the last three

²⁵⁶ The West Bengal Finance Act 2016 vide No. 682L-28 July 2016.

months of the period prescribed for assessment. It was further observed that norms/targets had not been fixed for monthly or phase-wise assessment of cases by Assessing Authorities (AAs) to avoid rush of assessment. Assessment of large number of cases in short duration of time is fraught with errors. Thus possibility of under assessment of tax during rush of assessment cannot be ruled out.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.10 Effectiveness of survey of unenrolled persons/unregistered employers

Out of 12 Charge offices test checked, survey of unenrolled persons/unregistered employers were conducted in only three Charge offices in 2014-15 and in four Charge offices in 2015-16.

To identify persons/employers who are liable to pay tax under the Act, but have remained unenrolled or unregistered, survey is an effective tool to bring such persons/employers under the tax net. As per the administrative guidelines issued by the DCT²⁵⁷ in December 2015, the designated²⁵⁸ Sales Tax Charge Office, shall conduct survey, verification in order to unearth cases of evasion of PT by any person or employer.

During the course of audit, information on surveys conducted during 2014-15 to 2016-17 was sought from 12 Charge offices selected for audit. From the replies received, Audit ascertained that no registers/records in respect of surveys had been maintained by any of the Charge offices. Of the 12 Charge offices, seven Charge offices stated to have conducted surveys. The outcome of surveys conducted was as follows:

Table-6.6

Survey of unenrolled persons and unregistered employers

Year	Survey of unenrolled persons			Survey of unregistered employers		
	No. of Charge offices where surveys were conducted	No. of surveys conducted	No. of persons enrolled	No. of Charge offices where surveys were conducted	No. of surveys conducted	No. of employers registered
2014-15	3	174	1,272	3	121	121
2015-16	4	144	1,379	4	121	184
2016-17	7	116	1,168	5	102	107
Total		434	3,819		344	412

(Source: Information provided by the Charge offices)

The table indicates that 434 surveys for enrolment of persons and 344 surveys for registration of employers were conducted in three to seven Charge offices during the period 2014-15 to 2016-17. In the surveys, 3,819 persons and 412 employers were found to be not enrolled or registered with DCT despite being eligible. It was therefore evident that the survey process in DCT is an effective

²⁵⁷ Memo No:1101CT/PRO dt.11 December 2015 issued by Commissioner, Commercial Taxes & Profession Tax, West Bengal.

²⁵⁸ As per the Notification No. 646-FT dated 14 April 2015.

measure in bringing potential tax payers under tax net. However, out of 12²⁵⁹ Charge offices test checked, such survey was conducted in only three²⁶⁰ Charge offices during 2014-15 and in four²⁶¹ Charge offices during 2015-16. Further, the number of surveys conducted in 2016-17 had declined as compared to that in previous years though more Charge offices had undertaken survey. Conducting regular surveys, in compliance with the administrative guidelines, would enable DCT to identify and bring under the tax net unenrolled persons and unregistered employers.

The matter was reported to the Government in July 2018. Reply was awaited.

State Excise

6.4 Non-levy of additional excise duty

Eight licensees were liable to pay the difference of excise duty consequent upon enhancement of excise duty during the intervening period between issue of import passes and arrival of consignments at their warehouses. The excise authorities did not realise additional excise duty of ₹ 2.73 crore from these licensees.

Rule 132 of the West Bengal Excise (Foreign Liquor) Rules, 1998 provides that in case of an enhancement of duty in the intervening period between the issue of import pass and the arrival of the consignment at the warehouse/godown in West Bengal, the importer shall pay the difference of the duty. The difference in duty is to be calculated at the rate in force on such date of arrival of the consignment and the duty actually paid at the time of issue of the import pass.

Further, by an amendment²⁶² to the West Bengal Excise (Foreign Liquor), Rules, 1998 Finance Department, Government of West Bengal, inserted a new Appendix-L under Rule 196. As per Appendix-L, an additional excise duty on foreign liquor shall be levied at the rate of 27 *per cent* of the declared Maximum Retail Price in respect of all kinds foreign liquor with effect from 1 January 2017.

During the period from August 2017 to February 2018, scrutiny of Import Permit-cum-Passes in four Excise offices²⁶³ revealed that 25 import passes were issued to eight licensees between 19 December 2016 and 28 December 2016. The consignments against these passes reached the warehouses/godown of the licensees between 3 January 2017 and 11 January 2017. As the consignment reached the warehouses/godown after 31 December 2016, the licensees were liable to pay additional excise duty at the rate of 27 *per cent* as per the Notification which came into effect from 1 January 2017. The additional excise duty payable was ₹ 2.73 crore which was neither paid by the licensees, nor levied by the Excise authorities. This resulted in non-collection of revenue amounting to ₹ 2.73 crore.

²⁵⁹ Asansol, Barasat, Barrackpore, Behala, Bhowanipur, Bowbazar, Krishnanagar, Parkstreet, Shibpur, Siliguri, Srirampur and Tamluk.

²⁶⁰ Asansol, Krishnanagar and Siliguri.

²⁶¹ Asansol, Krishnanagar, Shibpur and Siliguri.

²⁶² Gazette Notification No. 1921-FT dated 30 December 2016.

²⁶³ Superintendent of Excise, Diamond Harbour, Superintendent of Excise, Jalpaiguri, Collector of Excise, Kolkata (North) and Collector of Excise, Kolkata (South).

After this was pointed out, the Excise Commissioner, West Bengal while admitting (November 2018) all audit observations reported realisation of ₹ 1.69 crore from six licensees and stated that demand notice had been issued to the remaining two licensees to realise the additional excise duty.

The matter was reported to the Government in May 2018. Reply was awaited (December 2019).

CHAPTER VII

CHAPTER VII

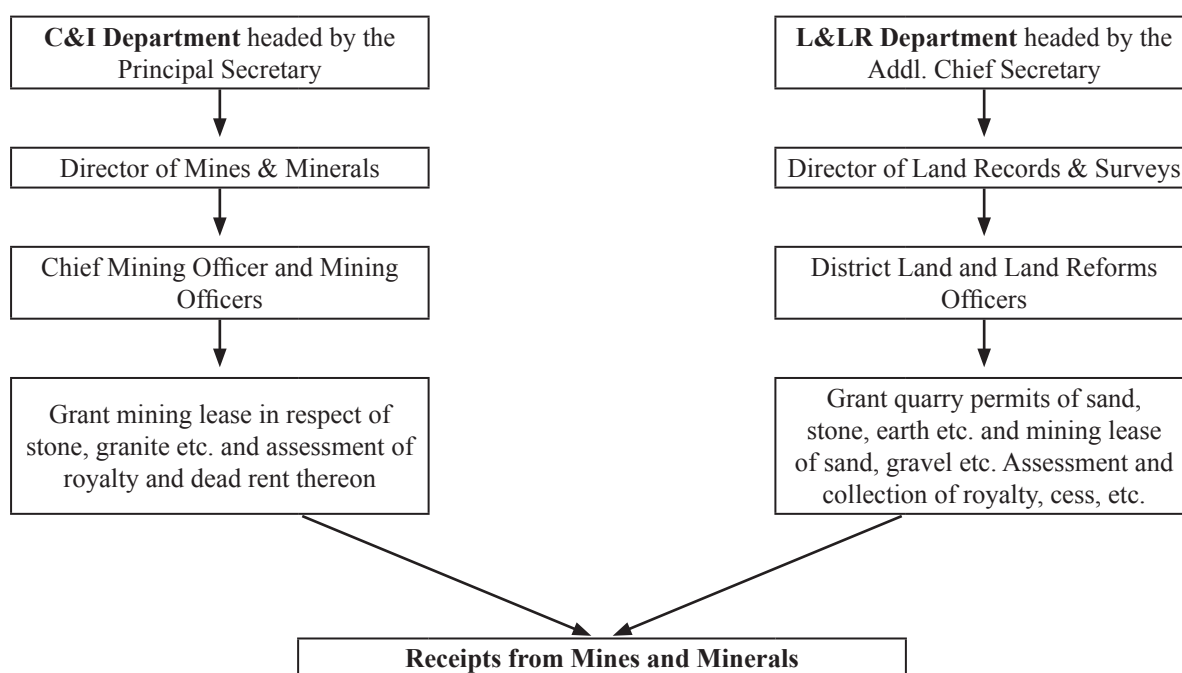
MINES AND MINERALS

7.1 Tax administration

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

In West Bengal, mainly two departments, Land and Land Reforms Department and Commerce and Industries Department, are entrusted with the assessment and collection of revenues from minor minerals. Land and Land Reforms (L&LR) Department grants quarry permits for sand, stone, earth etc. and mining lease of sand, gravel etc. It is also entrusted with the assessment and collection of royalty, cess, etc. Department of Industry, Commerce and Enterprises grants mining lease in respect of stone, granite, etc. and assesses royalty and dead rent thereon.

The organisational set up has been shown in the following chart:



7.2 Internal audit

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are mainly regulated by Land and Land Reforms (L&LR) Department, the IAW of the L&LR Department is liable to conduct audit of the units involved in regulation of mining activities. Performance of the IAW of L&LR Department has already been discussed in Paragraph No. 3.2 of this report.

7.3 Results of audit

In 2017-18, test check of the records of 10 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 42.52 crore in 233 cases, which fall under the categories given in **Table 7.1**.

Table-7.1
Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/levy/realisation of royalty and cess	83	16.35
2.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	66	15.42
3.	Non/short realisation of penalty	11	2.63
4.	Other cases	73	8.12
Total		233	42.52

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 42.13 crore in 206 cases; of this 175 cases involving ₹ 37.86 crore were pointed out during the year 2017-18 and the rest in earlier years. An amount of ₹ 4.06 crore was realised in 31 cases during the year.

Audit was conducted in 10 out of 29 (34.48 *per cent*) units administering Minor Minerals and Mining Receipts during the period 2017-18. The cases mentioned in the succeeding paragraphs are those which came to notice in the course of test audit for the period 2017-18 as well as those which came to notice in 2016-17, but could not be reported in the previous Audit Report. The cases were examined to ascertain the extent of compliance of provisions of the Acts and rules framed thereunder. The findings arising from audit involving ₹ 22.10 crore are discussed in the following paragraphs:

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

In 1,382 cases, ₹ 10.09 crore of royalty and cess on extraction of earth/ sand/ morrum/ boulder was not realised/short realised from the brick field owners, lessees and contractors.

Rule 4(1)(a) of WBMM Rules, 2002 prescribes that no person shall undertake any mining operation except under the terms and conditions of a mining lease or quarry permit. Rule 27(1) *ibid* provides that the prescribed authority may grant quarry permit to any person to extract any minor mineral, excepting stone and granite²⁶⁴, on pre-payment of royalty at prescribed rates. Rules 28 and 29 provide for application for quarrying and conditions of permit (Schedule V), respectively. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), West Bengal Primary Education Act, 1973 and West Bengal Rural Employment and Production Act, 1976, holders of quarry permits are liable to pay different types of cess at prescribed rates on extraction of minor minerals.

Audit test checked²⁶⁵ case records, demand and collection registers and minutes of meetings of District Land and Land Reforms Officers (DL&LROs) with

²⁶⁴ Extraction of Stone and Granite is governed through mining lease under Rule 5 *ibid*.

²⁶⁵ Between November 2016 and November 2017.

Brick Field Owners' Associations (BFOAs) in the offices of eight DL&LROs²⁶⁶. It was observed that in case of extraction of brick earth, procedure of application for quarry permit and pre-payment of royalty clause under WBMM rules were violated as district authorities fixed amount of extraction of brick earth and royalty thereon in meeting with BFOAs, however, extraction was allowed without pre-payment of royalty. Similarly, in case of execution of contracts, the contractors did not obtain the quarry permits for removal of minerals and the contracting authorities non/short deducted the royalty amount from their bills. Thus authorities had violated the provisions regarding application and grant for quarry permits.

Test check of records revealed that in 1,382 cases, 583 brick field owners, 73 lessees and 287 contractors were allowed extraction of earth/sand/ morrum/ boulder of 41.93 crore cft between 2013-14 and 2016-17 without realisation or with short realisation of royalty and cess. No action was taken by the DL&LROs concerned to realise the dues. This resulted in non/short realisation of royalty and cess of ₹ 10.09 crore from brick field owners, lessees and contractors as shown in the following table:

Table-7.2

Non/short realisation of royalty and cess on minor minerals

(₹ in crore)

Sl No.	Nature of irregularities	No. of cases	Quantity of minerals extracted (in crore cft)	Royalty and cess to be realised	Royalty and cess realised	Non/short realisation of royalty and cess (7) = (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(7) = (5-6)
1.	Extraction of earth / sand /morrum/boulder without payment of royalty and cess	331	10.34	3.77	Nil	3.77
2.	Short payment of royalty and cess on extraction of earth/sand /morrum/boulder	1,051	31.59	21.89	15.57	6.32
Total		1,382	41.93	25.66	15.57	10.09

After this was pointed out, the Government accepted the audit observation and intimated (February 2019) realisation of ₹ 65.64 lakh in 106 cases of DL&LRO, North 24 Parganas.

7.5 Non/short recovery of price of brick earth

In 691 cases, price of brick earth²⁶⁷ of ₹ 9.76 crore was not recovered/short recovered, as penal action for extraction of brick earth without valid permit.

Rule 4(1)(a) of WBMM Rules, 2002 prescribes that no person shall undertake any mining operation except under the terms and conditions of a mining lease

²⁶⁶ Bankura, Birbhum, Burdwan (East), Hooghly, Nadia, North 24 Parganas, Purulia and South 24 Parganas.

²⁶⁷ Earth used for making bricks.

or quarry permit. Under Section 21 of Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and Rule 33 of the West Bengal Minor Minerals (WBMM) Rules, 2002, the authority²⁶⁸ is empowered²⁶⁹ to recover either the minerals raised unlawfully or the price thereof in case of mining operations without a lease or valid permit. Accordingly, from time to time the State Government fixes the recoverable market price of minerals which includes brick earth²⁷⁰.

Audit test checked relevant records in nine DL&LROs²⁷¹ between November 2016 and November 2017. It was noticed from the information provided by the concerned DL&LROs that in 691 cases²⁷², brickfield owners had extracted 12.23 crore cft of brick earth without valid permits during the period between 2014-15 and 2016-17. The authorities neither took any action to stop such unauthorised extraction nor recovered the price of brick earth which the brickfield owners had extracted. The price of brick earth recoverable from the brickfield owners stood at ₹ 11.27 crore, of which only ₹ 1.51 crore was realised as shown in the following table :

Table-7.3
Non/short recovery of price of brick earth
(₹ in crore)

Sl. No.	Nature of irregularities	No. of cases	Quantity of brick earth extracted (in crore cft)	Price of brick earth to be recovered	Price of brick earth recovered	Non/short recovery of price of brick earth (7) = (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(5-6)
1.	Authorities did not recover price of brick earth on extraction of brick earth	560	8.08	6.46	Nil	6.46
2.	Authorities short recovered the price of brick earth extracted	131	4.15	4.81	1.51	3.30
Total		691	12.23	11.27	1.51	9.76

This resulted in non/short recovery of price of brick earth of ₹ 9.76 crore.

No reasons were found on records for such inaction on the part of the authorities.

Though similar observations were made in Audit Reports of last five years (2012-13 to 2016-17), no action by the Department to take remedial measures has been reported (December 2019).

²⁶⁸ District Land and Land Reforms Officer.

²⁶⁹ Apart from other penal actions like seizure, confiscation, eviction, imprisonment etc.

²⁷⁰ Vide Memo No. 9109-M&M dated 13 September 1984, Memo No. 698/M&M-8/2013/LR A-II dated 23 March 2015 and Memo No. 920-M&M/LR/A-II/M&M-8/2014 dated 23 March 2018.

²⁷¹ DL&LROs and period involved in observation: Bankura-2015-17, Birbhum-2014-16, Burdwan (East)-2015-17, Hooghly-2015-17, Murshidabad-2015-16, Nadia-2015-17, North 24 Parganas- 2015-16, Purulia-2014-17 and South 24 Parganas-2015-16.

²⁷² One instance of price of earth not paid in any year constitutes one case.

After this was pointed out, the Government accepted the audit observation and intimated (February 2019) realisation of ₹ 1.01 crore in 130 cases of two²⁷³ DL&LROs.

7.6 Non-realisation of penalty

Penalty to the extent of ₹ 2.25 crore, for shortfall in the extraction of sand/stone in 36 cases was not realised.

In terms of Rule 21(1) (e) of WBMM Rules, 2002, the lessee shall extract and dispatch a minimum guaranteed quantity of mineral from the leasehold area annually, as prescribed in the lease deed. In case there is any shortfall in the extraction and dispatch of the said minimum quantity without any satisfactory reason, penalty to the extent of twice the amount of royalty, which would have accrued on such shortfall, shall have to be paid by the lessee. The reasons for shortfall in extraction will be regarded satisfactory if those are in accordance with the explanations to the Rule 16(4) of WBMM Rules²⁷⁴. In such cases the lessee has to submit documentary evidence supported by an affidavit to the concerned authority.

It was observed (between December 2016 and August 2017) from records of offices of three DL&LROs²⁷⁵, that lessees extracted less quantity of sand/stone against the minimum quantity prescribed in lease deeds. No record in respect of reasons for short extraction of sand/stone, as required under the Rules, was found to have been furnished by the lessees. In the absence of any satisfactory reason, penal proceedings were required to be initiated by the authorities in these cases. The authorities, however, did not levy and demand penalty for short extraction. This led to non-realisation of penalty to the extent of ₹ 2.25 crore as shown in the following table:

Table-7.4
Non-realisation of penalty

SI. No.	Nature of irregularities	No. of lessees	No. of cases	Quantity of sand/stone (in lakh cft)			Non-realisation of penalty (₹ in crore)
				Prescribed for extraction	Extracted	Shortfall in extraction (7) = (5-6)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Lessees extracted less quantity of sand against the minimum prescribed quantity as per lease deeds.	31	35	151.40	39.58	111.82	2.23
2.	Lessees extracted less quantity stone against the minimum prescribed quantity as per lease deeds.	1	1	1.11	0.23	0.88	0.02
Total		32	36				2.25

²⁷³ Murshidabad and North 24 Parganas.

²⁷⁴ The satisfactory reasons are (a) delay in acquisition of surface rights; (b) delay in getting the possession of the leased area; (c) delay in supply or installation of machinery; (d) orders passed by any statutory or competent authority; (e) operation becoming highly uneconomical; or (f) strike or lock-out.

²⁷⁵ DL&LROs and period involved in observation: Bankura-2015-17, Burdwan (E)-2015-17 and Jalpaiguri-2014-16.

Though similar observations were made in earlier Audit Reports of 2013-14 to 2016-17, no remedial action has yet been reported by the Department (December 2019).

After this was pointed out, DL&LROs Bankura and Burdwan accepted the observations in 34 cases involving ₹ 2.19 crore, while in remaining two cases, DL&LRO Jalpaiguri did not furnish any reply.

The matter was reported to the Government in May 2018. Reply was awaited.

These observations are the results of the test check of records made available to audit. There may be similar irregularities, errors/omissions in other units under the Department but not covered in the test audit. Department may, therefore, examine all the units with a view to ensure that revenue due to the Government is realised.

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APPENDICES

Appendix-I
(Ref: Para-1.8)
Action taken on recommendations

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
2012-13	Efficiency of the administration of Value Added Tax in West Bengal	5	Establishing a system by issuing departmental instructions to coordinate with other departments/within the department on information available with them, so as to bring eligible unregistered dealers into the tax net and to prevent tax evasion by registered dealers;	STDS (Sales Tax Deducted at Source) / TCS (Tax Collection at Source) has been introduced and integrated with IFMS (Integrated Financial Management System) of the Government of West Bengal.
			Instituting an effective surveillance system so as to curb business of dealers with cancelled registrations;	Validation existed so that no ITC (Input Tax Credit) could be claimed against cancelled registrations.
			Taking initiative for recovery proceedings, raising demand in modified appeal cases and disposing of the seized materials to avoid delays in realisation of revenue,	New e-Anti Evasion Module had been introduced for this purpose.
			Maintaining a database of the dealers identified as persistent tax evaders by the preventive wings of the department; and	
			Maintaining scrutiny register and providing a working manual for streamlining the functioning of the IAW (Internal Audit Wing).	No separate scrutiny register was maintained. Strong liaison with CAG was maintained. All records of bilateral meeting with CAG were kept computerised.
2013-14	Assessment Levy and collection of Value Added Tax from works contractors	3	Establishing system of utilising intra-departmental data to bring all eligible works contractors into the tax net;	Maintained by STDS Cell.
			Developing coordination between the STDS cell and Charge offices for cross verification of data in respect of payments disclosed in TDS certificate by contractees with CTP (Contractual Transfer Price) disclosed by dealers in their returns to prevent evasion of tax;	Already introduced in IMPACT (Information Management for Promotion of Administration in Commercial Taxes).
			Making provisions like prescribing interest/late fee or imposing penalty to check delayed remittance of TDS and delayed furnishing of TDS certificates and scroll by contractees.	Reply not furnished.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status										
2013-14	Administration of taxes under various Acts by Directorate of Agricultural Income Tax in West Bengal	7	Establishing a system to mandatorily coordinate with different Departments, local bodies and other sources and exchange relevant information so as to bring eligible tax payers into the tax net.	All attempts were made by the officers of the erstwhile Directorate of Agricultural Income Tax, West Bengal to enlist a system of coordination with different departments, Local Bodies systematically and exchange relevant information to bring maximum number of tax payers into the tax net under the aforesaid Acts till 30 June, 2017.										
			Timely initiation of recovery proceedings and evolving a mechanism to monitor compliance of Appellate orders for efficient tax administration.	The Deputy Commissioners, in charge of different districts had been directed to monitor the recovery proceedings with time frame and for early compliance of appellate orders at the level of Assessing Officers.										
			Making the definition of luxury more inclusive in the tax.	Not relevant at present.										
			Widening the scope of taxation under the Bengal Amusement Tax Act 1922, on complimentary tickets of commercialised entertainment/sports events.	Not relevant at present.										
			Ensuring timely assessment of taxes under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the Bengal Amusement Tax Act, 1922.	Officers had been directed to complete all pending assessments under these Acts by 31 October, 2018. 85 per cent of pending assessments had already been completed till date.										
			Contemplating provisions in the Bengal Amusement Tax Act, 1922 for levy of interest.	Not relevant at present.										
			Establishing an effective internal audit wing and formulating the office procedure manual to ensure that various provisions of the Acts and Rules are efficiently administered for effective tax administration.	At present there is an Internal Audit Wing of the erstwhile Directorate which is still functioning. Steps were being taken to streamline the proper functioning of the Internal Audit Wing.										
2014-15	System of Assessment under Value Added Tax	5	Using IT tools to bring potential tax assesses into tax net by utilising information in respect of transactions of unregistered dealers available in returns.	<p>Transactions of unregistered dealers and also captured in DAW (Data Analysis Wing) reports and such reports where transactions of unregistered dealers were a part had effected collection amounts as under:</p> <table border="1"> <thead> <tr> <th>Financial Year</th> <th>in crore (₹)</th> </tr> </thead> <tbody> <tr> <td>2013-14</td> <td>6.35</td> </tr> <tr> <td>2014-15</td> <td>131.35</td> </tr> <tr> <td>2015-16</td> <td>50.79</td> </tr> <tr> <td>2016-17</td> <td>204.97</td> </tr> </tbody> </table>	Financial Year	in crore (₹)	2013-14	6.35	2014-15	131.35	2015-16	50.79	2016-17	204.97
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Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status										
			Introducing validation checks in Department's IT system for example-application of correct rates of tax in returns, payment of tax on sale of taxable goods in VAT returns in Form-14, proper fields in returns to verify claims of sales returns, calculation of interest and carry forward of ITC to avoid leakage of revenue.	Practical validation was already there in the system.										
			Taking steps for compulsory use of information available in IMPACT database by the AAs for cross-verification of information/data to ensure accurate assessments and due payment of tax.	The assessment was done through the system only and therefore the information of IMPACT was compulsorily seen and used.										
			Increasing number of returns/assessments for audit by IAW,	IAW was busy with settlement of pending IRs and DPs.										
			Making the DAW (Data Analysis Wing) of the department more effective by sharpening its control over unauthorised ITC claims.	DAW had been efficient and relentless in sharpening its control over unauthorised ITC claims DAW mismatch reports had effected collection amounts as follows: <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Financial Year</th> <th>in crore (₹)</th> </tr> </thead> <tbody> <tr> <td>2013-14</td> <td>31.44</td> </tr> <tr> <td>2014-15</td> <td>10.82</td> </tr> <tr> <td>2015-16</td> <td>59.43</td> </tr> <tr> <td>2016-17</td> <td>9.31</td> </tr> </tbody> </table>	Financial Year	in crore (₹)	2013-14	31.44	2014-15	10.82	2015-16	59.43	2016-17	9.31
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2014-15	Assessment and collection of revenue from minor minerals	4	Vesting powers of fixing rates and collection of revenue from various minor minerals, as far as possible, in one department.	As per current system the Industry, Commerce and Enterprises Department administered the matter related to fixing of various rates of minor minerals and the collection was carried out through the office of the Collector of the respective districts.										
			Making specific provisions in MPIMTS {Minerals (Prevention of Illegal Mining, Transportation and Storage)} Rules regarding inspection and checking of minor minerals at the place of excavation.	The matter required concurrence of the erstwhile Commerce & Industries (C&I) Department, Government of West Bengal. This Department had already requested the erstwhile C&I Department in this regard.										
			Framing specific provisions for cross-verification of data relating to royalty/cess with data of other executing agencies.	This was under consideration of the Government. The development in this regard would be informed accordingly.										

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			Building a database of mining leases granted to monitor expiry of lease and initiate action for renewal/grant of fresh leases.	This had already been prepared at the District Level.
2015-16	Assesment, Levy and Collection of Excise Duty & Fees of the year 2015-2016	4	Making provisions for late fees in Tourist Lodge Licensing Rules;	Perspectives of providing licenses to the tourist lodges were different from private bar and restaurants. The tourists' lodges were being provided licenses largely to promote tourism in the State. The application fees and the IGFs for tourist lodges were also different from normal bars and restaurants. Therefore, the provisions for late fees had not been kept in the Tourist Lodge Licensing Rules.
			Making collection of renewal fee from the licensees who have been given permission to sell packaged foreign liquor in uniformity with "OFF" shop licenses;	The licenses for opening new off shop was last issued in the year 2005. It was found that in many places within the state the distance between two off shops was huge and for the lack of convenience the chances of consuming or selling of illicit liquors were also increasing. To prevent selling and consumption of illicit liquor, government took a policy to allow the on shops to sell the sealed bottle from their outlets. This was not a separate license to the on shop holders but it was a permission to sell sealed bottle in addition to their normal business.
			Prescribing a limit in time taken by the Department for processing the application for approval of change in management;	Setting of time limit was not possible as lots of process documents etc. were involved in approving change in managements. Moreover, the proposal had to move through different stages of the administration. The Government revenues were being remitted as soon as the approval was granted; so there was no loss of Government revenues due to procedural delays. However, steps had been taken to dispose off all the cases within a short period.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			Instituting a system of its own for identification of the star category of hotels.	Henceforth the category of the hotels would be verified before issuing license and renewal.
2016-17	Land Revenue receipts in West Bengal	5	Maintaining the Register-I and Tenants' Ledger (Register-II) immediately through e-Bhuchitra, to watch the updated position of tenant-wise demand, collection, arrear etc. and to initiate certificate proceedings against the big defaulters;	Assessment of the land revenue through e-Bhuchitra would require an amendment of Section 23/24 of WBLR (West Bengal Land Reforms) Act, 1955. Appropriate action was being taken accordingly.
			Fixing an appropriate time limit for renewal of long term lease cases, settlement of Government land with unauthorised occupiers, transfer of Government land to different body corporate, Central Government etc.;	The long term leases were being renewed and this was an ongoing process.
			Taking steps for resumption of excess land held by mills, factories etc. and entire land for closed mills, factories, sale, mutation, etc.;	Steps were being taken in terms of the West Bengal Land Reforms Amendment Act, 2017 and Rules thereof. This would ensure proper documentation of 6(3) land as well.
			Conducting regular field survey to update the record of Government land, Government water bodies, etc. in the prescribed registers and monitoring the registers regarding use of the same frequently;	This was being carried out by the District Collectors.
			Taking steps for recovery of land revenue from the land under possession of different development Authorities.	Development Authorities i.e. HDA (Haldia Development Authority) and DSDA (Digha Shankarpur Development Authority) were liable to pay land revenue. The DL&LROs had already been instructed to issue demand notices for collections of dues.

The following Departments did not furnish current status in respect of action taken on the recommendations of reviews/Performance Audits featured in the last five years' Reports as mentioned as below:-

Name of the department	Year of Audit Report	Name of the Performance Audit
Finance	2012-13	Evasion of Stamp Duty and Registration Fees
	2015-16	West Bengal State Lotteries

**Appendix-II
(Ref: Para-1.9)**

Units planned and audited in 2017-18

Category/Nature of Audit	Total number of units	Number of units planned for audit	No. of units audited
Value Added Tax			
Sales Tax/VAT units consisting of Corporate Division; DCT; Charge offices; Cess on Petrol, diesel etc. and Check Posts	108	49	49
Other receipts			
State Excise (Receipt cum expenditure)	38	15	17
Stamp Duty and Registration Fees including Non-Judicial Stamp(Receipt cum expenditure)	285	65	65
Motor Vehicles Tax	28	16	16
Amusement Tax	21	06	06
Profession Tax	29	16	16
Land Revenue	23	01	01
Minor Minerals and Mining Receipts	29	10	10
Electricity Duty	21	0	0
Departmental Receipts	1	0	0
Total	583	178	180

Appendix - III
(Ref: Para No.4.4.9.1)
(Areas included in the Haldia Planning Area)

Notification No. of the Urban Development Department and date	Name of Block	Name of Gram Panchayats
1874-T&CP/1R-6/80 dated 17.03.1980	Sutahata	Joynagar, Horekhali, Guaberia, Kukrahati, Chaitanyapur, Asadtalia
	Haldia	Debhog, Chakdwipa, Baruttarhingli, Deulpota
	Mahishadal	Lakshya - I, Lakshya - II, Betkundu
354-T&CP/C-2/2L-7/2001(I) dated 16.02.2004	Mahishadal	Gopalpur, Amritberia
	Nandakumar	Bhabattarhat Purba, Kumarara, Kalyanpur
	Nandigram - I	Bhekutya, Daudpur, Gokulnagar, Haripur, Kalicharanpur, Kendamari, Mohammadpur, Nandigram, Shamshabad, Sonachura
	Nandigram - II	Amdabad - I, Amdabad - II, Bayal - I, Bayal - II, Birulia, Khodambari - I, Khodambari - II
288-T&CP/C-2/2L-7/2001 dated 13.02.2013	Panskura - I	Mysora, Keshapat, Gonindanagar, Panskura - I, Pratappur -II, Ghoshpur, Haur, Chaitanyapur - I, Chaitanyapur - II, Radhaballavchak, Purusottampur, Raghunathbari, Khandakhola
	Kolaghat	Brindabanchak, Siddha - I, Siddha - II, Khanyadihi, Baishanabchak, Gopalnagar, Kola - I, Kola - II, Amalhand, Pulsita, Sagarbarh, Bhogpur, Deriachak
	Tamluk	Nilkunrhi, Bishnubar - I, Bishnubar - II, Pipulbei - I, Pipulberia -II, Uttar Sonamui, Padumpur - I, Padumpur -II, Anantapur - I, Anantapur - II, Srirampur - I, Srirampur - II
	Sahid Matangini	Santipur - I, Santipur - II, Kharui - I, Kharui - II, Balluk -I, Balluk - II, Kakharda, Dhalhara, Raghunathpur - I, Raghunathpur - II
	Moyna	Gokulnagar, Srikantha, Tilkhoja, Moyna-I, Moyna - II, Paramanandapur, Ramchak, Gojina, Bakcha, Naichanpur -I, Naichanpur - II
	Chandipur	Jalpai, Chowkhali, Ishwarpur, Brindabanpur - I, Brindabanpur - II, Nandapur Barghuni, Dibakarapur, Usmanpur, , Brajalalchak, Kulberia
	Nandakumar	Dakshin Narikelda, Bargodagodar, Kumarchak, Chak Simulia, Saoraberia Jalpai - I

Appendix-IV
(Ref: Para-6.3.6.1 & 6.3.7)

Specific rate of PT for persons engaged in profession mentioned in the sl.no.3 of the Schedule

Sl. No.	Annual gross turnover or annual gross receipt in the preceding year or part thereof (₹)	Rate of tax (₹)
i)	Not more than 5,00,000	Nil
ii)	Above 5,00,000 but not exceeding 7,50,000	300 per annum
iii)	Above 7,50,000 but not exceeding 25,00,000	600 per annum
iv)	Above 25,00,000 but not exceeding 50,00,000	1,200 per annum
v)	Above 50,00,000	2,500 per annum

Appendix-V

(Ref: Para-6.3.7)

Specific rate of PT for persons engaged in profession mentioned in the sl.no. 2 of the Schedule.

Sl. No.	Annual gross income in the preceding year (₹)	Rate of tax (₹)
i)	Not more than 60,000	Nil
ii)	Above 60,000 but not exceeding 72,000	480 per annum
iii)	Above 72,000 but not exceeding 84,000	540 per annum
iv)	Above 84,000 but not exceeding 96,000	600 per annum
v)	Above 96,000 but not exceeding 1,08,000	1,080 per annum
vi)	Above 1,08,000 but not exceeding 1,80,000	1,320 per annum
vii)	Above 1,80,000 but not exceeding 3,00,000	1,560 per annum
viii)	Above 3,00,000 but not exceeding 5,00,000	2,000 per annum
ix)	Above 5,00,000	2,500 per annum

Appendix-VI

(Ref: Para-6.3.8)

VAT Dealers whose ECs were cancelled

SL. No.	Name of the Charge Office	No. of dealers whose ECs were cancelled /No. of branches involved in cancelled ECs	VAT Returns filed in the subsequent periods after the date of cancellation of EC		No. of cases in which Taxable turnover shown in the returns
			Upto 1st Quarter of 2017-18	Upto 4th Quarter of 2016-17	
1.	Barrackpore	8/8	8	Nil	6
2.	Krishnanagar	4/4	2	Nil	Nil
3.	Shibpur	24/24	20	2	11
4.	Silliguri	27/30	22	5	8
5.	Srirampur	24/27	17	6	3
6.	Tamluk	10/12	7	1	1
Total		97/105	76	14	29

Appendix-VII

(Ref: Para-6.3.8)

Application of incorrect entry of Schedule in enrolment

Sl. No.	No. of enrolment	Applied for enrolment under nature of profession/ trade	Corresponding entry of the Schedule in which enrolled	Applicable for enrolment under nature of profession/ trade	Applicable entry of the Schedule
1.	17	Technical or professional consultants, Holders of permits granted or issued under the Motor Vehicles Act, 1988	2(d),(h)	Owners or occupiers or licencees or lessees of tutorial homes and training institutes of any description.	3(k)
2.	36	Dealers as defined under the West Bengal Sales Tax Act or WB VAT Act, Employers and/or Shopkeepers as defined in the West Bengal Shops and Establishments Act, Contractors, Partnership firms respectively.	3(a),(b),(e),(q)		

GLOSSARY OF ABBREVIATIONS

Glossary of Abbreviations

Abbreviation	Full form
AA	Assessing Authority
AC	Air Conditioned
ADM	Additional District Magistrate
ADSR	Additional District Sub-Registrar
AG	Accountant General
AGI	Annual Gross Income
AGT	Annual Gross Turnover
ARA	Additional Registrar of Assurance
ARTO	Additional Regional Transport Officer
BDA	Burdwan Development Authority
BE	Budget Estimates
BFOA	Brick Field Owners' Associations
BL&LRO	Block Land and Land Reforms Officer
BOO	Build Own Operate
BPDR Act	Bengal Public Demands Recovery Act
CAG	Comptroller and Auditor General of India
CB	Cash Book
CCT	Commissioner of Commercial Taxes
CCTV	Close Circuit Television
C&I Department	Commerce and Industries Department
CF	Certificate of Fitness
CFT	Cubic Feet
CGST	Central Goods and Services Tax
CMOH	Chief Medical Officer of Health
CMV Rules	Central Motor Vehicles Rules
CORD	Computerisation of Registration of Documents
CR	Compounding Register
CST	Central Sales Tax
CTO	Commercial Tax Officer
CTP	Contractual Transfer Price
DAW	Data Analysis Wing
DCT	Directorate of Commercial Taxes
DIGR	Deputy Inspector General of Registration
DL&LRO	District Land and Land Reforms Officer
DLR&S	Director of Land Records and Surveys
DP	Draft Paragraph
DR	District Registrar
DRSR	Directorate of Registration and Stamp Revenue
DSDA	Digha Shankarpur Development Authority
DSR	District Sub-Registrar

Abbreviation	Full form
EC	Certificate of Enrolment
FLA Collector	First Land Acquisition Collector
GST	Goods and Services Tax
GSTIN	GST Identification Number
GVW	Gross Vehicle Weight
HDA	Haldia Development Authority
HGV	Heavy Goods Vehicles
HIA	Howrah Improvement Act
HPV	Heavy Passenger Vehicle
HRBC	Hooghly River Bridge Commissioner
IAW	Internal Audit Wing
IC Act	Indian Copyright Act
IDEA	Interactive Data Extraction and Analysis
IFMS	Integrated Financial Management System
IGR&CSR	Inspector General of Registration & Commissioner of Stamp Revenue
IGST	Integrated Goods and Services Tax
IMPACT	Information Management for Promotion of Administration in Commercial Taxes
IR	Inspection Report
IR Act	Indian Registration Act
IS Act	Indian Stamp Act
ITC	Input Tax Credit
I&W	Irrigation and Waterways
KMDA	Kolkata Metropolitan Development Authority
KOPT	Kolkata Port Trust
LA Collector	Land Acquisition Collector
LMV	Light Motor Vehicle
L&LR Department	Land and Land Reforms Department
LRC	Land and Land Reforms Commissioner
LTU	Large Taxpayers Unit
MIS	Management Information System
MMDR Act	Mines and Minerals (Development and Regulation) Act
MPIMTS Rules	Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules
MoRTH	Ministry of Road Transport and Highways
MV	Motor Vehicles
MVI	Motor Vehicles Inspectors
NH	National Highway
NHAI	National Highway Authority of India

Abbreviation	Full form
NIC	National Informatics Centre
PA	Performance Audit
PAC	Public Accounts Committee
PAG	Principal Accountant General
POs	Public Offices
PPP	Public Private Partnership
PT	Profession Tax
PTPC	Profession Tax Payment Certificates
PVD	Public Vehicles Department
PWD	Public Works Department
RA	Registering Authority
RC	Certificate of registration
RO	Registration Office
ROC	Registrar of Companies
RTA	Regional Transport Authority
RTO	Regional Transport Office
SDL&LRO	Sub-divisional Land and Land Reforms Officer
SGST	State Goods and Services Tax
SH	State Highways
SIPL	Shamiyana Infrastructure Pvt. Ltd.
STA	State Transport Authority
STDS	Sales Tax Deducted at Source
TCECPL	Toofanganj Construction and Engineering Co. Pvt. Ltd.
TCS	Tax Collection at Source
TCTP	Taxable Contractual Transfer Price
TDR	Tax Demand Register
TDS	Tax Deducted at Source
TOS	Turnover of Sales
TP Act	Transfer of Properties Act
TPR	Temporary Permit Register
VAT	Value Added Tax
WBAT & OTMV Act	West Bengal Additional Tax & One-time Tax on Motor Vehicles Act
WBHDCL	West Bengal Highway Development Corporation Limited
WBIDCL	West Bengal Industrial Development Corporation Limited
WBIIDC	West Bengal Industrial Infrastructure Development Corporation
WBL&LR Manual	West Bengal Land and Land Reforms Manual

Abbreviation	Full form
WBLR Act	West Bengal Land Reforms Act
WBLRM	West Bengal Land Reforms Manual
WBMM Rules	West Bengal Minor Minerals Rules
WBMV Rules	West Bengal Motor Vehicles Rules
WBMVT Act	West Bengal Motor Vehicles Tax Act
WBMVWCL	West Bengal Motor Vehicles Weighbridge Corporation Ltd.
WBPUVI Rules	West Bengal Prevention of Under valuation of Instrument Rules
WBREP Act	West Bengal Rural Employment and Production Act
WBSEDCL	West Bengal State Electricity Distribution Company Limited
WBST Act	West Bengal Sales Tax Act
WBSTPTCE Act	West Bengal State Tax on Professions, Trades, Callings and Employments Act
WBTIDCL	West Bengal Transport Infrastructure Development Corporation Limited
WBVAT Act	West Bengal Value Added Tax Act