

**Report of the  
Comptroller and Auditor General  
of India**

**for the year ended March 2009**

**Revenue Receipts**

**Government of West Bengal**



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## PREFACE

This report for the year ended 31 March 2009 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising sales tax, land revenue, stamp duty and registration fees, motor vehicles tax, profession tax, electricity duty, state excise, other tax receipts, mines and minerals and other non-tax receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2008-09 as well as those noticed in earlier years but could not be included in previous years' reports.





## OVERVIEW

### I. General

This Report contains 50 paragraphs including three reviews relating to under-assessment/non-realisation/loss of revenue etc. involving Rs. 784.58 crore. Some of the major findings are mentioned in the following paragraphs:

The total receipts of the Government for the year 2008-09 increased to Rs. 36,904.39 crore against Rs. 30,167.38 crore in the previous year. Of this, 53 per cent was raised by the Government through tax revenue (Rs. 14,419.15 crore) and non-tax revenue (Rs. 4,966.39 crore). The balance 47 per cent was received from the Government of India as the State's share of net proceeds of divisible Union taxes (Rs. 11,321.78 crore) and grants-in-aid (Rs. 6,197.07 crore).

(Paragraph 1.1)

As on 30 September 2009, 1,145 inspection reports issued upto March, 2009 containing 3,161 audit observations involving Rs. 4,179.03 crore were outstanding for want of response or final action by the concerned departments.

(Paragraph 1.12)

Test check of the records of sales tax, land revenue, stamp duty and registration fees, motor vehicles tax, state excise, electricity duty, other tax and non-tax receipts conducted during the year 2008-09 indicated under-assessment/short levy/loss of revenue amounting to Rs. 1,529.27 crore in 723 audit observations. During the course of the year, the departments accepted underassessment of Rs. 565.51 crore in 292 audit observations pointed out in 2008-09 and recovered Rs. 17.87 crore at the instance of audit. No replies have been received in respect of the remaining cases.

(Paragraph 1.15)

### II. Sales Tax

Review on "Transition from Sales Tax to Value Added Tax" indicated the following deficiencies:

- Failure of the assessing authority to scrutinise the returns resulted in short payment/determination of tax of Rs. 23.99 lakh.

(Paragraph 2.2.8.4, 2.2.8.5 and 2.2.8.6)

- Incorrect determination of average annual growth rate resulted in excess claim for compensation of Rs. 25.60 crore.

(Paragraph 2.2.14.1)

- Incorrect determination of tax revenue from non-VAT items resulted in excess claim for compensation of Rs. 113.13 crore.

(Paragraph 2.2.14.2)

Determination of gross turnover (GT)/taxable balance (TB) at Rs. 2,709.54 crore instead of Rs. 2,772.54 crore led to short determination of GT/TB by Rs. 63 crore resulting in short levy of tax of Rs. 5.85 crore in 33 cases.

**(Paragraph 2.4)**

Allowance of exemption on fake claim for sale of locally purchased tax paid schedule IV goods of Rs. 4.44 crore resulted in non-levy of tax and penalty of Rs. 88.90 lakh.

**(Paragraph 2.5.2)**

Irregular allowance of stock transfers by the assessing authorities on the basis of 'F' forms covering transaction beyond one calendar month/transactions not related to the period of assessment and incorrect exemption on transfer of goods resulted in underassessment of tax of Rs. 1.25 crore in 15 cases.

**(Paragraph 2.10)**

Incorrect allowance of concessional rate of tax on sales not supported by requisite declaration forms resulted in short levy of tax of Rs. 50.78 lakh in 9 cases.

**(Paragraph 2.12)**

Allowance of remission of tax of Rs. 3.50 crore instead of Rs. 3.27 crore resulted in incorrect remission of tax of Rs. 22.90 lakh.

**(Paragraph 2.15)**

Allowance of tax benefit to three dealers whose eligibility certificates were liable for termination for using logo/brand name of other industrial units resulted in inadmissible tax benefit of Rs. 2.45 crore.

**(Paragraph 2.17)**

Allowance of set-off of tax of Rs. 18.18 lakh instead of Rs. 7.28 lakh resulted in short levy of tax of Rs. 10.90 lakh.

**(Paragraph 2.21)**

### **III. Land Revenue**

Failure of the department to monitor the land comprised in mills, factories etc. and restore/resume the unused/excess land of 103.88 acres led to non-realisation of revenue of Rs. 36.29 crore.

**(Paragraph 3.3)**

Failure of the department to settle 4.97 acres of land with six unauthorised occupiers resulted in non-realisation of rent and salami of Rs. 44.50 lakh.

**(Paragraph 3.4)**

Failure to initiate action by the department to realise annual rent and cess from 12 *rai-yats* using 237.83 acres of land for commercial purpose resulted in non-realisation of rent and cess of Rs. 35.14 lakh.

**(Paragraph 3.5)**

#### **IV. State Excise**

Failure of the officer-in-charge of a brewery to enforce minimum yield of wort from malt, flake and sugar resulted in short yield of beer leading to non-realisation of excise duty of Rs. 18.39 crore.

**(Paragraph 4.3)**

Failure of the Excise Department to realise the requisite renewal fee for distillery license from a licensee resulted in non-realisation of late fee of Rs. 24.06 lakh.

**(Paragraph 4.7)**

Allowance of excess wastage of spirit during redistillation beyond the allowable limit by the excise authority to four licensees resulted in short realisation of excise duty of Rs. 17.51 lakh.

**(Paragraph 4.8)**

#### **V. Motor Vehicles Tax**

Lack of proper monitoring on the part of taxing authorities resulted in non-realisation of tax, additional tax and penalty of Rs. 10.08 crore from the owners of 10,330 vehicles.

**(Paragraph 5.3)**

Failure of the taxing authority to auction/call for second auction of 31 seized vehicles resulted in non-realisation of revenue of Rs. 23.35 lakh.

**(Paragraph 5.4)**

Difference of life time tax and one time tax including penalty of Rs. 21.75 lakh was not realised from the owners of 532 motor cycles.

**(Paragraph 5.5)**

#### **VI. Stamp Duty and Registration Fees**

Review on "Assessment, levy and collection of Stamp Duty and Registration Fees" indicated the following deficiencies:

- Non-determination of market value in referred cases resulted in non-realisation of revenue of Rs. 3.29 crore.

**(Paragraph 6.2.10.2)**

- Delay in referring the cases to the Collector for determination of market value resulted in non-realisation of deficit stamp duty and registration fees of Rs. 43.24 crore.

**(Paragraph 6.2.12.1)**

- Short realisation of revenue of Rs. 1.26 crore due to under valuation of property.

**(Paragraph 6.2.13.1)**

- Short realisation of revenue due to non-levy of additional stamp duty of Rs. 21.24 lakh.

(Paragraph 6.2.14)

- Short levy of stamp duty and registration fee of Rs. 20.32 lakh due to irregular allowance of discount on the value of the property.

(Paragraph 6.2.16.2)

Review on “**Information Technology – Computerisation of Registration of Documents (CoRD)**” indicated the following deficiencies:

- Database in four ADSR offices revealed that market rate in Market Value Monitoring Register was not updated between 1 April 2007 and 31 March 2008 for which there was short levy of stamp duty and registration fees of Rs. 2.43 crore in 14,977 sale deeds.

(Paragraph 6.3.6)

- In three ADSR offices, user charges of Rs. 75.56 lakh was realisable from 38,422 documents registered between 7 November 2006 and 31 March 2008 but no record of its realisation and remittance in Government account was available in data base.

(Paragraph 6.3.7)

Execution of lease agreement on a non-judicial stamp paper instead of registering the same resulted in non-realisation of stamp duty and registration fees of Rs. 1.02 crore.

(Paragraph 6.4)

#### **VII. Other Tax Receipts**

The assessing authority did not include rental/hire charges for banquet halls in assessing luxury tax of three hotels which resulted in non-levy of luxury tax of Rs. 39.95 lakh.

(Paragraph 7.3)

Non-raising of demand of entertainment tax on entrance fee, subscription and entry money received by Royal Calcutta Turf Club resulted in non-realisation of entertainment tax of Rs. 9.39 lakh.

(Paragraph 7.4)

#### **VIII. Mines and Minerals**

Department’s failure to initiate action to recover the price of 1.45 crore cft. of minerals extracted unauthorisedly in 180 cases resulted in non/short realisation of revenue of Rs. 94.04 lakh.

(Paragraph 8.3)

Failure of the department to levy interest for delayed payment of royalty of Rs. 1.86 crore resulted in non-realisation of interest of Rs. 7.72 lakh.

(Paragraph 8.7)

## **IX. Other Non-Tax Receipts**

Disbursement of loans to four corporations and a company by the transport department without fixing the terms and conditions for their repayment in 492 cases resulted in non-levy of interest of Rs. 126.99 crore.

**(Paragraph 9.3.1)**

Sanction of loans to three corporations which were subsequently closed without making payment of single instalment and further disbursement of loan after their closure resulted in non-realisation of principal and interest of Rs. 26.98 crore and 31.78 crore respectively.

**(Paragraph 9.3.3)**

Three departments did not charge/charged short guarantee commission for guarantees given for raising loans to six corporations/organisations which resulted in non/short charging and non-realisation of guarantee commission of Rs. 215.94 crore.

**(Paragraph 9.4)**









## CHAPTER I GENERAL

### 1.1 Trend of revenue

The tax and non-tax revenue raised by the Government of West Bengal during the year 2008-09, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in the following table:

(Rupees in crore)

Receipts		2004-05	2005-06	2006-07	2007-08	2008-09
I.	<b>Revenue raised by the State Government</b>					
	• Tax revenue	9,924.46	10,388.38	11,694.77	13,126.33	14,419.15
	• Non-tax revenue	1,345.66	1,018.81	1,248.76	1,473.09	4,966.39
	<b>Total</b>	<b>11,270.12</b>	<b>11,407.19</b>	<b>12,943.53</b>	<b>14,599.42</b>	<b>19,385.54</b>
II.	<b>Receipts from the Government of India</b>					
	• State's share of net proceeds of divisible Union taxes	6,384.89	6,668.33	8,505.60	10,729.06	11,321.78
	• Grants-in-aid	2,263.18	5,650.37	4,379.18	4,838.90	6,197.07
	<b>Total</b>	<b>8,648.07</b>	<b>12,318.70</b>	<b>12,884.78</b>	<b>15,567.96</b>	<b>17,518.85</b>
III.	<b>Total receipts of the State Government (I+II)</b>	<b>19,918.19</b>	<b>23,725.89</b>	<b>25,828.31</b>	<b>30,167.38</b>	<b>36,904.39<sup>1</sup></b>
IV.	<b>Percentage of I to III</b>	<b>57</b>	<b>48</b>	<b>50</b>	<b>48</b>	<b>53</b>

Thus, during the year 2008-09, the revenue raised by the State Government (Rs. 19,385.54 crore) was 53 per cent of the total revenue receipts (Rs. 36,904.39 crore) against 48 per cent in the preceding year. The balance 47 per cent of the receipts was from the Government of India.

<sup>1</sup> For details, please see Statement No. 11 – Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the year 2008-09. Figures under the heads 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0032 - Taxes on wealth, 0037 – Customs duty, 0038 - Union excise duties, 0044 - Service tax, - 'Share of net proceeds assigned to States' booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in State's share of divisible union taxes in this statement.

### 1.1.1 Tax revenue

The following table presents the details of tax revenue raised during the period from 2004-05 to 2008-09:

(Rupees in crore)							
Sl. no.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
1.	• Sales tax/VAT	5,086.33	5,394.81	6,279.83	7,262.92	8,134.07	(+) 11.99
	• Central sales tax	629.97	713.97	799.20	797.54	821.02	(+) 2.94
2.	State excise	671.56	743.46	817.36	935.46	1,082.94	(+) 15.77
3.	Stamp duty and registration fees	1,006.54	1,177.59	1,258.57	1,416.96	1,509.49	(+) 6.53
4.	Taxes and duties on electricity	269.65	382.46	526.35	506.69	587.52	(+) 15.95
5.	Taxes on vehicles	527.66	537.56	508.97	532.07	608.01	(+) 14.27
6.	Other taxes on income and expenditure-tax on professions, trades, callings and employment	237.43	249.15	264.85	295.06	321.60	(+) 8.99
7.	Other taxes and duties on commodities and services	359.68	269.36	284.73	341.18	367.15	(+) 7.61
8.	Land revenue	1,132.55	917.11	952.69	1,039.58	983.78	(-) 5.37
9.	Other taxes	3.09	2.91	2.22	(-) 1.13	3.57	
<b>Total</b>		<b>9,924.46</b>	<b>10,388.38</b>	<b>11,694.77</b>	<b>13,126.33</b>	<b>14,419.15</b>	<b>(+) 9.85</b>

The increase in tax revenue receipts in 2008-09 over the preceding year from Sales tax/VAT (11.99 per cent), State excise (15.77 per cent) and Taxes and duties on electricity (15.95 per cent) as intimated by the respective departments was mainly due to increased receipts of sales tax, duty from sale of spirits and foreign liquor, duty on consumption and sale of electricity, fees from electrical inspection of cinemas etc. The other departments did not inform (October 2009) the reasons for variation despite being requested (June 2009).

### 1.1.2 Non-tax revenue

The following table presents the details of the non-tax revenue raised during the period from 2004-05 to 2008-09:

(Rupees in crore)							
Sl. no.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/ decrease (-) in 2008-09 over 2007-08
1.	Interest	589.31	378.08	683.66	689.96	3,999.90 <sup>2</sup>	(+) 479.73
2.	Dairy development	38.42	26.44	22.25	26.94	29.84	(+) 10.76
3.	Roads and bridges	19.57	19.98	18.11	13.66	18.58	(+) 36.02
4.	Forestry and wildlife	40.44	38.61	40.87	49.84	45.33	(-) 9.05
5.	Non-ferrous mining and metallurgical industries	18.94	19.88	11.56	7.03	9.91	(+) 40.97
6.	Food storage and warehousing	180.23	191.50	87.67	247.71	340.17	(+) 37.33
7.	Housing	13.96	9.67	10.43	9.68	9.07	(-) 6.30
8.	Medical and public health	71.51	53.16	68.13	42.83	66.36	(+) 54.94
9.	Education, sports, art and culture	30.67	22.64	16.22	21.42	44.62	(+) 108.31
10.	Public works	7.29	6.73	5.42	7.86	6.70	(-) 14.76
11.	Police	56.85	57.05	71.33	63.02	66.88	(+) 6.12
12.	Others	278.47	195.07	213.11	293.14	329.03	(+) 12.24
<b>Total</b>		<b>1,345.66</b>	<b>1,018.81</b>	<b>1,248.76</b>	<b>1,473.09</b>	<b>4,966.39</b>	<b>(+) 237.14</b>

The increase in non-tax revenues in 2008-09 over the preceding year from 'Interest receipts' (479.73 per cent), 'Medical and public health' (54.94 per cent) and 'Education, sports, art and culture' (108.31 per cent) was mainly due to increase in receipts of interest from public sector and other undertakings, Employees State Insurance Scheme and general education. The other departments did not inform (October 2009) the reasons for variation despite being requested (June 2009).

<sup>2</sup> Includes Rs. 3,547.80 lakh, Rs. 124.87 lakh and Rs. 3,239.74 lakh by book adjustment to the heads "2700 - Major irrigation", "2701 - Medium irrigation", "2711 - Flood control and drainage" respectively.

### 1.2 Initiative for mobilisation of additional resources

In the budget for the year 2008-09, the Government had emphasised the need for reducing deficit and protecting plan expenditure through mobilisation of additional resources by extending the modified scheme for settlement of disputes relating to sales tax till March 2009 and by simplifying the procedure of payment/filing of tax return etc. Further, additional resource of Rs. 75 crore comprising Rs. 30 crore from one time settlement of disputes of sales tax, Rs. 15 crore from increase in one time tax on motor cars and omni buses and Rs. 30 crore from excise duty was also expected. The Government also planned that tax compliance would be made easier through a modern and improved tax administration.

The actual collection of the tax revenue of Rs. 14,419.15 crore was less than the budget estimate (BE) of Rs. 16,222 crore by Rs. 1,803 crore (11.11 per cent) which was compensated by receipt of the non-tax revenue of Rs. 4,966 crore against the budget estimate of Rs. 1,771 crore. The overall collection of revenue of (Rs. 19,385.54 crore), was Rs. 1,391.54 crore more than (7.82 per cent) the budget estimate (BE) for (Rs. 17,994 crore) as discussed in the following paragraph.

### 1.3 Variations between budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2008-09 in respect of the principal heads of tax and non-tax revenue are mentioned in the following table:

(Rupees in crore)					
Sl. No.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
<b>Tax revenue</b>					
1.	Sales Tax/VAT	9,794	8,955	(-) 839	(-) 8.57
2.	State excise	1,115	1,083	(-) 32	(-) 2.87
3.	Land revenue	1,489	984	(-) 505	(-) 33.92
4.	Taxes on vehicles	673	608	(-) 65	(-) 9.66
5.	Stamp duty and registration fees	1,738	1,509	(-) 229	(-) 13.18
6.	Profession tax	335	322	(-) 13	(-) 3.88
7.	Electricity duty	696	588	(-) 108	(-) 15.52
8.	Other taxes and duties on commodities and services	379	367	(-) 12	(-) 3.17
9.	Agricultural income tax	1	4	(+) 3	(+) 300.00
10.	Others	2	(-) 1	(-) 3	(-) 150.00
<b>Total</b>		<b>16,222</b>	<b>14,419</b>	<b>(-) 1,803</b>	<b>(-) 11.11</b>
<b>Non-tax revenue</b>					
11.	Forest receipts	50	45	(-) 5	(-) 10.00
12.	Interest receipts	829	4,000	(+) 3,171	(+) 382.51

13.	Dairy development	27	30	(+) 3	(+) 11.11
14.	Food storage and warehousing	238	340	(+) 102	(+) 42.86
15.	Medical and public health	96	66	(-) 30	(-) 31.25
16.	Education, sports, art and culture	20	45	(+) 25	(+) 125.00
17.	Public works	7	7	NIL	NIL
18.	Roads and bridges	22	19	(-) 3	(-) 13.64
19.	Police	170	67	(-) 103	(-) 60.59
20.	Major and medium irrigation	8	7	(-) 1	(-) 12.50
21.	Minor irrigation	23	20	(-) 3	(-) 13.04
22.	Others	281	320	(+) 39	(+) 13.88
<b>Total</b>		<b>1,771</b>	<b>4,966</b>	<b>(+) 3,195</b>	<b>(+) 180.41</b>

The reason for variation (382.51 *per cent*) between BE and actual in respect of Interest receipts was mainly due to writing off of interest on government loans to West Bengal State Electricity Board for finalising West Bengal Power Sector Reforms Transfer Scheme, 2007.

The reasons for variation between BEs and actuals were not furnished by the other departments despite being requested (June 2009).

#### 1.4 Analysis of collection

The break-up of the total collection at pre-assessment stage and after regular assessment of the sales tax, agricultural income tax and amusement tax for the year 2008-09 and the corresponding figures for the preceding two years as furnished by the department is as mentioned in the following table:

(Rupees in crore)							
Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
1	2	3	4	5	6	7	8
Sales tax/VAT	2006-07	6,993.04	94.57	31.03	39.62	7,079.02	99
	2007-08	8,223.06	99.87	33.17	32.12	8,323.98	99
	2008-09	8,857.15	98.53	36.12	24.40	8,967.40 <sup>3</sup>	99
Agricultural income tax	2006-07	0.95	0.17	0.03	0.10	1.05	90
	2007-08	0.05	0.27	0.05	3.02	(-) 2.65	
	2008-09	0.12	6.86	2.30	0.40	8.88	1
Amusement tax	2006-07	59.09	7.72	0.09	0.03	66.87	88
	2007-08	72.00	6.63	0.16	1.65	77.14	93
	2008-09	56.81	13.76	0.72	3.70	67.59	84

<sup>3</sup> Departmental figure is at variance with the Finance Account figure which is to be reconciled.

Thus, the collection of tax at pre assessment stage during the last three years ranged between 84 to 99 *per cent* except in the case of Agricultural income tax. This indicates that voluntary compliance for payment of tax by the dealers was good.

### 1.5 Cost of collection

The gross collection in respect of the major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2006-07 to 2008-09 along with the relevant all India average percentage of expenditure on collection to gross collection for the year 2007-08 are given in the following table:

(Rupees in crore)

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection for the year 2007-08
Sales tax/VAT	2006-07	7,079.00	83.79	1.18	0.83
	2007-08	8,060.46	92.42	1.15	
	2008-09	8,955.09	100.34	1.12	
State excise	2006-07	817.00	42.38	5.19	3.27
	2007-08	935.47	49.59	5.30	
	2008-09	1,082.94	65.76	6.07	
Stamp duty and registration fees	2006-07	1,259.00	44.97	3.57	2.58
	2007-08	1,416.96	60.10	4.24	
	2008-09	1,509.49	53.61	3.55	
Taxes on vehicles	2006-07	509.00	9.89	1.94	2.09
	2007-08	532.07	10.86	2.04	
	2008-09	608.01	11.92	1.96	

The percentage of expenditure on collection of sales tax/VAT, State excise and Stamp duty and registration fees was well above the all India average. There is considerable scope for the Government to improve the efficiency of tax collection.

### 1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some heads of revenue as furnished by the departments, amounted to Rs. 152.72 crore, of which Rs. 84.72 crore was outstanding for more than five years as shown in the following table:

(Rupees in crore)

Head of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than five years as on 31 March 2009
Sales tax/VAT	Not furnished by department	Not furnished by department
Amusement tax	42.59	13.97
Agricultural income tax	99.63	64.66
Excise duty	10.50	6.09
<b>Total</b>	<b>152.72</b>	<b>84.72</b>

The stages at which these were pending had not been intimated by the departments concerned (September 2009) despite being requested (June 2009).

### 1.7 Arrears in assessments

The following table shows the details of pending assessment cases in the preceding three years as furnished by the departments:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Arrears as percentage of total cases
<b>Sales tax/VAT</b>						
2006-07	1,69,076	80,077	2,49,153	1,34,054	1,15,099	46
2007-08	1,15,099	39,271	1,54,370	1,21,325	33,045	21
2008-09	33,045	62,085	95,130	67,558	27,572	29
<b>Profession tax</b>						
2006-07	1,32,113	54,536	1,86,649	51,514	1,35,135	72
2007-08	1,35,135	88,068	2,23,203	71,951	1,51,252	68
2008-09	1,51,252	77,336	2,28,588	83,536	1,45,052	63
<b>Amusement tax</b>						
2006-07	8,040	3,126	11,166	2,499	8,667	78
2007-08	8,667	4,088	12,755	2,567	10,188	80
2008-09	10,188	4,266	14,454	3,160	11,294	78
<b>Agricultural income tax</b>						
2006-07	2,560	665	3,225	676	2,549	79
2007-08	2,549	670	3,219	633	2,586	80
2008-09	2,586	8,189	10,775	1,713	9,062	84

Immediate action needs to be taken to finalise the remaining cases in sales tax as value added tax has been introduced in the state from 2005-06. However, the number of pending cases in profession tax, amusement tax and agricultural income tax is large. The department should initiate steps to complete the assessments within a definite time frame.

### 1.8 Evasion of tax

The details of cases of evasion of tax detected, cases finalised and the demands for additional tax raised as reported by the departments is mentioned in the following table:

Name of tax/duty	Cases pending as on 31 March 2008	Cases detected during 2008-09	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc. raised		No. of cases pending finalisation as on 31 March 2009
				No. of cases	Amount demanded (Rs in crore)	
Sales tax/VAT	198	41	239	33	18.57	206
State excise	8	Nil	8	1	Not available	7
Amusement tax	22	Nil	22	Nil	Nil	22

While the number of pending cases in respect of sales tax increased, the progress in disposal of amusement tax cases was not satisfactory.

### 1.9 Refunds

The number of refund cases pending at the beginning of the year 2008-09, claims received and refunds made during the year and the balance at the close of the year 2008-09, as reported by the departments are mentioned in the following table:

(Rupees in crore)

Category	Sales tax/VAT		Amusement tax		Agricultural income tax	
	No. of cases	Amount	No. of cases	Amount	No. of cases <sup>4</sup>	Amount
Claims outstanding at the beginning of the year	252	1.20	Nil	Nil	7	0.26
Claims received during the year	281	25.02	11	3.70	16	0.20
Refunds made during the year	381	24.40	11	3.70	17	0.40
Balance outstanding at the end of the year	152	1.82	Nil	Nil	6	0.06

While there was no case outstanding for refund in case of amusement tax, there was improvement in processing the refund cases in respect of sales tax and agricultural income tax.

### 1.10 Status of recovery against audit observations accepted by the Government

A review of the replies of the Government to the paragraphs of the Audit Reports for the last five years from 2003-04 to 2007-08 shows that against the revenue effect of Rs. 2,298.44 crore of the audit observations accepted by the departments, the actual recovery is very low at Rs. 324.94 crore (14.14 per cent). A year-wise break-up of the recovery of revenue till June 2009 is given in the following table:

<sup>4</sup> The department has stated that there was an unintentional error in the figure for the year 2007-08 which has been corrected.



(Rupees in crore)			
Year of Audit Report	Revenue effect of the Audit Report	Amount accepted by the departments	Amount recovered
2003-04	1,335.20	483.13	29.64
2004-05	554.93	442.16	285.33
2005-06	711.36	170.81	0.08
2006-07	2,483.81	1008.60	9.41
2007-08	616.07	193.74	0.48
<b>Total</b>	<b>5,701.37</b>	<b>2,298.44</b>	<b>324.94</b>

### 1.11 Departmental audit committee meetings

For prompt settlement of old outstanding inspection reports (IRs), departmental audit committees were constituted by the Government in the year 1985. The administrative department is required to convene meetings of the audit committees comprising the Secretary of the administrative department concerned, a senior officer of the Finance Department not below the rank of Joint Secretary and a representative of the office of the Accountant General, West Bengal.

The number of meetings held and the paragraphs settled during the last three years are mentioned in the following table:

(Rupees in crore)				
Year	Name of the department	Number of meeting(s) held	Number of paragraphs settled	Money value of the paragraphs settled
2006-07	State Excise	1	59	2.83
2007-08	State Excise	1	33	39.37
2008-09	State Excise	1	42	13.05
	Land Reforms	1	1	0.01
	Industrial Reconstruction	1	1	1.62

Thus, out of eight departmental audit committees, one committee held meetings regularly during the last three years and two committees held meetings during the last year only and settled 136 paragraphs involving money value of Rs. 56.88 crore. The other departments did not hold any audit committee meeting till August 2009 despite several reminders.

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

The Accountant General (Receipt, Works and Local Bodies Audit), West Bengal arranges periodic inspection of the Government departments to test check the transactions and verify the maintenance of accounts and other records as per the prescribed rules and procedures. Following the inspections, IRs are issued to the heads of offices inspected with copies to the administrative departments for taking prompt corrective action. The Government have provided that first replies to the IRs should be furnished within three weeks of receipt. The heads of the offices and the Government

are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the office of the Accountant General within two months from the date of issue of the IRs. Serious irregularities are also brought to the notice of the heads of the departments by the office of the Accountant General.

Of the Inspection reports issued up to March 2009, 3,161 paragraphs relating to 1,145 IRs involving Rs. 4,179.03 crore remained outstanding at the end of September 2009. Of these, 272 IRs containing 520 paragraphs involving Rs. 57.88 crore had not been settled for more than 10 years; the concerned departments were Finance, Forest, Commerce and Industries, Transport and Land and Land Reforms. In respect of 1,987 paragraphs of 540 IRs issued between April 1984 and March 2009 even the first replies were not furnished. As a result, the serious irregularities commented upon in these IRs remained unattended as of 30 September 2009.

A department wise break-up of the IRs and audit observations outstanding as on 30 September 2009 is given in the following table:

(Rupees in crore)

Sl. no.	Department	Position of IRs issued up to March 2009 but not settled at the end of September 2009			Position of IRs and paragraphs not settled for more than 10 years			Position of IRs in respect of which even the first reply has not been received		
		No. of IRs	No. of Paragraphs	Money value	No. of IRs	No. of Paragraphs	Money value	No. of IRs	No. of Paragraphs	Earliest year to which IR relates
1.	<b>Finance</b>									
	Sales tax/VAT	86	458	52.05	NIL	NIL	NIL	80	450	2004-05
	Profession tax	100	239	11.13	26	33	0.26	52	160	2002-03
	Stamp duty and registration fees	266	409	52.57	30	35	1.75	164	278	1997-98
	Electricity duty	52	100	8.50	22	27	1.86	8	29	1998-99
	Amusement tax	69	135	27.30	31	48	2.04	26	54	1984-85
2.	<b>Forest</b>									
	Forest receipts	113	259	65.75	28	35	1.30	61	187	1997-98
3.	<b>Land and Land Reforms/Commerce and Industries</b>									
	Mines and minerals	82	272	107.22	21	43	1.61	34	208	1992-93
4.	<b>Land and Land Reforms</b>									
	Land revenue	98	583	160.68	45	183	19.03	39	227	1992-93
5.	<b>Excise</b>									
	State excise	43	122	42.73	Nil	Nil	Nil	29	226	1992-93
6.	<b>Transport</b>									
	Motor vehicles	131	366	25.50	30	43	0.46	11	65	2003-07
7.	<b>Other</b>									
	Departmental receipts	105	218	3,625.60	39	73	29.57	36	103	1995-96
	<b>Total</b>	<b>1,145</b>	<b>3,161</b>	<b>4,179.03</b>	<b>272</b>	<b>520</b>	<b>57.88</b>	<b>540</b>	<b>1,987</b>	

This indicates the failure of the departmental officials in initiating action to correct the defects, omissions and irregularities pointed out in the IRs. The Principal Secretaries/Secretaries of the departments were informed of the position through half yearly reports, but there was no improvement in the position.

### 1.13 Settlement of paragraphs of the Audit Reports

The Committee on Public Accounts (PAC) discusses the Receipt Audit Reports and presents its own reports and recommendations for compliance by the Government. Normally 20 per cent of the total number of paragraphs of the Audit Report are selected every year for discussion. The remaining paragraphs are disposed of on the basis of replies of the Government.

As of 31 March 2009, the Government had not furnished explanatory notes in respect of 34 selected and 1,301 unselected paragraphs including 377 sub paragraphs<sup>5</sup> of Audit Reports from 1981-82 to 2006-07. The lack of response from the Government would adversely impact the revenue realisation.

### 1.14 Follow-up on the Audit Reports - summarised status

As per the Rules of Procedure of the PAC of the West Bengal Legislative Assembly (Internal Working) framed in 1997, the concerned department shall send action taken notes (ATN) on the recommendations contained in the Report of the PAC within six months from the date of its presentation to the House. The position of outstanding ATNs due from the departments is mentioned in the following table:

PAC Report	Date of presentation in the Assembly	Name of the Department	Year of Audit Report	No. of ATNs due
Seventeenth Report of 1988-89	5 May 1989	Irrigation and Waterways	1978-79	3
			1983-84	1
Twenty second Report of 1990-91	26 March 1991	Transport	1979-80	1
			1980-81	1
Second Report of 1991-92	9 April 1992	Board of Revenue	1980-81	2
			1983-84	1
Seventh Report of 1991-93	23 March 1993	Finance	1983-84	1
Seventeenth Report 1993-94	31 March 1994	Land and Land Reforms	1985-86	1
			1986-87	1
Twenty fifth Report of 1994-96	1 August 1995	Transport	1983-84	1
		Home (Police)	1988-89	1
Seventeenth Report of 1998-99	28 June 1999	Land and Land Reforms	1988-89	1
			1992-93	1
Twenty ninth Report of 1999-2000	2 December 1999	Irrigation and Waterways	1990-91	1
Sixteenth Report of 2002-03	8 July 2003	Finance	1997-98	1
			1998-99	2
Twenty second Report of 2003-04	7 July 2004	Finance	1998-99	8
Thirty fifth Report of 2004-05	8 July 2005	Land and Land Reforms	1999-2000	5
<b>Total</b>				<b>33</b>

<sup>5</sup> Sub-paragraphs of the Audit Reports for the years 1981-82 to 1991-92 which have not been selected by the PAC have since been included in the outstanding list awaiting replies from the Government.

The table shows that the departments failed to submit ATNs within the stipulated six months in respect of 33 paragraphs included in the Audit Reports upto the year ended 31 March 2000.

### **1.15 Results of audit**

Test check of the records of sales tax, land revenue, stamp duty and registration fees, motor vehicles tax, state excise, electricity duty, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2008-09 indicated underassessment/short levy/loss of revenue amounting to Rs. 1,529.27 crore in 723 audit observations of which the departments accepted Rs. 565.51 crore in 292 audit observations and recovered Rs. 17.87 crore in 68 cases at the instance of audit. No replies have been received in respect of the remaining cases.

This Report contains 50 paragraphs including three reviews relating to non/short levy of taxes, duties, interest and penalties etc., involving Rs. 784.58 crore. The departments accepted audit observations involving Rs. 495 crore of which Rs. 14.70 crore had been recovered. These are discussed in the succeeding chapters II to IX.

## CHAPTER II SALES TAX

### 2.1 Results of audit

Test check of the records of Commissionerate of Commercial Taxes, sales tax offices conducted during the year 2008-09 indicated underassessment of tax and other irregularities involving Rs. 96.22 crore in 395 cases which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Categories	No. of cases	Amount
1.	Transition from sales tax to VAT (A review)	1	0.37
2.	Non/short levy of penalty/surcharge/additional surcharge, interest	112	21.95
3.	Irregular allowance of tax remission, concessional rate of tax and transfer of goods	30	2.51
4.	Non/short levy of tax due to short determination of gross turnover	28	1.36
5.	Non/short levy of purchase tax	34	0.76
6.	Underassessment of tax due to incorrect deduction	28	0.66
7.	Other irregularities	162	68.61
<b>Total</b>		<b>395</b>	<b>96.22</b>

During the course of the year 2008-09, the concerned department accepted underassessment and other deficiencies of Rs. 6.48 crore in 110 cases of which 105 cases involving Rs. 6.45 crore were pointed out during the year 2008-09 and the rest in the earlier years. An amount of Rs. 7.93 lakh in 13 cases was realised at the instance of audit during the year.

A review on 'Transition from Sales Tax to Value Added Tax' with a financial effect of Rs. 37 lakh and few illustrative audit observations involving Rs. 44.54 crore are mentioned in the following paragraphs.

## 2.2 Transition from Sales Tax to Value Added Tax

### Highlights

- Failure of the assessing authority to scrutinise the returns resulted in short payment/determination of tax of Rs. 23.99 lakh.

(Paragraph 2.2.8.4, 2.2.8.5 and 2.2.8.6)

- Incorrect determination of average annual growth rate resulted in excess claim for compensation of Rs. 25.60 crore.

(Paragraph 2.2.14.1)

- Incorrect determination of tax revenue from non-VAT items resulted in excess claim for compensation of Rs. 113.13 crore.

(Paragraph 2.2.14.2)

### 2.2.1 Introduction

The Government of West Bengal repealed the West Bengal Sales Tax (WBST) Act, 1994 and enacted the West Bengal Value Added Tax (WBVAT) Act, 2003 for implementation with effect from 1 April 2005. However, levy and collection of tax on sale of petrol, diesel, liquor, lottery tickets and aviation turbine fuel (ATF) still continues to be governed under the WBST Act, 1994. The main objectives of the WBVAT Act were as follows:

- to generate more revenue by reduction of rate of tax;
- to eliminate cascading effect of tax on goods both on exports and on domestic sales; and
- to reduce evasion and avoidance of tax by revitalising administrative machinery by introducing transparency.

Value Added Tax is imposed on the value added to the goods at each stage of sales and on purchases of certain goods in West Bengal under some specified circumstances.

The major differences between the WBST Act and WBVAT Act are as under:

WBST Act	WBVAT Act
A single/double point tax system	A multi-point tax system
No provision for audit of dealers' books of accounts	Provisions for audit of dealers' books of accounts
Compulsory assessment of tax within a prescribed time limit	Dealers are selected for assessment of the tax only under specified conditions
Provision for concessional rate of tax on production of declaration forms	No provision for concessional rate of tax
Provision for exemption of tax on sale of goods purchased from a registered dealer in West Bengal	Dealers except those paying tax at compounded rate are eligible for input tax credit against the output tax payable on sale of goods

A review on 'transition from sales tax to VAT' was conducted which indicated a number of system and compliance deficiencies as discussed in the succeeding paragraphs.

### **2.2.2 Organisational set-up**

The collection of tax under VAT Act is administered by the Directorate of Commercial Taxes (DCT) under the administrative control of the Principal Secretary to the Government of West Bengal, Finance (Revenue) Department. The overall control and superintendence of the Directorate is vested with the Commissioner of Commercial Taxes (CCT), West Bengal who is assisted by two Special Commissioners, 45 Additional Commissioners, 101 Senior Joint Commissioners (Sr. JCCT) 258 Joint Commissioners (JCCT), 209 Deputy Commissioners, 447 Sales Tax Officers and 1,220 Assistant Sales Tax Officers for administering the provisions of the Act and Rules made thereunder.

### **2.2.3 Audit objectives**

The review was aimed to ascertain whether the

- planning for implementation and the transition from the WBST Act to WBVAT Act was effected timely and efficiently;
- provisions of the WBVAT Act and the Rules made thereunder were adequate and enforced properly to safeguard the revenue of the State;
- internal control mechanism existed in the department and was adequate and effective to prevent leakage of the revenue; and
- to check the status of the system after being in place for three years.

### **2.2.4 Scope and methodology of audit**

For the purpose of the review, questionnaires were issued to the circles and charge offices and replies received from them were compiled and analysed. Further verification of replies was carried out during field audit. The various returns and reports along with individual assessment records of dealers were test checked in 23<sup>1</sup> out of 68 charge offices under nine circles<sup>2</sup> alongwith Finance (Revenue) Department and the DCT. The selection of charge offices was made on stratified random sampling method. The review was conducted during the period from June to September 2009.

### **2.2.5 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the Finance (Revenue) Department and the DCT in providing necessary information and records to audit. The audit findings were reported to the Government in September 2009 and had been discussed with the Finance (Revenue) Department in the exit conference held in October 2009. The replies received from the department have been suitably incorporated in the relevant paragraphs. Replies of the Government have not been received (October 2009).

<sup>1</sup> Alipore, Asansol, Ballygunge, Bhowanipore, Beadon Street, Behala, Belgachia, Bowbazar, Budge Budge, College Street, Esplanade, Ezra Street, Jorabagan, Lal bazar, N.D.Sarani, New Market, Park Street, Postabazar, Radhabazar, Salkia, Salt Lake, Siliguri and Ultadanga.

<sup>2</sup> Asansol, Bally, Behala, Chowringhee, Dharmtala, Kolkata (North), Kolkata (South), 24- Parganas and Siliguri.

### 2.2.6 Pre-VAT and post-VAT tax collection

The comparative position of pre-VAT sales tax collection between 2002-03 and 2004-05 with post-VAT tax collection between 2005-06 and 2007-08 is mentioned below:

Pre - VAT			Post - VAT		
Year	Actual collection (Rs. in crore)	Growth rate of actual collection over previous year (%)	Year	Actual collection (Rs. in crore)	Growth rate of actual collection over previous year (%)
2001-02	3,802.46				
2002-03	4,191.51	10.23	2005-06	6,108.78	6.87
2003-04	4,830.58	15.25	2006-07	7,079.03	15.88
2004-05	5,716.30	18.34	2007-08	8,060.46	13.86
			2008-09	8,955.09	11.10
Average growth rate – 14.61			Average growth rate – 11.93		

Pre-VAT period witnessed a constant increasing growth rate in actual tax collection. In the post-VAT period while the collection of revenue grew in comparison with the previous year, the rate of such growth which had touched 15.88 per cent in 2006-07 gradually declined to 11.10 per cent in 2008-09.

### System deficiencies

#### 2.2.7 Registration and database of dealers

##### 2.2.7.1 Deficiency in the database of dealers

A database of registered dealers under the WBST Act was maintained by the DCT under its main application software 'Information Management for Promotion of Administration in Commercial Taxes' (IMPACT) to support decision making. The maintenance of the database was entrusted to the officials of the National Informatics Centre (NIC). The officers and staff of the Directorate utilised this database through 33 modules created by the NIC for this purpose. Though proper access to the database was not provided by the Directorate, audit observed following deficiencies in the database.

- There was absence of proper planning and pre-defined strategy at the time of creation of the database. No steering committee appeared to have been formed to define the structure and objectives of the database. Requirements of the Directorate in the form of Users Requirement Specification (URS) were not found documented and approved by the competent authority.
- The Directorate continued to use the same database under the VAT regime which was created for the purpose of Sales Tax. Though the two Acts have some major dissimilarities in their functioning, necessary changes have not been made in the database. For example - 100 per cent scrutiny of returns is mandatory under the WBVAT Act but columns like 'date of completion of scrutiny of returns', 'date of issue of Form-20', 'date of submission of Form-16' etc. had not been incorporated in the dealers' database.



- Particulars of the dealers whose RCs were cancelled under the WBST Act, were not deleted from the database on the date of implementation of VAT in the State.

**These deficiencies of the database lead to weak monitoring in respect of scrutiny of the returns and selection of the dealers for tax audit and resulted in short scrutiny of the returns and selection of non-existent dealers for tax audit as discussed in the succeeding paragraphs.**

After this was pointed out, the Additional Commissioner stated (October 2009) that there was no provision in the database to know the date of completion of scrutiny of the returns. The department also admitted the audit observation.

#### **2.2.7.2 Database of dubious/risky dealers**

In order to prevent evasion of tax, a database in respect of dubious/risky dealers needs to be maintained by the Directorate on the basis of past history of the dealers under WBST Act, listing cases of fraud/concealment/usages of fake declaration forms to get exemption or reduction in rate of tax. Assessing authorities should consult the database before finalising any assessment.

No database in respect of dubious/risky dealers was maintained either at the charge office level or at the Directorate level (by ISD).

The department stated that there were separate wings viz. Bureau of Investigation and Central Section (Investigation) to deal with such cases. Hence, there was no need to create database of such dealers. Audit observed that the said two wings take action only upon information received against a dealer; hence the purpose of constant watch of risky dealers is not served by these wings.

#### **2.2.7.3 Lack of connectivity**

The Directorate had a policy to interlink the charges, circles, ranges and check posts with the main server installed at Information System Division (ISD) to monitor the collection of revenue, restrict tax evasion by cross verification of transactions and endorsement of waybill and to facilitate decision making. Under the Directorate, there are 17 circles, 68 charges, nine ranges and 28 check posts. As reported by the ISD, only 12 circles, 65 charges and seven check posts were connected to the ISD as on 31 March 2009 while none of the range got the connectivity. **Lack of connectivity affected the overall monitoring of the subordinate offices of the Directorate.**

After this was pointed out, the department accepted the audit observation.

#### **2.2.7.4 Registration without verification**

A dealer, who becomes liable to pay tax under the WBVAT Act, may apply for registration in Form-1 to the registering authority (RA) with court fee of Rs. 100 affixed thereon. Registration Certificate (RC) in Form-3 is to be issued by the concerned RA under section 24 of the Act after verification of information within 21 days (30 days w.e.f. 1 October 2006) from the date of receipt of such application.

Scrutiny of the registration records of two circles<sup>3</sup> indicated that the registration was granted without verifying the information given in the Form-1 in respect of 286 dealers of four charge offices<sup>4</sup>. Even vital information like dealer's declared place of business and bank account number etc. had not been verified before granting the RC.

After this was pointed out, Senior JCCT, Kolkata (N) circle stated (October 2009) that RCs were granted after enquiry in cases of dealers dealing with timber, spices, iron and steel and hardware material. In other cases enquiry is not done excepting in cases where the RA had some suspicion. The reply is not tenable as no exemption from verification has been granted by the Act. The reply furnished by the department did not touch upon the issue raised by audit.

**The Government may consider incorporating the essential data fields in the database for effective monitoring of revenue realisation.**

### 2.2.8 Returns

Every dealer liable to pay tax under the WBVAT Act shall furnish quarterly return, within the next english calendar month, at the end of the relevant quarter.

#### 2.2.8.1 Delay in filing returns

A dealer who fails to furnish returns within the prescribed time limit shall pay late fee for delay in filing the return. The amount of late fee from 1 April 2007 to 31 March 2008 was 50 *per cent* of net tax payable or Rs. 2,000 whichever is lower for delay of each month or part thereof. However, w.e.f. 1 April 2008 it was Rs. 2,000 in case of default by one month or part thereof and Rs. 500 for every subsequent month or part thereof.

The dealers furnish their returns at the central return receiving section under the Directorate. On receiving the returns the date of submission is recorded into the computerised system and sent to the respective charges for scrutiny.

- Data analysis of returns submitted by the dealers during the period between 2005-06 and 2008-09 in three charge offices<sup>5</sup> of Kolkata North Circle as received from the ISD of the Directorate indicated that 12,139 dealers did not submit their returns within the prescribed date. As the charges failed to scrutinise cent *per cent* of returns and as monitoring cannot be done due to deficient database, the possibility of late fee escaping realisation can not be ruled out.

After this was pointed out, the department admitted the audit observation and stated that necessary steps are being taken. Further development has not been reported (October 2009).

- Scrutiny of the records of two charges<sup>6</sup> indicated that three dealers furnished their quarterly returns/revised returns for the year 2007-08 after

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<sup>3</sup> Kolkata (North) and Kolkata (South).

<sup>4</sup> Ballygunge, Beadon Street, Jorabagan and Postabazar.

<sup>5</sup> Beadon Street, Jorabagan and Postabazar.

<sup>6</sup> Alipore and Behala.

expiry of the prescribed date. The delay ranged between 1 and 13 months. The dealers paid late fee of Rs. 40,000 against the payable amount of Rs. 1.26 lakh. This resulted in short payment of late fee of Rs. 86,000. No action was taken by the charge officers to realise the late fee paid short by the dealers.

#### **2.2.8.2 Non-maintenance of scrutiny register**

Under the provisions of WBVAT Act and Rules made thereunder, every return furnished by a dealer shall be scrutinised to ascertain the correctness of the amount of tax and interest payable according to such return. Scrutiny is to be completed within four months from the date of filing of the returns.

No register was prescribed for the purpose of scrutiny of returns under the WBVAT Act and Rules made thereunder. As a result the charge offices failed to ascertain the actual number of returns scrutinised between April 2005 and March/December 2008. The CCT in April 2008 issued a circular and instructed all the charge officers under the Directorate to maintain a scrutiny register in a prescribed format, starting from scrutiny of returns filed for the fourth quarter of 2007-08. However, no column has been provided in the format for recording the date of receipt of the return in absence of which it was not possible to ensure that the returns filed by a dealer were scrutinised within the time limit prescribed under the provisions of the Act. Further, two charges<sup>7</sup> did not start maintaining the scrutiny register even after the circular issued by the CCT in April 2008.

After this was pointed out, the department admitted the audit observation (October 2009).

#### **2.2.8.3 Non/short scrutiny of returns**

Information regarding scrutiny of returns for the period from 2005-06 to 2008-09 was sought for in May 2009 from 23 charges. Of these, 18 charges<sup>8</sup> did not furnish any information while five charges<sup>9</sup> furnished information for the year 2008-09 only. Analysis of information obtained from five charges indicated that with effect from April 2008, only Beadon Street charge conducted cent *per cent* scrutiny of the returns while other four charges scrutinised only 0 to 87 *per cent* of the returns filed by the dealers. Thus, the charge offices failed to comply with the provisions of cent *per cent* scrutiny of the returns as shown in the following table:

<sup>7</sup> Belgachia and Salt Lake.

<sup>8</sup> Alipore, Asansol, Bhowanipore, Behala, Belgachia, Bowbazar, Budge Budge, College Street, Esplanade, Ezra Street, Jorabagan, Lalbazar, N.D.Sarani, New Market, Park Street, Postabazar, Radhabazar and Salt Lake.

<sup>9</sup> Ballygunge, Beadon Street, Salkia, Siliguri and Ultadanga.

Name of the charge	Returns furnished during				Scrutiny completed (Per cent of shortfall)			
	1 <sup>st</sup> quarter	2 <sup>nd</sup> quarter	3 <sup>rd</sup> quarter	4 <sup>th</sup> quarter	1 <sup>st</sup> quarter	2 <sup>nd</sup> quarter	3 <sup>rd</sup> quarter	4 <sup>th</sup> quarter
Ballygunge	3,934	3,972	4,215	4,348	1,144 (71)	159 (96)	318 (92)	148 (97)
Salkia	1,882	1,832	1,789	1,868	1,562 (17)	1,557 (15)	1,556 (13)	1,606 (14)
Siliguri	5,124	5,148	3,740	5,027	303 (94)	171 (97)	257 (93)	570 (89)
Ultadanga	1,100	1,133	1,169	932	44 (96)	34 (97)	42 (96)	Nil (100)

After this was pointed out, the department stated (October 2009) that due to infrastructural problem cent *per cent* scrutiny was not possible. However, priority had been given to scrutinise returns of big dealers.

Scrutiny of the records indicated short payment/determination of the tax of Rs. 23.99 lakh due to non/short scrutiny of returns as discussed in succeeding paragraphs.

#### **2.2.8.4 Short payment of tax on contractual transfer price**

Under the provisions of WBVAT Act, a dealer intending to pay tax at compounded rate shall exercise his option in Form-16 to the competent authority within 90 days from the commencement of the year.

Scrutiny of the records indicated that a dealer registered in Alipore charge furnished returns for the year 2006-07 in Form-15 and paid tax of Rs. 5.40 lakh at the compounded rate of two *per cent* on the contractual transfer price (CTP) of Rs. 2.70 crore without exercising his option in Form-16. The dealer was, therefore, not eligible for paying tax at compounded rate. As per records made available to audit, taxable CTP of the dealer, after allowing deduction towards labour, service and other charges stood at Rs. 2.13 crore on which tax of Rs. 24.14 lakh was payable. There was no evidence on record to show that the returns furnished by the dealer were scrutinised. Thus, non-scrutiny of returns resulted in short levy of tax of Rs. 18.74 lakh.

After this was pointed out, the department admitted the audit observation and stated (October 2009) that steps were being taken to guard against such irregularities. However, report on recovery of tax has not been received (October 2009).

#### **2.2.8.5 Short payment of tax**

Scrutiny of the records indicated that a dealer registered in Behala charge paid tax of Rs. 2.41 lakh against net tax of Rs. 5.01 lakh payable in respect of return for the quarter ended 30 September 2007. Thus, the dealer made short payment of tax of Rs. 2.60 lakh. No demand notice was, however, served upon the dealer in Form-20. There was nothing on record to show that the return was scrutinised. Thus, due to non-scrutiny of return by the officer concerned, the tax could not be realised.

After this was pointed out, the department admitted the audit observation and stated (October 2009) that steps were being taken to realise the amount. Further development has not been reported (October 2009).

#### 2.2.8.6 Short determination of tax by dealer

Scrutiny of the records indicated that a dealer registered in Alipore charge in his return for the quarter ended March 2008 made deduction on account of inter-state sales of Rs. 45.22 lakh from the turnover of sales of Rs. 2.87 crore but determined taxable turnover of sales at Rs. 1.76 crore instead of Rs. 2.42 crore. The dealer thus made short determination of taxable turnover of sales by Rs. 66 lakh and consequently calculated output tax as well as net tax payable short by Rs. 2.65 lakh. There was no evidence on record to show that the return furnished was scrutinised. As a result the tax assessed short by the dealer remained undetected and unrealised.

After this was pointed out, the department admitted the audit observation and stated (October 2009) that steps were being taken to realise the amount. Further development has not been reported (October 2009).

**The Government may consider ensuring timely completion of cent per cent scrutiny of returns.**

#### 2.2.9 Audit of Accounts

Under the provisions of WBVAT Act and Rules made thereunder, the CCT shall select by 31<sup>st</sup> January every year a certain *percentage* of registered dealers for audit to verify the correctness of the returns furnished and admissibility of various claims including input tax credit or refund. After selection he shall send a list of such dealers to the appropriate audit authority for conducting audit. On receipt of the list of dealers, the appropriate officer shall issue a notice in Form-21 to the dealers concerned and normally within six months from the date of selection, prepare a report stating his observation about correctness of returns. If the dealer fails to comply with the notice, the audit officer may conduct audit at the dealer's place of business without giving him prior information.

##### 2.2.9.1 Basis of selection

The Act provides for selection of dealers for audit of accounts on the following basis:

Sl. no.	Type of dealers	Percentage of dealers to be audited
1.	Gross Sales/CTP < Rs. 10 crore	Not less than 2%
2.	Gross Sales/CTP > Rs. 10 crore	Not less than 25%
3.	Eligibility Certificate holders u/s 118(1)(a)/(b)/(c)	Not less than 25%
4.	Paying tax at compounded rate	Not less than 2%

However, the master table of the registered dealers database does not provide for such classification of the dealers. In the absence of such classification the correctness of the basis of selection of the dealers for audit of accounts could not be ascertained in audit.

After this was pointed out, the department admitted (October 2009) the audit observation. Remedial measures taken/to be taken has not been reported (October 2009).

#### **2.2.9.2 Delay in selection**

During the course of review it was observed that selection of dealers for audit for the year 2005-06 in respect of four charges<sup>10</sup> was delayed by two to three months while that for the year 2006-07 in respect of 15 charges<sup>11</sup> was delayed by three to six months indicating non-adherence to the time schedule prescribed for the purpose of selection.

After this was pointed out, the department stated (October 2009) that the delay was condoned by the Government. However, no document could be produced confirming the condonation.

#### **2.2.9.3 Incorrect selection of dealer for the purpose of audit**

Scrutiny of the records in four charges<sup>12</sup> indicated that out of 266 dealers selected for audit during the year 2005-06 and 2006-07, 16 dealers did not file their returns, five dealers were non-existent and RC of one dealer was found to have been cancelled before selection. Thus, selection procedure of the directorate was not in conformity with the provisions of the Act and was unable to restrict selection of non-existent dealers/dealers who did not furnish returns.

After this was pointed out, the department admitted the audit observation. However, action taken/to be taken to set right the lacunae pointed out by audit has not been reported (October 2009).

**The Government may consider ensuring proper selection of dealers according to the provisions of the Act.**

#### **2.2.9.4 Audit not conducted at dealer's place of business**

Scrutiny of the records indicated that 65 dealers under nine charges<sup>13</sup> selected for audit during the year 2005-06 and 2006-07 did not produce their books of accounts before the departmental audit team within the specified dates. No action was, however, taken by the departmental audit team to visit the place of business of the defaulting dealers. Thus, audit was not completed and the purpose of selection was defeated.

After this was pointed out, the JCCT, Kolkata South circle stated (October 2009) that the dealers in question produced various documents on various dates and sought extension of time to produce remaining books of account till the end of January 2009. However, at the end of the audit period they failed to produce the books of accounts. At that stage, it was not possible to spare time to visit each and every such dealer as that would have prevented from

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<sup>10</sup> Alipore, Asansol, Behala and Budge Budge.

<sup>11</sup> Alipore, Asansol, Ballygunge, Bhowanipore, Beadon Street, Behala, Budge Budge, Esplanade, Jorabagan, N.D. Sarani, New Market, Park Street, Postabazar, Radhabazar and Siliguri

<sup>12</sup> Beadon Street, Budge Budge, Jorabagan and Postabazar.

<sup>13</sup> Alipore, Ballygunge, Beadon Street, Behala, Bhowanipore, Budge Budge, Jorabagan, Park Street and Postabazar.

completing the rest of the reports in time. The reply is not tenable as the audit has to be conducted at the dealers place of business.

### **2.2.10 Deficiencies in provisions for cross verification**

There is no provision under the WBVAT Act for cross verification of records of works/buying departments in case of work contractors/suppliers. No departmental circular or instruction has also been issued so far to make a certain *percentage* of such cases cross verifiable with the records of the works/buying departments.

After this was pointed out, the department stated (October 2009) that instructions were being issued to cross verify the information furnished by big dealers.

**The Government may consider establishing a system for conducting cross verification of transaction and their monitoring by higher authorities.**

### **2.2.11 Internal audit**

Internal audit is generally defined as the control of all controls which enables an organisation to assure itself that the prescribed system are functioning reasonably well. It also provides a reasonable assurance of proper enforcement of law, rules and departmental instructions.

The DCT has an internal audit wing working under the direct supervision of the CCT. In spite of repeated observations featured in audit reports<sup>14</sup>, manual of internal audit wing has not been formulated and documented. Though a maximum quantum of 10 *per cent* of the files of registered dealers under different Acts in any charge has been fixed by the CCT, neither has the minimum percentage of scrutiny of files of a charge nor has the minimum number of charges to be audited annually has yet been fixed. During the year 2008-09 only three out of 68 charges were audited thus, covering less than five *per cent* of the total charges of the Directorate. This indicates that the department needed to streamline its internal audit.

After this was pointed out, the department admitted the observation and attributed (October 2009) the failure to inadequate infrastructure.

### **Compliance deficiencies**

#### **2.2.12 Input tax credit**

Under the provisions of the VAT Act and Rules made thereunder only a registered dealer shall be eligible to claim an input tax credit to the extent of the amount of tax paid or payable on his purchases of taxable goods subject to fulfilment of conditions and restrictions as prescribed under the Act. A dealer claiming ITC on purchases of taxable goods is required to disclose in his return the number of registered dealers from whom tax invoices were received and the number of tax invoices received from such dealers in respect of each tax period. Further, where the annual purchases of a dealer exceeds Rs. 40 lakh, he is required to furnish an annual statement of purchases made in West

<sup>14</sup> (Paragraph 2.2.19 of 2003-04, Paragraph 2.2.15 of 2005-06 and Paragraph 2.2.11 of 2007-08).

Bengal showing the name of the dealers from whom goods were purchased and their RC numbers.

#### **2.2.12.1 Irregular claim of ITC**

Scrutiny of the returns indicated that a dealer registered in Alipore charge claimed ITC of Rs. 5 lakh in his returns for the year 2007-08 on purchase of taxable goods of Rs. 67.43 lakh. The dealer, however, neither furnished the number of registered dealers from whom purchases were made and the tax invoices received from such dealers, nor the annual statement of purchases in support of his claim; in the absence of which the ITC claimed by the dealer was not admissible. Further, there was no evidence on record to show that the returns filed by the dealer were scrutinised. Thus, non-scrutiny of the return resulted in allowance of inadmissible claim of ITC for Rs. 5 lakh.

After this was pointed out, the department admitted the audit observation and stated (October 2009) that the guidelines are being issued to deal with such cases.

#### **2.2.12.2 Inadmissible claim of ITC on purchases of pre-registration period**

Scrutiny of the records indicated that a dealer registered in Alipore charge whose liability to pay tax under the VAT Act accrued on 28 August 2005, was issued registration certificate on 9 February 2007. The dealer was, therefore, not eligible for input tax credit on purchases made during the period from 28 August 2005 to 8 February 2007. The dealer, however, in his returns filed for the pre-registration period claimed input tax credit of Rs. 6.99 lakh against the output tax of Rs. 6.80 lakh. The irregular claim of ITC and consequent non-payment of tax of Rs. 6.80 lakh remained undetected due to non-scrutiny of returns.

After this was pointed out, the department admitted the audit observation and stated (October 2009) that the guidelines were being issued to assess such type of dealers properly. However, report on recovery of tax has not been received (October 2009).

#### **2.2.13 Irregular payment of tax under composition scheme**

Under the provisions of WBVAT Act and rules made thereunder, every registered dealer who has opted to pay tax at a compounded rate shall be eligible to exercise his option for a maximum period of one year at a time. Such registered dealer can again exercise his option for subsequent years subject to the condition that he shall communicate such option in Form-16, to the appropriate authority within a prescribed time limit from the date of commencement of the year in respect of which the option is so exercised. The WBVAT Act and Rules made thereunder, however, does not provide for maintenance of any register to monitor submission of Form-16 by a dealer in exercise of his option to pay tax under the composition scheme. Nor was there any departmental circular to maintain such register to ensure that the dealer is eligible for paying tax at compounded rate.



Scrutiny of the records of three charges<sup>15</sup> indicated that 19 dealers in 21 cases for the years 2005-06 to 2008-09 furnished returns in Form-15 and paid tax accordingly at the compounded rate without exercising their option in Form-16, whereas three dealers exercised their option by submitting Form-16 after the due date of submission. In the absence of register or other record, audit could not verify how eligibility to pay tax at compounded rate was ensured before accepting the return in Form-15.

After this was pointed out, the department admitted (October 2009) the audit observation and stated (October 2009) that guidelines were being issued to assess such type of dealers.

**The Government may consider taking appropriate measures to verify the payment of tax under the composition scheme.**

#### **2.2.14 Claim for compensation of loss due to introduction of VAT**

The Government of India (GOI) agreed to compensate the State Government for the loss of revenue consequent upon introduction of VAT in the State. According to the guidelines for compensation of loss, receipts from state sales tax on petrol, diesel, aviation turbine fuel (ATF), liquor and lottery ticket and input tax credit adjusted against CST were to be excluded. The compensation was allowable at 100 per cent, 75 per cent and 50 per cent of such loss of revenue for the years 2005-06, 2006-07 and 2007-08 respectively.

##### **2.2.14.1 Excess claim of compensation due to incorrect determination of average annual growth rate**

In determining the net tax revenue for the year 1999-2000, tax revenue of Rs. 647.98 crore was deducted from non-VAT items inclusive of tax of Rs. 32.25 crore on sale of country liquor which was non-taxable during that period. Thus, the average annual growth rate was determined at 10.87 per cent in place of the actual annual growth rate of 10.60 per cent for the purpose of determining the projected tax revenue. The projected tax revenue was determined at Rs. 3,947.68 crore and Rs. 4,376.79 crore instead of Rs. 3,938.06 crore and Rs. 4,355.49 crore for the years 2005-06 and 2006-07 respectively. This resulted in excess compensation claims of Rs. 9.62 crore and Rs. 15.98 crore for the years 2005-06 and 2006-07 respectively.

After this was pointed out, the average annual growth rate was revised to 10.60 per cent. The claim for compensation for the year 2006-07 was preferred to GOI in September 2008 of Rs. 33.56 crore without making any adjustment of Rs. 9.62 crore received in excess for the year 2005-06.

The department admitted the audit observation and stated (October 2009) that the GOI had been requested to adjust the compensation received in excess.

##### **2.2.14.2 Excess claim of compensation due to incorrect determination of revenue from non-VAT items**

As per information furnished in Proforma-III by the Government of West Bengal to the GOI on projected tax revenue, actual tax revenue and loss to be compensated for the years 2005-06 and 2006-07 were as follows:

<sup>15</sup> Alipore, Behala and Postabazar.

(Rupees in crore)

Year	Projected tax revenue	Total tax revenue (excluding CST)	Tax revenue from non-VAT items	Net tax revenue [(3)-(4)]	Loss during the year [(2)-(5)]
(1)	(2)	(3)	(4)	(5)	(6)
2005-06	3,938.06	5,394.81	1,729.53	3,665.28	272.78
2006-07	4,355.49	6,279.82	2,041.25	4,238.57	116.92

Scrutiny of the records of Corporate Division and Bhowanipore charge, where all petrol, diesel and ATF oil dealers were assessed, indicated that tax revenue from non-VAT items viz. petrol, diesel and ATF oil for the year 2005-06 and 2006-07 was Rs. 1,378.55 and Rs. 1,718.59 crore respectively. Revenue from non-VAT items viz. country liquor, foreign liquor and lottery ticket for the year 2005-06 and 2006-07 was Rs. 261.75 and Rs. 298.76 crore as ascertained from the Administrative Report of the Directorate. Thus, the total tax revenue from non-VAT items was only Rs. 1,640.30 crore and Rs. 2,017.35 crore during the year 2005-06 and 2006-07. But the revenue from the non-VAT items taken by the directorate for claiming compensation of loss from the GOI was Rs. 1,729.53 crore and Rs. 2,041.25 crore for the year 2005-06 and 2006-07 respectively. Thus, incorrect determination of revenue from non-VAT items resulted in excess claim of compensation from GOI of Rs. 89.23 crore and Rs. 23.90 crore for the year 2005-06 and 2006-07 respectively.

After this was pointed out, the department did not furnish any reply (October 2009).

#### 2.2.15 Conclusion

Receipts from VAT constitute the main source of revenue of the State. The review indicated that the database of the directorate was not modified before implementation of VAT. No information regarding dubious dealers was maintained in the database. Lack of connectivity of circles, charges, ranges and checkposts lead to weak monitoring of the subordinate offices. There were a number of systemic and compliance deficiencies. These included registration without verification, absence of monitoring of returns, allowance of ITC without scrutiny of returns, incorrect selection of dealers for the purpose of tax audit etc.

#### 2.2.16 Summary of recommendations

The Government may consider the following recommendations to rectify the system and compliance deficiencies:

- incorporate the essential data fields in the database for effective monitoring of revenue realisation;
- ensure timely completion of *cent per cent* scrutiny of returns;
- ensure proper selection of dealers according to the provisions of the Act;
- establish a system for cross verification of transaction and monitoring of the same by higher authorities; and

- taking appropriate measures to verify the payment of tax under composition scheme.

### 2.3 Other audit observations

Scrutiny of the assessment records of sales tax/value added tax (VAT) indicated several cases of non-observance of provisions of Acts/Rules, non/short levy of tax/penalty/interest/acceptance of defective statutory forms/suppression of sales/irregular concession/incorrect application of rate of tax etc. as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of Assessing Authorities (AA) are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including internal audit so that such errors can be corrected timely and avoided in future.

### Non-compliance with CCT's instructions

**Commissioner, Commercial Taxes, West Bengal instructed all the Assessing Officers (AOs)**

1. To verify the purchase documents furnished by the dealers in support of their claim for exemption on resale of locally purchased schedule IV goods in order to ascertain payment of due tax at the first point of sale<sup>16</sup>.
2. To allow deduction to the extent not exceeding the amount of tax paid by the dealer<sup>17</sup>.
3. To record reasons for non-levy of penalty in cases of concealment of sales/purchases<sup>18</sup>.

**Failure of the AOs to comply with the aforesaid orders of CCT resulted in non/short levy of tax of Rs. 10.90 crore as mentioned in the following paragraphs.**

### 2.4 Incorrect determination of Gross Turnover

Under the West Bengal Sales Tax (WBST) Act, 1994, turnover of sales in relation to any period means the aggregate of the sale prices or parts of sale prices receivable by a dealer, or if a dealer so elects, actually received by the dealer during such period. A dealer is liable to pay tax at the prescribed rate on the amount of such turnover after allowing permissible deductions. In addition, the dealer is liable to pay surcharge and additional surcharge on the amount of tax payable from April and August 2002 respectively.

Scrutiny of the records of 14 charge offices<sup>19</sup> between April 2005 and December 2008 indicated that while assessing/reassessing 33 cases of 30 dealers between June 2003 and June 2007 for assessment periods ending between March 2001 and March 2005, the AAs incorrectly determined the

<sup>16</sup> Circular dated 10.12.1999.

<sup>17</sup> Circular no. 667 dated 15.12.1998.

<sup>18</sup> Memo No. 488 (300) CT/1A dated 12.06.1991.

<sup>19</sup> Asansol, Ballygunge, Bankura, Behala, Bhowanipore, Colootola, Corporate Division (CD 2021 - CD 2030), Corporate Division (CD 2031 - CD 2040), Ezra Street, Park Street, Radhabazar, Raiganj, Salkia and Siliguri.

gross turnover (GT)/taxable balance (TB) at Rs. 2,709.54 crore instead of Rs. 2,772.54 crore due to errors/omissions/irregularities. Short determination of GT/TB by Rs. 63 crore resulted in short levy of tax of Rs. 5.85 crore including surcharge and additional surcharge as detailed below:

(Rupees in lakh)

Sl. no.	No. of cases/dealers	Assessment year	GT/TB to be determined GT/TB determined	Short determination of GT/TB	Tax effect	Nature of irregularity
1.	20/19	2000-01 2004-05	11,799.71 7,522.43	4,277.28	434.05	Sales claimed for exemption were not supported by documents.
The department admitted (between May 2008 and July 2009) the audit observation in four cases involving Rs. 3.06 crore, but report on levy and realisation has not been received (August 2009). In one case involving Rs. 2.30 lakh, the department stated (December 2007) that the amount allowed for deduction of sales of schedule IV goods was less than that demanded in the returns. In another case involving Rs. 2.76 lakh, it was stated (December 2007) that the dealer had been assessed <i>ex parte</i> to the best judgement of the AA and the claim had been allowed considering the dealer's nature of business and past assessment records. However, audit observed that in both the cases exemption of such claims of sales were allowed without supporting documents. In another case involving Rs. 1.49 lakh, it was stated (June 2008) that the exempted part represented security deposit against gas cylinders lent by the dealer; however, as per the summary of returns, the dealer himself disclosed these as sales of schedule IV goods instead of security deposit. In the remaining 13 cases involving Rs. 1.21 crore, the reply furnished by the department did not touch upon the issue raised by audit.						
2.	03/03	2003-04 2004-05	2,58,291.60 2,57,566.73	724.87	66.68	Non-inclusion of sale of assets in GT.
The department admitted (February 2008) one case involving Rs. 2.45 lakh, but did not report whether levy and realisation of tax had been made. In the remaining two cases involving Rs. 64.23 lakh, the reply furnished by the department did not touch upon the issue raised by audit.						
3.	01/01	2000-01	4,201.12 3,595.78	605.34	48.43	Non-inclusion of unreconciled difference of stock in GT.
The department admitted (January 2008) the case and stated that the proposal for <i>suo-motu</i> revision had been sent to the Additional CCT, WB. However, no report regarding levy and realisation of tax was received (October 2009).						
4.	03/01	2002-03 2004-05	173.82 0.00	173.82	15.86	Non-inclusion of suppressed turnover.
The reply furnished by the department did not touch upon the issue raised by audit.						
5.	03/03	2001-02 2003-04	1,180.53 788.16	392.37	10.45	Non-inclusion in GT of difference between sale figures in P/L accounts and returns.
The reply furnished by the department did not touch upon the issue raised by audit.						
6.	01/01	2004-05	681.38 640.00	41.38	5.53	Non-inclusion of damaged goods not supported by proper documents.
The department admitted (July 2009) the audit observation; but report on levy and realisation has not been received (October 2009).						
7.	02/02	2003-04 2004-05	925.47 840.87	84.60	3.89	Non-inclusion of hire charges.
The department admitted the cases between December 2007 and September 2008 and stated that proposals for revision had been sent to the appropriate authorities. Report on further development has not been received (October 2009).						
	33/30		2,77,253.63 2,70,953.97	6,299.66	584.89	

The cases were forwarded to the Government between July 2007 and February 2009 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

## **2.5 Non-levy of penalty on evaded tax**

Under the WBST Act, if a dealer has concealed any turnover or furnished incorrect particulars thereof with the intent to reduce the amount of tax payable by him, the AAs in addition to tax, may impose a penalty of not less than one and a half times and not more than thrice the amount of tax avoided. According to the instructions (June 1991) of the CCT, West Bengal, where an AA did not initiate penal proceedings in a case, he should record in the assessment order the reasons for not doing so.

**2.5.1** Scrutiny of the records of seven charge offices<sup>20</sup> between December 2007 and December 2008 indicated that while assessing/reassessing 12 cases of nine dealers between June 2005 and June 2007 for the assessment periods ending between March 2000 and March 2005, the AAs detected concealment of Rs. 48.69 crore and levied tax of Rs. 2.36 crore, but did not levy minimum penalty of Rs. 3.54 crore. No reason was recorded in the assessment order for non-levy of minimum penalty. This resulted in non-realisation of revenue of Rs. 3.54 crore.

After the cases were pointed out, the department accepted (December 2007) audit observations in four cases involving Rs. 1.47 crore. In one case involving Rs. 12 lakh, the department stated (February 2008) that the dealer had admitted the omission at the assessment stage and as such penalty was not leviable. The fact remains that the suppression of purchase of raw hide was taxed by the AA and thus, penalty was leviable. Besides, the AA did not mention the reason for non-levy of penalty in the assessment order, which was mandatory as per CCT's circular. In the remaining seven cases involving Rs. 1.95 crore. The reply furnished by the department did not touch upon the issue raised by audit.

**2.5.2** Scrutiny of the records of Salt Lake charge office in March 2008 indicated that in assessing three cases of a dealer between June 2005 and June 2007 for the assessment periods ending between March 2003 and March 2005, the AAs allowed claims for the sale of locally purchased tax paid schedule IV goods of Rs. 13.43 crore. Cross-verification of the purchase documents of the assessee dealer with corresponding sale documents of the selling dealers confirmed that the dealer had preferred and got exemption on fake claim for the sale of locally purchased tax paid schedule IV goods of Rs. 4.44 crore leading to the evasion of tax of Rs. 35.56 lakh. The AAs neither levied the minimum penalty of Rs. 53.34 lakh nor recorded any reason in the assessment order for not doing so. This resulted in non-realisation of revenue of Rs. 88.90 lakh.

The cases were reported to the department and Government between February 2008 and February 2009 followed by reminders issued upto June 2009; their replies have not been received (October 2009).

<sup>20</sup> Ballygunge, Bhowanipore, Colootola, Salt Lake, Shibpur, Shyambazar and Siliguri.

## **2.6 Underassessment of tax due to incorrect deduction**

Under the WBST Act and the Rules made thereunder, in determining the taxable turnover of a dealer, deduction of tax collected by him is allowable from the aggregate of sales turnover in accordance with the prescribed formula. The Commissioner, Commercial Taxes (CCT), West Bengal in December 1998, restricted the deduction to the extent of sales tax deposited and included in the turnover by the dealers. This provision is also applicable to the assessments made under the Central Sales Tax (CST) Act.

Scrutiny of the records of six charge offices<sup>21</sup> between March 2007 and December 2008 indicated that in assessing/reassessing 18 cases of 16 dealers between May 2005 and June 2007 for assessment periods ending between March 2001 and March 2005, the AAs allowed deduction of Rs. 14.48 crore against actual deposit of tax of Rs. 5.07 crore as per the returns. The excess deduction of Rs. 9.41 crore resulted in underassessment of tax of Rs. 62.50 lakh including surcharge and additional surcharge.

After the cases were pointed out, the department accepted the audit observations (between December 2007 and July 2009) in four cases involving Rs. 14.98 lakh. Report on realisation of tax has not been received (October 2009). In one case involving Rs. 6.93 lakh, the department stated (June 2008) that the deduction was allowed as per provisions of the Act. The reply is not tenable as the deduction should have been restricted to the amount of tax deposited by the dealers as provided in the CCT's instruction of December 1998 *ibid*. In the remaining 13 cases involving Rs. 40.59 lakh, the reply furnished by the department did not touch upon the issue raised by audit.

The cases were reported to the Government between July 2007 and February 2009 followed by reminders issued upto June 2009; their replies have not been received (October 2009).

### **Non-compliance of provisions of Act**

*As per the provisions of the WBST Act 1994 and CST Act 1956, while finalising the assessments of a dealer, the AOs are required to follow the prescribed Acts and Rules and conduct verifications as under:*

- 1. Assessments should be completed within the stipulated time limit.*
- 2. Deemed assessments should be made as per provisions of the Act.*
- 3. Books of accounts and other accounts, documents for exemption and lower rate of tax and any other information to support the facts contained in the books of accounts should be verified.*
- 4. Statements of declaration forms and export documents should be verified.*
- 5. Tax, surcharge & additional surcharge and interest should be levied at the prescribed rates.*
- 6. Tax benefits e.g. tax holiday, remission, set-off should be allowed as per the provisions of the Act.*

<sup>21</sup> Bhowanipore, Corporate Division (CD 201 – CD 2030), Jalpaiguri, Park Street, Salt Lake and Siliguri.

7. *Computation of tax should be made correctly.*
8. *Demand notices should be raised after assessment.*

*Failure on the part of the AOs to comply with the above resulted in non/short levy of tax of Rs. 33.63 crore as mentioned in the following paragraphs.*

### **2.7 Incorrect exemption on account of export sales**

Under the CST Act, 1956, sales of goods made in course of export out of India are exempt from tax if supported by proper evidence of export. Sales not supported by the necessary evidence are to be taxed at the prescribed rates treating these as sales in the course of the inter-state trade.

Scrutiny of the records of three charge offices<sup>22</sup> between January and November 2008 indicated that while assessing three cases of three dealers for assessment periods ending between March 2003 and March 2005, the AAs allowed exemption on account of export sales of Rs. 40.48 crore though export of Rs. 18.94 crore was not allowable being either not related to the period of assessment or not supported by relevant documents. This resulted in underassessment of tax of Rs. 2.14 crore.

The cases were forwarded to the department and Government between April 2008 and January 2009 followed by reminders issued upto June 2009; their replies have not been received (October 2009).

### **2.8 Mistake in computation of tax**

Under the WBST Act, tax, surcharge and additional surcharge are to be levied at the rate applicable from time to time on the goods/commodities sold.

Scrutiny of the records of three charge offices<sup>23</sup> between November 2007 and December 2008 indicated that while assessing four cases of four dealers between June 2005 and June 2007 for assessment periods ending between March 2003 and March 2005, the AAs assessed tax including surcharge and additional surcharge of Rs. 1.64 crore instead of Rs. 2.22 crore due to mistake in computation of taxable balance and purchase/sales tax payable. This resulted in short levy of tax including surcharge and additional surcharge of Rs. 58 lakh.

After the cases were pointed out, the department accepted (February 2008) audit observation in one case involving Rs. 1.52 lakh. The report on levy and realisation of tax has not been received (October 2009). In the remaining three cases involving Rs. 56.48 lakh, the reply furnished by the department did not touch upon the issue raised by audit.

The cases were forwarded to the Government between April 2008 and February 2009 followed by reminders issued upto June 2009; their replies have not been received (October 2009).

<sup>22</sup> Ballygunge, Serampore and Salt Lake.

<sup>23</sup> Ballygunge, Corporate Division (CD 2031 – CD 2040) and Siliguri.

## 2.9 Non-levy of interest

Under the WBST Act, a dealer who

- furnishes return in respect of any period by the prescribed date or thereafter but fails to make full payment of tax payable in respect of such period by the prescribed date; or
- fails to furnish a return in respect of any period before assessment and on such assessment it is found that full amount of tax payable for such period have not been paid by him by such prescribed date; or
- fails to make payment of any tax demanded after assessment by the date specified in the demand notice,

is liable to pay simple interest at the prescribed rate for each calendar month of default. In case of non-payment, interest is to be included in the demand upto the month preceding the month of initiation of certificate proceedings. This provision is also applicable in case of the assessments completed under the CST Act.

Scrutiny of the records of 13 charge offices<sup>24</sup> between June 2007 and December 2008 indicated that in assessing/reassessing/initiating certificate proceedings in 48 cases of 45 dealers for different assessment periods ending between March 1994 and March 2005, the AAs levied interest of Rs. 71.10 lakh instead of Rs. 1.94 crore realisable on tax dues of Rs. 4.37 crore, resulting in non-levy of interest of Rs. 1.23 crore.

After the cases were pointed out, the department:

- in 26 cases involving Rs. 71.17 lakh, admitted the audit observation (September 2007 and July 2009) but report on realisation has not been received (October 2009).
- in two cases involving Rs. 12.16 lakh, stated between February and November 2008 that the interest was not levied since tax was not admitted by the dealer. In another case involving Rs. 1.03 lakh it stated (November 2008) that the dealer had been assessed *ex-parte* and the interest was levied on the tax payable. However, audit observed that these cases related to non-levy of interest for non-furnishing of returns and not for non-payment of admitted tax as contended.

In the remaining 19 cases involving Rs. 38.64 lakh, the reply furnished by the department did not touch upon the issue raised by audit.

All the cases were forwarded to the department and Government between February 2008 and February 2009 followed by reminders issued upto June 2009; their replies have not been received (October 2009).

<sup>24</sup> Asansol, Ballygunge, Bankura, Baruipur, Bhowanipore, Colootola, Corporate Division (CD 2021 – CD 2030), Jalpaiguri, Park Street, Salkia, Salt Lake, Serampore and Siliguri.



## 2.10 Incorrect exemption on account of transfer of goods

Under the CST Act and the Rules made thereunder, a dealer claiming exemption from his turnover on account of transfer of goods outside the State otherwise than by way of sale, is liable to furnish declarations in form 'F' duly filled in and signed by the principal officer or his agent of the other place of business as a proof of transfer along with evidence of despatch. Transfer of goods effected during a calendar month is to be covered in a single declaration. Otherwise, such transfer of goods is liable to be treated as inter-state sale and taxed accordingly. Production of 'F' form has been made mandatory from June 2002.

Scrutiny of the records of six charge offices<sup>25</sup> between September 2007 and May 2008 indicated that while assessing/reassessing 15 cases of 12 dealers for different assessment periods ending between March 2001 and March 2005, the AAs allowed exemption on account of transfer of goods to the branches/agents outside the State for Rs. 51.97 crore. Of these, in 13 cases of transfer of goods of Rs. 10.58 crore single 'F' form covered transactions beyond one calendar month or transactions covered in the forms were not related to the period of assessment. In one case transfer of goods of Rs. 1.66 crore was not supported by 'F' form. In another case, the claim was allowed in excess by Rs. 18.36 lakh. Thus, incorrect exemption on transfer of goods of Rs. 12.42 crore resulted in underassessment of tax of Rs. 1.25 crore.

After the cases were pointed out, the department admitted between December 2007 and July 2009 audit observations in seven cases involving Rs. 79.69 lakh. Report on realisation of tax has not been received (October 2009). In the remaining eight cases, the reply furnished by the department did not touch upon the issue raised by audit.

The cases were reported to the Government between February and August 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

## 2.11 Application of incorrect rate of tax

Under the WBST Act, the rate of tax depends on the nature of sales and also on the nature of goods/commodities sold. Under the CST Act, inter-state sales supported by declaration forms are taxable at the rate of four *per cent*. Otherwise, tax is leviable at the rate of ten *per cent* or the rate of tax applicable in the concerned State, whichever is higher, and in case of declared goods, double the rate of tax.

Scrutiny of the records of eight charge offices<sup>26</sup> between November 2007 and December 2008 indicated that in assessing 12 cases of 11 dealers for assessment periods ending between March 2002 and March 2005, the AAs short levied tax of Rs. 70.57 lakh inclusive of surcharge and additional surcharge due to application of incorrect rate.

<sup>25</sup> Baruipur, Colootola, Corporate Division (CD 2031 – CD 2040), Jalpaiguri, Park Street and Siliguri.

<sup>26</sup> Asansol, Ballygunge, Behala, Bhowanipore, Colootola, Salkia, Shibpur and Siliguri.

After the cases were pointed out, the department between February and July 2009 accepted audit observations in five cases involving Rs. 55.11 lakh but the report on levy and realisation has not been received (October 2009). In the remaining seven cases involving Rs. 15.46 lakh, the reply furnished by the department did not touch upon the issue raised by audit .

The cases were forwarded to the Government between February 2008 and February 2009 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

### **2.12 Incorrect allowance of concessional rate of tax**

Under the WBST Act and the Rules made thereunder, a dealer is eligible for concessional rate of tax on sales of goods to registered resellers or manufacturing dealers/Government departments, if such sales are supported by prescribed declaration forms or certificate furnished by such purchasing dealers/Government departments. Further, as per the CST Act, inter-state sales of goods are also exigible to tax at the concessional rate subject to production of prescribed forms 'C' and 'D' by the selling dealers.

Scrutiny of the records of seven charge offices<sup>27</sup> between August 2007 and December 2008 indicated that in assessing/reassessing nine cases of nine dealers between June 2005 and June 2007 for assessment periods ending between March 2003 and March 2005, the AAs incorrectly levied tax on sale of Rs. 9.81 crore at concessional rate instead of the prescribed rate though the sales were either not supported by the requisite declaration forms/statements/certificates or were made to unregistered dealers/non-Government organisations. Incorrect allowance of concessional rate resulted in short levy of tax of Rs. 50.78 lakh.

After the cases were pointed out, the department accepted (May 2008) the audit observation in one case involving Rs. 46,000. Report on realisation has not been received (September 2009). In another case involving Rs. 96,000, it was stated (December 2007) that the claim has been allowed on the basis of date of despatch of goods instead of the date of bill/invoice. The reply is not tenable as according to the rules the claims should be allowed on the basis of the date of raising the bill/invoice. In the remaining seven cases involving Rs. 49.36 lakh, the reply furnished by the department did not touch upon the issue raised by audit.

The cases were reported to the Government between February 2008 and January 2009 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

### **2.13 Non/short levy of purchase tax**

Under the WBST Act, a manufacturer dealer is liable to pay purchase tax at the rate of four *per cent* on all purchases of goods from unregistered dealers for use in manufacture of goods for sale in the West Bengal. A registered dealer, who is not a manufacturer, is also liable to pay purchase tax on purchases from unregistered dealers at the rate applicable on sale of such

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<sup>27</sup> Asansol, Ballygunge, Corporate Division (CD 2021 - CD 2030), Park Street, Radhabazar, Salt Lake and Siliguri.

goods within the State. The dealers making such purchases shall furnish annexure P with the return indicating the taxable specified purchase price and tax payable.

Scrutiny of the records of seven charge offices<sup>28</sup> between March 2007 and December 2008 indicated that in assessing/reassessing 22 cases of 22 dealers for assessment periods ending between March 2000 and March 2005, the AAs incorrectly assessed the taxable purchase price of Rs. 1.73 crore instead of Rs. 10.31 crore. This resulted in underassessment of the taxable purchase by Rs. 8.58 crore and consequent non/short levy of purchase tax of Rs. 50.43 lakh.

After the cases were pointed out, the department between February and July 2009 accepted the audit observations in 10 cases involving Rs. 13.43 lakh. Report on realisation has not been received (October 2009). In the remaining 12 cases involving Rs. 37 lakh, the reply furnished by the department did not touch upon the issue raised by audit.

The cases were forwarded to the Government between July 2007 and February 2009 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

#### **2.14 Non/short levy of surcharge and additional surcharge**

Under the WBST Act, a dealer has to pay a surcharge of 10 *per cent* from April 2002 and additional surcharge of five *per cent* from August 2002 on the amount of sales tax payable by him. Under the CST Act, surcharge and additional surcharge are leviable on interstate sale of goods on which the State rate is lower than four *per cent* and also where such rate exceeds 10 *per cent*.

Scrutiny of the records of six charge offices<sup>29</sup> between January 2007 and November 2008 indicated that in assessing 15 cases of 15 dealers for assessment periods ending between March 2004 and March 2005, the AAs levied tax of Rs. 2.68 crore but surcharge and additional surcharge were not levied in 14 cases involving Rs. 22.46 lakh and in one case levied short by Rs. 5.36 lakh. This resulted in non/short levy of surcharge and additional surcharge of Rs. 27.82 lakh.

After the cases were pointed out, the department between December 2007 and July 2009 accepted audit observations in 12 cases involving Rs. 25.15 lakh. Report on realisation has not been received (October 2009). The reply furnished by the department did not touch upon the issue in the remaining three cases raised by audit.

The cases were forwarded to the Government between February 2008 and January 2009 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

<sup>28</sup> Ballygunge, Baruipur, Bhowanipore, Corporate Division (CD 2031-CD 2040), Salt Lake, Serampore and Siliguri.

<sup>29</sup> Asansol, Bhowanipore, Colootola, Park Street, Salkia and Siliguri.

### **2.15 Incorrect allowance of remission of tax**

Under the provisions of the WBST Act and Rules made thereunder, a registered dealer holding an eligibility certificate (EC) in prescribed form and engaged in manufacture of goods mentioned in the eligibility certificate, may avail the benefit of remission of tax on sale of such goods manufactured by him provided all prescribed conditions and restrictions are fulfilled. However, the dealer shall not be eligible for remission of tax on any unregistered inter-state sale of goods manufactured by him.

Scrutiny of the records of three charge offices<sup>30</sup> between August 2004 and December 2007 indicated that in assessing five cases of four dealers for different assessment periods ending between March 2001 and March 2004, the AAs incorrectly allowed remission of tax of Rs. 3.50 crore instead of Rs. 3.27 crore. This resulted in incorrect remission of tax of Rs. 22.90 lakh.

After the cases were pointed out, the department between May 2005 and May 2006 accepted the audit observations in three cases involving Rs. 9.92 lakh, but report on levy and realisation has not been received (October 2009). The reply furnished by the department did not touch upon the issue in the remaining two cases raised by audit.

The cases were forwarded to the Government between September 2004 and February 2008 followed by reminder issued upto June 2009; their reply has not been received (October 2009).

### **2.16 Loss of revenue due to non-completion of assessment within the stipulated period**

Under the WBST Act, assessments shall be made by the AAs within 30<sup>th</sup> June next following the expiry of two years from the end of the assessment period. Reassessment in pursuance of an order of the appellate authority shall be made within two years from the date of the appellate order; otherwise both types of assessment are barred by limitation of time.

**2.16.1** Scrutiny of the records of two charge offices<sup>31</sup> between March 2006 and April 2007 indicated that reassessment of three cases of two dealers was not completed within two years from the date of appellate orders between January and May 2004. The cases became barred by limitation of time which resulted in loss of revenue of Rs. 14.38 lakh.

After the cases were pointed out, the AAs stated in May 2006 that in two cases involving Rs. 5.78 lakh, demand notices were issued to the dealers in Form 33 and 4A on 22 May 2006. The reply is not tenable as in both the cases reassessments were completed after expiry of two years from the date of appellate order and thus the cases became barred by limitation of time. In the remaining case, the department did not furnish any reply (October 2009).

**2.16.2** Scrutiny of the records of Bhowanipore charge office indicated (September 2008) that the assessment of one case of a dealer for the assessment period ending March 2005 was not completed within June 2007.

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<sup>30</sup> Chandney Chawk, Jalpaiguri and Park Street.

<sup>31</sup> Corporate Divisions (CD 2031 – CD 2040 and CD 2021 – CD 2030).

Since, the assessment has become barred by limitation of time, this resulted in loss of revenue of Rs. 8.02 lakh.

The reply furnished by the department did not touch upon the issue raised by audit.

The cases were forwarded to the Government between March 2007 and October 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

### **2.17 Inadmissible tax benefit to the dealers who used logo/brand name of other industrial units**

Under the provisions of WBST Act and Rules made thereunder, the validity of eligibility certificate is liable to be ceased when a dealer uses the brand name or trade mark or logo of other industrial unit.

Scrutiny of the records of Baruipur, Burdwan and New Market charge offices between January and February 2009 indicated that while assessing six cases of three dealers for different assessment periods ending between March 2000 (from 01 October 1999) and March 2004, the AAs in three cases of two dealers allowed benefit of exemption of tax though the eligibility certificate of the dealers were liable for cancellation for using brand name/logo of other industrial units. In three cases of M/s Hi Tech Foods Pvt. Ltd., the AA allowed the benefit of exemption of tax, though the validity of eligibility certificate was liable for termination as the dealer manufactured goods on behalf of another industrial unit. This has resulted in inadmissible tax benefit of Rs. 2.45 crore to the dealers including interest.

After the cases were pointed out, the Joint Commissioner, Sales Tax, New Market and Baruipur Charge Offices admitted the observations between January 2009 and February 2009 in three cases involving Rs. 1.98 crore. Further developments have not been reported (October 2009). The reply furnished by the Joint Commissioner, Sales Tax, Burdwan Charge did not touch upon the issue raised by audit in the remaining three cases.

The cases were forwarded to the Government in April 2009 followed by reminder issued in June 2009; their reply has not been received (October 2009).

### **2.18 Non-assessment of interest and non-raising of demand**

Under the provisions of the WBST Rules, 1995, the assessing authority shall serve a notice of demand in the prescribed form to the dealer after final assessment showing the amount of tax, interest, penalty etc. and specifying the date of payment.

Scrutiny of the records of Budge Budge charge office in March 2009 indicated that in assessing three cases of three dealers for the assessment periods ending between March 2001 and March 2005, the AA assessed tax in respect of two dealers but did not assess interest amounting to Rs. 1.04 crore for the year ending March 2001 in two cases and for the year ending March 2005 in one case. No demand notice was issued by the AA in respect of tax and interest assessed amounting to Rs. 23.06 crore on the plea that the West Bengal Taxation Tribunal (WBTT) had issued an interim stay order for realisation

proceedings in respect of those cases where the dealers had contravened the provisions of Act/Rules using brand name/logo of other industrial units. However, the demands were not issued even after the WBTT vacated the interim orders for all such cases on 25 January 2008. This resulted in non-assessment of interest and non-raising of demand of Rs. 23.06 crore.

The cases were forwarded to the department and Government in April 2009 followed by reminder issued in June 2009; their replies have not been received (October 2009).

### **2.19 Irregular deemed assessment**

Under the WBST Act and Rules made thereunder, returns furnished by a registered dealer disclosing turnover for a year below Rs. 3 crore shall be accepted as correct and complete and assessments be deemed to have been made. Returns not supported by receipted challans showing payment of tax due etc. and claims for concessional rate of tax preferred in the returns not supported by requisite declaration forms shall be treated as incorrect and the deemed assessment case shall be reopened for fresh assessment.

Scrutiny of the records of Jalpaiguri charge office in December 2007 indicated that in two cases of a dealer for assessment periods ending between March 2004 and March 2005, though the returns were not supported by receipted challans and requisite declaration forms, yet the AAs did not reopen the cases and assess tax payable by the dealers. This resulted in irregular acceptance of return for deemed assessment involving tax of Rs. 21.18 lakh.

The cases were forwarded to the Government in February 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

### **2.20 Misclassification of goods/transaction**

Under the provisions of the WBST Act, goods/commodities are taxed according to the nature and/or classification of such goods and the nature of transaction as classified and listed under different schedules.

Scrutiny of the records of three charge offices<sup>32</sup> between August 2006 and May 2008 indicated that in assessing three cases of three dealers between June 2005 and June 2006 for different assessment periods ending between March 2003 and March 2004, the AAs short levied tax of Rs. 15.43 lakh due to misclassification of goods/transaction.

After the cases were pointed out, the department between August 2007 and July 2009 accepted the audit observations in two cases involving Rs. 9.14 lakh. Report on realisation has not been received (September 2009). In the remaining case involving Rs. 6.29 lakh, the department stated in July 2009 that the sales figure of Rs. 1.44 crore represented the sales of PVC pipes and not roof tiles. Hence it had been taxed at the rate of four *per cent*. The reply is untenable as the aforesaid sales figure is the sales of roof tiles as indicated in the profit and loss account of the dealer and is liable to be taxed at the rate of eight *per cent*.

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<sup>32</sup> Colootola, Park Street and Siliguri.

The cases were forwarded to the Government between December 2006 and July 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

### **2.21 Incorrect allowance of set-off of tax**

Under the provisions of the WBST Act and the Rules made thereunder, if a registered dealer purchases goods for direct use in manufacture, from a registered dealer, he may, under certain conditions, set-off the amount of tax paid by him on his purchases against the amount of tax payable by him on sales of such manufactured goods within West Bengal.

Scrutiny of the records of three charge offices<sup>33</sup> between August 2005 and December 2007 indicated that in assessing three cases of three dealers for assessment periods ending between March 2003 and March 2004, the AAs incorrectly allowed set-off of tax of Rs. 18.18 lakh instead of Rs. 7.28 lakh. This resulted in short levy of tax of Rs. 10.90 lakh.

After the cases were pointed out, the department between August 2005 and December 2007 accepted the audit observations in all the cases. Report on recovery of tax has not been received (October 2009).

The cases were forwarded to the Government between November 2006 and February 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

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<sup>33</sup> Alipore, Bhowanipore and Shibpur.





## CHAPTER III LAND REVENUE

### 3.1 Results of audit

Test check of the records of land revenue in District Land and Land Reforms offices (DL and LRO) conducted during the year 2008-09, indicated underassessment, non/short realisation of revenue etc. amounting to Rs. 237.44 crore in 72 cases, which could be classified under the following categories:

**(Rupees in crore)**

Sl. no.	Categories	No. of cases	Amount
1.	Non-realisation of rent and <i>salami</i> due to non-settlement of land	26	234.16
2.	Non-realisation of rent and cess	11	0.24
3.	Loss/blockage of revenue due to non-settlement of <i>sairati</i> interest	3	0.09
4.	Other irregularities	32	2.95
<b>Total</b>		<b>72</b>	<b>237.44</b>

During the course of the year 2008-09, the department accepted underassessments and other deficiencies of Rs. 228.05 crore in 30 cases. An amount of Rs. 16.66 crore involved in six cases was realised at the instance of audit during the year.

A few illustrative audit observations involving Rs. 37.34 crore are mentioned in the succeeding paragraphs.

### 3.2 Audit observations

Scrutiny of the records of various DL and LR offices indicated several cases of non-compliance of the provisions of the West Bengal Estate Acquisition (WBEA) Act 1953 and West Bengal Land and Land Reforms (WBL and LR) Manual 1991, as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out in audit repeatedly, but not only do the irregularities persist, these also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such cases can be avoided.

### 3.3 Non-realisation of revenue due to failure to resume the vested land of closed mills

Under the provisions of the West Bengal Estate Acquisition (WBEA) Act, 1953, all rights of the intermediary<sup>1</sup> in estates including land with mills, factories etc. are vested in the State, free from all encumbrances, with effect from 14 April 1955. According to the provisions, the Government may allow the intermediaries to retain the land with mills/factories etc., to the extent of requirement and resume the excess land. In terms of the Government order of May 2004, the land so resumed may be settled with the prospective lessees or the unauthorised occupiers/illegal transferees, if any, on long term lease basis on realisation of *salami*<sup>2</sup> and rent.

Scrutiny of the records of three DL and LROs<sup>3</sup> between January and March 2009 indicated that 103.88 acres of land in five mills/factories established prior to 14 April 1955 were allowed to be retained by the intermediaries, even after their closure between 1990 and 2004. The intermediaries had transferred the land illegally. Failure of the department to review the requirement of land held by the mills/factories and resume the excess land resulted in non-monitoring of the cases. Thus, action to restore the land after the closure of the mills and settle it with illegal transferees on long term lease basis beyond 30 years also could not be taken. This resulted in non-realisation of *salami* and rent of Rs. 36.29 crore at the prevailing market value as detailed below :

Sl. no.	Particulars of the mill, factory etc. with their vesting and retention order numbers	Year of closure	Year of Sale/transfer/encroachment	Area of land transferred (in acres)	Non-realisation of rent <sup>4</sup> and <i>salami</i> (Rupees in crore)
1.	Bhubneshwari Rice Mill, Howrah Number (not available)	NA	Prior to 3/02	9.13	0.03 0.35
2.	Prem Chand Jute Mill, Howrah Number (not available)	NA	Prior to 9/03	68.75	1.15 11.47

<sup>1</sup> Intermediary means a proprietor, tenure holder, under tenure holder or any other intermediary above a *raiyat*.

<sup>2</sup> *Salami* is one time payment of 40 per cent of the market value of land for long term settlement.

<sup>3</sup> Howrah, North 24-Parganas and South 24-Parganas.

<sup>4</sup> Rent calculated for 2005-08 in the case of Sl. No. 4 and in other cases for 2007-08.

3.	Bhagirathi Rice Mill, Howrah (No. 4492- L.Ref. dt. 29-03-65)	2004	Converted to Brick Field.	9.96	0.07 0.71
4.	Aluminium Mfg. Co. Ltd., North 24 parganas (No. 19066-L.Ref dt. 11-11-63)	NA	N.A	14.71	6.16 15.42
5.	Eagle Plywood Industries Pvt. Ltd., South 24 Parganas (No. 19088-L.Ref dt. 11-11-63)	Abandon ed since 1990	N.A	1.33	0.08 0.85
<b>Total</b>				<b>103.88</b>	<b>36.29</b>

The Government to whom the cases were forwarded between February and March 2009 stated (July 2009) that the process of resumption in four cases involving Rs. 14.71 crore could not be taken up due to the review petition filed before the Supreme Court on the judgement passed by the High Court on 24 February 2009. In the remaining case involving Rs. 21.58 crore, the Government stated in November 2009 that Rs. 14.20 crore had been realised. Report on realisation of the balance amount has not been received.

### 3.4 Non-realisation of rent and *salami* due to non-settlement of land

As per the provisions of the West Bengal Land and Land Reforms (WBL and LR) Manual 1991, settlement of Government land for non-agricultural purpose shall ordinarily be made for a period of 30 years with the prospective lessee. The lease proposal is to be completed within five months from the date of receipt of proposal and the lease agreement is to be executed within the date specified in the sanction order on realisation of *salami* and rent for the first year.

Scrutiny of the records of three DL and LROs<sup>5</sup> between March and September 2008 indicated that five individuals and one school had been unauthorisedly occupying 4.97 acres of the Government land for different periods since 1967. The occupiers applied for long term settlement of the land between January 2002 and August 2005. The department had neither finalised the cases even after lapse of 36 to 80 months, nor taken action to evict the unauthorised occupiers. This resulted in non-realisation of revenue of Rs. 44.50 lakh (rent: Rs. 14.45 lakh and *salami*: Rs. 30.05 lakh).

After the cases were pointed out, the DL and LROs, Darjeeling and Burdwan (West) stated, between March and September 2008, that action was being taken to settle the land in two cases involving Rs. 29.67 lakh. Further report has not been received (September 2009). The DL and LRO, Hooghly has not furnished any reply in the remaining cases involving Rs. 14.83 lakh (October 2009).

<sup>5</sup> Burdwan (West), Darjeeling and Hooghly.

The cases were forwarded to the Government between May and October 2008, followed by reminders issued up to June 2009; their reply has not been received (October 2009).

### 3.5 Non-realisation of rent and cess from land used for commercial purposes

West Bengal Land Reforms (WBLR) Act, 1955, provides that *raiya*s<sup>6</sup> using land for commercial purposes in rural areas are liable to pay land rent at the prescribed rate<sup>7</sup>. Various kinds of cess<sup>8</sup> are also realisable on land rent payable by the *raiya*s. Further under the provisions of the WBL and LR Manual, rent is payable yearly according to the Bengali calendar and falls due on the last day of the year in respect of which it is payable. The *bhumi sahayaks* posted in the revenue inspector's office under the Block Land and Land Reforms (BL and LR) offices are responsible for collection of land rent.

Scrutiny of the records of the DL and LRO, Bankura in August 2008 indicated that 12 *raiya*s under four BL and LROs used 237.83 acres of land for commercial purposes for the period between 1410 BS<sup>9</sup> (2003-04) and 1414 BS (2007-08). Although, the *raiya*s did not pay the annual rent and cess of respective years, the district authority did not initiate action to realise the dues. This resulted in non-realisation of rent and cess of Rs. 35.14 lakh.

The Government to whom the cases were forwarded in September 2008 admitted (July 2009) the audit observations in four cases involving Rs. 32.24 lakh. Report on further development has not been received (October 2009). In the remaining eight cases involving Rs. 2.90 lakh, the reply furnished by the government did not touch upon the issue raised by audit.

### 3.6 Loss/non-realisation of lease rent due to non-settlement of *sairati* interest

Under the provisions of the WBL and LR Manual, 1991, all *sairati*<sup>10</sup> interest fisheries, *khal*<sup>11</sup> etc., should be leased out on year to year basis for a period not exceeding seven years. The Collector of the district is required to fix the economic rent and realise 25 per cent thereof at the time of settlement of *sairati* interests and the balance before the beginning of the year. The rent for the successive years is to be deposited by the lessee in full before the beginning of the respective year under a lease agreement to be executed beforehand.

Scrutiny of the records of four DL and LROs<sup>12</sup> between August 2006 and August 2008 indicated that in 16 cases water areas of 218.91 acres were not

<sup>6</sup> *Raiyat* means a person or an institution holding land for any purpose.

<sup>7</sup> Rs. 2,000 per acre per annum.

<sup>8</sup> Road cess: 6 paise, public works cess: 25 paise, education cess: 10 paise, rural employment cess: 30 paise and surcharge: 15 paise.  
Bengali Saka.

<sup>9</sup> Derived from the word *Sair*. The duties which the owners of *hat*, *bazar*, markets, ferries, fisheries etc. used to levy on commodity sold or benefits derived from these places were designated as *sair* collection. Such *hat*, ferries, etc. are known as *sairati* interests.

<sup>11</sup> *Khal* means large water channel.

<sup>12</sup> Cooch Behar, Hooghly, Murshidabad and Tamuk.

leased out during the period 2003-04 to 2007-08 resulting in loss of revenue of Rs. 8.04 lakh. In another 13 cases, water areas of 323.63 acres and nine water bodies were leased out, but the lease rent of Rs. 7.24 lakh has not been realised. This resulted in loss/non-realisation of revenue of Rs. 15.28 lakh.

After the cases were pointed out, the DL and LRO, Coochbehar in four cases involving Rs. 1.73 lakh stated (August 2006) that steps would be taken to realise the dues. Further, report on realisation has not been received (September 2009). The DL and LRO, Murshidabad in nine cases involving Rs. 5.51 lakh stated (September 2008) that the matter was being examined. The DL and LROs, Tamluk and Hooghly did not touch upon the issue raised by audit in the remaining 16 cases involving Rs. 8.04 lakh (October 2009).

The cases were forwarded to the Government between December 2006 and October 2008, followed by reminders issued upto June 2009; their reply has not been received (October 2009).

### 3.7 Short realisation of cess from *patta* holders

As per provisions of the Cess Act, 1880 read with the West Bengal Primary Education Act, 1973, road cess, public works cess and education cess are realisable on land rent payable by the *rai-yats* at the rate of 41 paise<sup>13</sup> per rupee of land rent. *Rai-yats* exempted from paying land rent are also liable to pay all the above cess. The *bhumi sahayaks* posted in the revenue inspector's office under the BL and LR offices are responsible for collection of the cess from such *rai-yats*.

Scrutiny of the records of three DL and LROs<sup>14</sup> between October 2007 and September 2008 indicated that in 21 BL and LROs, *pattas*<sup>15</sup> of 50,796 acres of land were given to 1,47,529 landless persons on *rai-yati* basis. These persons were liable to pay cess of Rs. 12.80 lakh on the notional rent of the land for the period between 1411 BS (2004-05) and 1414 BS (2007-08) against which Rs. 2.40 lakh had been paid. The *bhumi sahayaks* responsible for collection of the cess did not take steps to recover the balance amount which resulted in short realisation of cess of Rs. 10.40 lakh.

After the cases were pointed out, the district authorities stated between November 2007 and September 2008 that BL and LROs had been asked to take action for realisation of the cess from the *patta* holders. Report on further development has not been received (October 2009).

The cases were forwarded to the Government between December 2007 and October 2008 followed by reminders issued up to June 2009; their reply has not been received (October 2009).

<sup>13</sup> Road cess: 6 paise, public works cess: 25 paise and primary education cess: 10 paise.

<sup>14</sup> Burdwan (West), Murshidabad and South 24-Parganas.

<sup>15</sup> A document evidencing lawful possession of land by a person.



## CHAPTER IV STATE EXCISE

### 4.1 Results of audit

Test check of the records of district excise offices during the year 2008-09, indicated non/short realisation of excise duty and other irregularities amounting to Rs. 27.67 crore in 52 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Categories	No. of cases	Amount
1.	Short realisation of excise duty due to low yield of wort	1	18.99
2.	Non/short realisation of privilege fee, late fee, additional fee etc.	10	1.15
3.	Non/short levy of excise duty on chargeable wastage of rectified spirit/India Made Foreign Liquor	4	0.52
4.	Non/short realisation of establishment cost	4	0.26
5.	Other irregularities	33	6.75
<b>Total</b>		<b>52</b>	<b>27.67</b>

During the course of the year 2008-09, the department accepted underassessment and other deficiencies of Rs. 19.72 crore in 19 cases of which 17 cases involving Rs. 19.68 crore had been pointed out by audit during the year 2008-09 and the rest in the earlier years. An amount of Rs. 49.25 lakh involved in 18 cases has been realised at the instance of audit.

After issue of the draft paragraphs, the Excise Department recovered Rs. 7.71 lakh in full in one case during the year 2008-09.

A few illustrative audit observations involving Rs. 20.66 crore are mentioned in the succeeding paragraphs.

## 4.2 Audit observations

Scrutiny of the records in the offices of Superintendents of Excise indicated several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of duty, license fee etc., as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that such mistakes can be avoided.

## 4.3 Short realisation of excise duty due to low yield of wort

Manufacture of beer by breweries is regulated under the Bengal Excise (BE) Act, 1909, and the rules made thereunder. The average yield of wort<sup>1</sup> is prescribed under the executive instructions issued by the Government (Excise Manual) in 1918, which provides that 15.42 kilograms (kg) of malt or 14.52 kg of rice flake or 12.70 kg of sugar would produce 81.823 bulk litre (BL) of wort. Further, under the West Bengal Excise (Foreign Liquor) Rules, (WBEFL Rules) the minimum yield of beer should be 92 per cent of wort accepted for fermentation.

Scrutiny of the records of a brewery under the Superintendent of Excise (SE), Nadia in November 2008 indicated that the licensee company produced 7,17,66,915 BL of wort between 2004-05 and 2007-08 by consuming 98,59,906 kg malt, 42,21,816 kg rice flake and 17,12,157 kg sugar. However, as prescribed in the Excise Manual, the average yield should have been 8,71,41,281 BL of wort. Short fall of 1,53,74,366 BL of wort resulted in short yield of 1,41,44,417 BL of beer (calculated at minimum 92 per cent) leading to short realisation of excise duty of Rs. 18.39 crore.

The Government to whom the case was forwarded in December 2008 stated in July 2009 that a demand notice upon the licensee was issued in January 2009. But the licensee did not pay the dues citing an interim order of injunction of the High Court in favour of the licensee commenting that "duty is not leviable on wort which is neither fit for human consumption nor it is fermented: no alcohol is present there to levy excise duty". The fact remains that audit has calculated short yield of wort from foodgrains etc. which resulted in short yield of beer and consequent short realisation of excise duty on it. Hence, the judgement cited above is not relevant to the audit observation. Further reply has not been received (October 2009).

## 4.4 Non-realisation of fee on import of spirit

Under the West Bengal Excise (Manufacture of Country Spirit in Labelled and Capsuled Bottles) Rules, 1979, a country spirit manufacturer shall pay a fee of 50 paise in case of bottling plants situated within the metropolitan area of Kolkata and a fee of 60 paise in other cases, for each bulk litre (BL) of spirit imported by him from outside the State for use as country spirit.

<sup>1</sup> Wort means the liquid obtained by the mashing of grain or malt or by dissolving saccharin matter intended for fermentation but in which fermentation has not visibly begun.



Scrutiny of the records of four district excise offices<sup>2</sup> between November 2007 and September 2008 indicated that in seven cases, six<sup>3</sup> manufacturers of country spirit imported 1,96,00,589 BL of rectified spirit from Bihar and Uttar Pradesh against 452 import permits issued by the Excise Commissioner (EC), West Bengal between April 2004 and March 2008. The excise authorities neither realised the fee at the time of receiving the spirit nor did they raise demand subsequently. This resulted in non-realisation of import fee of Rs. 1.13 crore.

The Government to whom the cases were forwarded between January and October 2008 stated in July 2009 that the matter of exempting the country spirit manufacturers from paying such fee is under consideration of the Government. The reply is untenable as until the order of exemption is issued by the Government, the fee is to be levied as per rules.

#### **4.5 Non-realisation of excise duty due to non-destruction of unsold stock of foreign liquor**

Under the West Bengal Excise (Foreign Liquor) Rules, 1998, no foreign liquor shall be manufactured or sold or offered for sale in West Bengal unless the brand names of the foreign liquor are registered with the EC. Such registration is renewable each year within one month from the last date of validity of registration. The stock of foreign liquor lying unsold in any licenced premises after the expiry of one month from the last day of validity of registration shall be destroyed by the Collector with the prior approval of the EC on realisation of excise duty on such stock in terms of the Government order issued in May 2007.

Scrutiny of the records of two foreign liquor bonded warehouses under the SE, Burdwan (West) in September 2008 indicated that 23,749.40 london proof litre (LPL)<sup>4</sup> of different brands and measures of foreign liquor whose label registration had expired, was lying unsold in the warehouses. Both the licensees applied between July and September 2007 for reprocessing of the unsold liquor which were forwarded to the EC by SE, Burdwan (West) in October 2007. However, as per the provisions of the West Bengal Excise Rules, the SE should have destroyed the unsold liquor after realisation of excise duty with prior approval of the EC. Thus, the SE acted erroneously in forwarding the application for reprocessing the liquor. This resulted in non-realisation of excise duty of Rs. 42.52 lakh.

After the cases were pointed out, the department stated (July 2009) that an amount of Rs. 31.52 lakh has already been realised. Report on realisation of the balance amount has not been received (October 2009).

The cases were forwarded to the Government in October 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

<sup>2</sup> Collector of Excise, Kolkata (South), SE, Burdwan (West), SE, Hooghly and SE, Jalpaiguri.

<sup>3</sup> M/s Asansol Bottling and Packaging Co. Pvt. Ltd., M/s Bhattacharya Bottling Plant, M/s Eastern Distilleries and Chemicals Ltd., M/s Farinni Eleven UP, M/s IFB Agro Industries Ltd. and M/s Monalisa Bottling Industries Pvt. Ltd.

<sup>4</sup> London Proof or Proof means the strength or proof as ascertained by means of Sykes hydrometer and denotes that spirit which at the temperature of 51° Fahrenheit weighs exactly 12/13<sup>th</sup> part of an equal measure of distilled water.

#### **4.6 Non-realisation of excise duty on chargeable wastage of rectified spirit during preparation of mother tincture**

Under the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956, the State Government may, from time to time, fix the percentage of wastage in the production of particular medicinal or toilet preparation. Any wastage in excess of the allowable limit is chargeable to duty. Under the rules *ibid* the EC had fixed the allowable percentage of wastage at four *per cent* in April 2003.

Scrutiny of the records of seven bonded warehouses/manufactories<sup>5</sup> of mother tincture between May and June 2008 under the Deputy Commissioner of Excise (Special), West Bengal indicated that the manufacturers used 1,21,662.766 LPL of rectified spirit between 2004-05 and 2006-07, from which 99,885.861 LPL of mother tincture was produced. The wastage exceeded the allowable limit by 16,910.404 LPL for which excise duty of Rs. 29.73 lakh was chargeable. However, no demand has been raised by the excise officers posted in the warehouses/manufactories for realisation of the same, which resulted in non-realisation of excise duty of Rs. 29.73 lakh.

After the cases were pointed out, the department stated (July 2009) that a committee constituted by the EC for ascertaining the allowable wastage had submitted its report on which a decision was yet to be taken. However, the fact remains that until the Government decides on the recommendations of the committee, the maximum allowance of wastage as provided in the order of the EC (April 2003) remains valid. The department did not take action to review all these cases and levy duty on excess wastage.

The cases were forwarded to the Government in July 2008, followed by reminders issued upto June 2009; their reply has not been received (October 2009).

#### **4.7 Non-realisation of late fee for delayed deposit of renewal fee for distillery licence**

Under the BE Act and the rules made thereunder, the licence for a distillery may be renewed annually by the Collector of the district subject to the approval of the EC on an application made by the licensee before the expiry of the existing licence along with a copy of receipted challan showing deposit of Rs. 1 lakh as renewal fee. If the licensee applies for renewal after the expiry of the current licence, the Collector may grant the licence on realisation of a late fee of Rs. 600 per diem calculated from the date of expiry of the previous licence.

Scrutiny of the records of United Spirits Ltd, a distillery under the SE, Burdwan (West) in September 2008 indicated that though the licensee did not enclose the copies of receipted challan while applying for renewal of its licence, the licence for the licensing years 2003-04 to 2007-08 was renewed each year by the Collector. It was further noticed that the licensee deposited the renewal fees for five years in one instalment on 12 June 2007. For delay

<sup>5</sup> Dr. S. C. Deb Homeo Lab, M/s Allen Laboratories Ltd., M. Roychowdhury & Co., Mahesh Laboratory (P) Ltd., Mega Cure Co. (P) Ltd., National Homeo Lab and N. P. Datta & Sons.

in payment of licence fee, late fee of Rs. 24.06 lakh though realisable from the licensee was not realised by the SE.

The Government to whom the matter was reported in October 2008 stated (July 2009) that as per definition of manufactory contained in the West Bengal Excise Rules, manufactory of foreign liquor includes the process of re-distillation for which separate distillery licence is not required. Further, though the licensee has deposited the renewal fee for renewal of the distillery licence, question of realisation of late fee for such delayed realisation did not arise. The reply is untenable as issue and renewal of licences for manufactory and distillery are dealt by separate set of rules<sup>6</sup> and the fact that the department has issued a separate licence for the distillery also supports the audit contention. Thus, since the licensee has acquired separate distillery licence, late fee due to delayed payment of renewal fee for this licence, was realisable from the licensee.

#### **4.8 Allowance of excess wastage of spirit during redistillation**

Under the BE Act and the rules made thereunder, a licensee may undertake redistillation of rectified spirit (RS) for any purpose other than manufacturing of foreign liquor with the permission of the EC. The maximum limit of allowable wastage for RS, redistilled in a pot still is two *per cent*. Wastage in excess of two *per cent* is chargeable at the highest rate of duty applicable to IMFL.

Scrutiny of the records of four licensees<sup>7</sup> of bonded manufactories/laboratories under the Deputy Commissioner of Excise (Special), West Bengal in May 2008 indicated that 54,270 LPL of extra neutral alcohol and 3,69,338.06 LPL of RS were redistilled by the licensees during the period from 2004-05 to 2007-08. Though the reported wastage of spirit during the process of redistillation was 19,115.54 LPL which was in excess of the norms by 10,643.25 LPL, the excise authorities allowed the wastage for the full quantity which led to short realisation of excise duty of Rs. 17.51 lakh.

After the cases were pointed out, the department stated (July 2009) that an amount of Rs. 40,000 has been realised from two licensees. In another case involving Rs. 59,000 it was stated that there had been no excess wastage beyond the allowable limit of two *per cent*. The reply is untenable as the actual wastage of the licensee exceeded the allowable limit by 320.90 LPL. Thus, duty was chargeable on the excess wastage. In the remaining case involving Rs. 16.52 lakh, it was stated that the matter was under consideration of the EC, WB.

The cases were forwarded to the Government in July 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

<sup>6</sup> Rule 7 of WB (Excise) foreign liquor Rules regulates the issues relating to licence for manufactories while the issue and renewal of distillery licences is regulated by Rules 2 to 5 of the consolidated rules made under Section 86 of the BE Act.

<sup>7</sup> M/s Angel Homeo Research Laboratory Pvt. Ltd., M/s Bengal Chemical and Pharmaceuticals Ltd., M/s Economic Research Laboratory and M/s Megacure Laboratories Pvt. Ltd.



## CHAPTER V MOTOR VEHICLES TAX

### 5.1 Results of audit

Test check of the records of the Regional Transport Offices, Additional Regional Transport Offices and Public Vehicles Department conducted in audit during the year 2008-09, indicated non/short realisation of revenue amounting to Rs. 13.30 crore in 28 cases, which could be classified under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
1.	Non-realisation of tax, additional tax and penalty	3	9.74
2.	Mishandling of bank drafts	4	2.53
3.	Non-realisation of revenue due to non-reference of offence cases to the court of law	4	0.15
4.	Loss of revenue due to non-issuance of saleable forms	3	0.13
5.	Other irregularities	14	0.75
<b>Total</b>		<b>28</b>	<b>13.30</b>

During the year 2008-09, the department accepted underassessment and other deficiencies amounting to Rs. 78.19 lakh involved in 13 cases of which nine cases involving Rs. 65.75 lakh were pointed out in audit during the year 2008-09 and the rest in the earlier years. An amount of Rs. 5.24 lakh involved in seven cases was realised at the instance of audit during the year 2008-09.

A few illustrative audit observations involving Rs. 10.69 crore are mentioned in the succeeding paragraphs.

## **5.2 Audit observations**

*Scrutiny of the records in the offices of Regional Transport Officers, Additional Regional Transport Officers and Public Vehicles Department indicated non-realisation of tax/additional tax/penalty/special fees and fine as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out in audit year after year; but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need for the Government to consider improving the internal control system including strengthening internal audit so that such omissions can be detected, corrected and avoided.*

## **5.3 Non-realisation of tax, additional tax and penalty from the owners of vehicles**

The West Bengal Motor Vehicles (WBMV) Tax Act, 1979 and the West Bengal Additional Tax and One-time Tax on Motor Vehicles (WBAT) Act, 1989, as amended in January and September 2003 and Government notification of December 1998 and August 1999 prescribe the rate of tax and additional tax on motor vehicles to be paid for the year in advance based on their use, seating capacity or weight. Both the Acts provide for penalty equal to tax and additional tax in case of non-payment beyond 75 days from the due date.

Scrutiny of the records of two Regional Transport Offices<sup>1</sup> (RTO) and two Additional Regional Transport Offices<sup>2</sup> (ARTO) between March and September, 2008 indicated that the owners of 10,330 vehicles<sup>3</sup> did not pay tax and additional tax for different periods between July 2005 and March 2008. The taxing officers (TO) did not initiate any action to realise the tax and penalty. The delay in non-payment of tax and additional tax ranged between 3 and 30 months for which 100 per cent penalty was leviable. This resulted in non-realisation of tax, additional tax and penalty of Rs. 10.08 crore.

After the cases were pointed out the ARTO, Barrackpore in 172 cases involving Rs. 53.58 lakh stated that demand notices were being issued. RTO, Burdwan in 31 cases involving Rs. 13.71 lakh stated that demand notices had been issued. However, report on recovery has not been received (October 2009). In the remaining 10,127 cases involving Rs. 9.41 crore the taxing officers did not furnish any reply.

The cases were forwarded to the Government between April and September 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

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<sup>1</sup> Barasat and Burdwan.

<sup>2</sup> Barrackpore and Siliguri.

<sup>3</sup> Truck-10,171, Tanker-99, Mini Bus-54, Trailer-3, Tipper-2 and Articulated Trailer-1.

#### **5.4 Non-realisation of revenue due to non-disposal of seized vehicles**

Under the provisions of the WBMVT Act, 1979 and the WBAT Act, 1989, a motor vehicle may be detained and seized by the enforcement authority due to non-payment of tax and additional tax and may be released on realisation of dues along with the prescribed penalty within 30 days of seizure. The owner is liable to pay double the amount of tax and penalty within a further period of 15 days after expiry of the said 30 days. In case of default in payment, the vehicle may be sold in auction for realisation of dues. In case, no one turns up claiming the ownership of the motor vehicle within 30 days from the date of seizure, the TO shall sell the vehicle in auction to recover the Government dues.

Scrutiny of the records of the RTO, Barasat in August 2008 indicated that 31 vehicles<sup>4</sup> of different categories were seized between April 2004 and February 2008 for non-payment of tax, additional tax and other dues amounting to Rs. 23.35 lakh. Of these 19 vehicles were not auctioned even after lapse of 5 to 31 months from the date of seizure although auction committee had been formed. A lot of 12 vehicles though put on auction (August 2006), could not fetch the reserve price. No action was taken to dispose the vehicles by holding a second auction even after the lapse of 24 months from the date of the first auction. This resulted in non-realisation of revenue of Rs. 23.35 lakh. The delay in disposal will depreciate the value of the vehicles and reduce the amount that can be realised.

After the cases were pointed out, the taxing officer (TO), Barasat stated (August 2008) that auction committee had been formed to sell the vehicles in auction. Report on further action taken has not been received (October 2009).

The cases were forwarded to the Government in December 2007 followed by reminders issued up to June 2009; their reply has not been received (October 2009).

#### **5.5 Non-realisation of differential tax from the owners of motor cycles**

Under the provisions of the WBAT Act, 1989, as amended in August 2003 and effective from 15 September 2003, the owner of a motor cycle registered after 25 November 1991 has to pay the difference of the rate of life time tax payable as specified in Schedule-III and one time tax (OTT) already paid within the appointed date. The State Government by a notification issued in December 2004, stipulated 16 March 2005 as the appointed date for payment of the difference of such taxes. In case of non-payment of differential tax within the appointed date, penalty as per provisions of the Act was to be charged.

Scrutiny of the records of RTO, Burdwan and ARTO, Siliguri between February and March 2008 indicated that the differential tax of Rs. 10.88 lakh in respect of 532 motor cycles registered between September 2003 and February 2004, was not realised from the owners even after the lapse of 34 to 35 months from the

<sup>4</sup> Truck-6, Taxi-5, Bus-2, Auto Rickshaw-2, Trekker-2, Articulated Trailer-1 and other vehicles-13.

appointed date. Neither were the vehicles seized nor was any action taken by the taxing officers (TO) to realise the dues as per provisions of the Act. This resulted in non-realisation of tax of Rs. 21.75 lakh including penalty.

After the cases were pointed out, the TO, Siliguri and Burdwan stated (March 2008) that necessary steps would be taken to realise the dues. Report on realisation has not been received (October 2009).

The cases were forwarded to the Government between April and May 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

#### **5.6 Non-realisation of fine due to non-reference of offence cases to the Court**

Under the provisions of the WBMV Rules 1989, the compounding officer shall compound the offence with the consent of the offender and issue notice for payment of the compounded fine within seven days from the date of issue of the notice. In case of non-payment of fine within the said period, he shall refer the cases to the court of law for prosecution.

Scrutiny of the records in four RTOs<sup>5</sup>, ARTO, Barrackpore and Public Vehicles Department (PVD), Kolkata between September 2003 and March 2008 indicated that 209 offence cases were detected by the enforcement wings between June 2003 and March 2008 but the cases were neither compounded nor referred to the Court of law for prosecution even after the lapse of 1 to 49 months from the date of detection. This resulted in non-realisation of fine of Rs. 10.65 lakh.

After the cases were pointed out, ARTO, Barrackpore and RTO, Jalpaiguri admitted (between March 2006 and November 2008) the audit observations in 64 cases involving Rs. 3.28 lakh. Report on further development has not been received (October 2009). In the remaining 145 cases involving Rs. 7.37 lakh the TOs have not furnished any reply (October 2009).

The cases were forwarded to the Government between April 2006 and September 2008 followed by reminders issued up to June 2009; their reply has not been received (October 2009).

#### **5.7 Non-realisation of special fees**

The West Bengal Motor Vehicles (WBMV) Rules, 1989 prohibit plying of heavy goods vehicles having gross vehicle weight above 22,542 kg in the state. By two notifications issued in December 1990 and June 1991, the government relaxed the restriction and permitted plying of such vehicles on the payment of annual special fee at the prescribed rates depending on the gross vehicle weight.

Scrutiny of the records of two ARTOs<sup>6</sup> and Public Vehicles Department (PVD), Kolkata between November 2006 and March 2008 indicated that special fee was

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<sup>5</sup> Howrah, Jalpaiguri, South 24-Parganas and Tamluk.

<sup>6</sup> Asansol and Siliguri.



not realised from the owners of 186 goods vehicles having gross vehicle weight between 23,460 kg. and 35,200 kg. for the period from September 2003 to November 2007. There were no records to show that the vehicles had been surrendered or granted NOC. This resulted in non-realisation of special fees of Rs. 5.67 lakh.

After the cases were pointed out, the TOs, Siliguri and Asansol stated (between December 2007 and March 2008) in respect of 88 vehicles involving Rs. 1.61 lakh that necessary steps would be taken to realise the dues. Report on realisation has not been received (October 2009). The reply furnished by the taxing authority, PVD Kolkata did not touch upon the issue raised by audit.

The cases were forwarded to the Government between February 2007 and May 2008 followed by reminders issued up to June 2009; their reply has not been received (October 2009).



## CHAPTER VI STAMP DUTY AND REGISTRATION FEES

### 6.1 Results of audit

Test check of the records of the offices of Additional Registrars of Assurances, District Sub-Registrars, Additional District Sub-Registrars etc. indicated underassessment of stamp duty and other irregularities involving Rs. 55.65 crore in 42 cases which could be classified under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
1.	Assessment, levy and collection of Stamp Duty and Registration Fees (A review)	1	48.65
2.	Information Technology – Computerisation of Registration of Documents (A review)	1	2.63
3.	Non-issuance of demand notice	14	1.52
4.	Non-realisation of deficit stamp duty and registration fees	11	1.26
5.	Other irregularities	15	1.59
<b>Total</b>		<b>42</b>	<b>55.65</b>

During the course of the year 2008-09, the department accepted underassessment and other deficiencies of Rs. 54.77 crore in 27 cases of which 25 cases involving Rs. 54.64 crore were pointed out in audit during the year 2008-09 and the rest in the earlier years. An amount of Rs. 40.67 lakh was realised in 10 cases at the instance of audit during the year.

A review on 'Assessment, levy and collection of Stamp Duty and Registration Fees' and 'Information Technology Audit of Computerisation of Registration of Documents (CoRD)' with total financial effect of Rs. 51.28 crore and an illustrative observation involving Rs. 1.02 crore are mentioned in the succeeding paragraphs.

## 6.2 Assessment, levy and collection of Stamp Duty and Registration Fees

### Highlights

- Non-determination of market value in referred cases resulted in non-realisation of revenue of Rs. 3.29 crore.

(Paragraph 6.2.10.2)

- Delay in referring the cases to the Collector for determination of market value resulted in non-realisation of deficit stamp duty and registration fees of Rs. 43.24 crore.

(Paragraph 6.2.12.1)

- Short realisation of revenue of Rs. 1.26 crore due to under valuation of property.

(Paragraph 6.2.13.1)

- Short realisation of revenue due to non-levy of additional stamp duty of Rs. 21.24 lakh.

(Paragraph 6.2.14)

- Short levy of stamp duty and registration fee of Rs. 20.32 lakh due to irregular allowance of discount on the value of the property.

(Paragraph 6.2.16.2)

### 6.2.1 Introduction

The levy and collection of stamp duty and registration fees are regulated under the Indian Stamp (IS) Act, 1899 and the Indian Registration (IR) Act, 1908 and the Rules framed thereunder as applicable in West Bengal (WB). Instruments to be registered under the Acts are chargeable to stamp duty and registration fees at the rates prescribed by the State Government from time to time.

The Government of WB has enacted the West Bengal Stamp (Prevention of Undervaluation of Instruments) [WBS (PU)] Rules, 2001 with effect from 15 March 2001 to prevent undervaluation of properties.

Under the IS Act, the stamp duty to be paid depends on the real nature or substance of the transactions recorded in the instruments and not on any title or description or nomenclature given by the parties who execute the instruments.

The Registering Officer (RO) is empowered to ascertain the market value of the properties which is the subject matter of the instrument and to compute proper stamp duty chargeable thereon in the prescribed manner as provided in the Act and to send to the concerned party a notice calling upon him to pay the deficit amount of stamp duty and registration fees within the specified period. If the party

does not make this payment, the RO shall refer the case to the Collector/Deputy Inspector General of Registration (DIGR) for determination of the market value and stamp duty payable thereon.

**Audit reviewed the system of assessment, levy and collection of stamp duty and registration fees. It indicated a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.**

### 6.2.2 Organisational set up

Stamp duty and registration fees are administered by the Finance (Revenue) department headed by the Principal Secretary. The overall control and superintendence over assessment, levy and collection of stamp duty and registration fees vests with the Inspector General of Registration (IGR), West Bengal, who is assisted by nine Deputy Inspectors General of Registration (DIGR), 17 District Registrars (DR), three Additional Registrars of Assurances (ARA), 26 District Sub-Registrars (DSR), 191 Additional District Sub-Registrars (ADSR) and 17 Sub-Registrars.

### 6.2.3 Audit objectives

The review was conducted to examine whether:

- provisions of the Acts and Rules framed thereunder and the departmental instructions were adequate and observed properly;
- system was in place and working properly for assessment, levy and collection of stamp duty and registration fees including penalty;
- adequate internal control mechanism was in place to monitor assessment and collection and to prevent leakage of revenue; and
- internal audit existed and functioned at the desired level.

### 6.2.4 Scope of audit

There are 237 units, which have been divided into 'A', 'B', and 'C' category depending on the average volume of transactions. Out of the above, based on random sampling method, 25 units from A, 19 units from B and 6 units from C, totalling 50 units<sup>1</sup> have been selected for audit. The records pertaining to the years 2003-04 to 2007-08 in 50 units were reviewed between November 2008 and May 2009.

1 ADSR - Alipore, Amdanga, Arambag, Asansol, Barrackpore, Balichak, Barasat, Baruipur, Basirhat, Beldanga, Bethuadahari, Bhagawangola, Bidhannagar, Bolpur, Burdwan, Behala, Bishnupur, Cossipore, Contai, Chakdah, Chinsurah, Durgapur, Domjur, Deganga, Egra, Howrah, Habra, Jhargram, Joynagar, Krishnanagar, Kalyani, Katwa, Kaliaganj, Khatra, Naihati, Rampurhat, Serampore, Sonarpur, Suri, Sutahata, Sonamukhi, Sealdah, Tamluk, Uluberia, ARA-I, II, III, DSR-Howrah, Barasat-I and II.

### 6.2.5 Acknowledgement

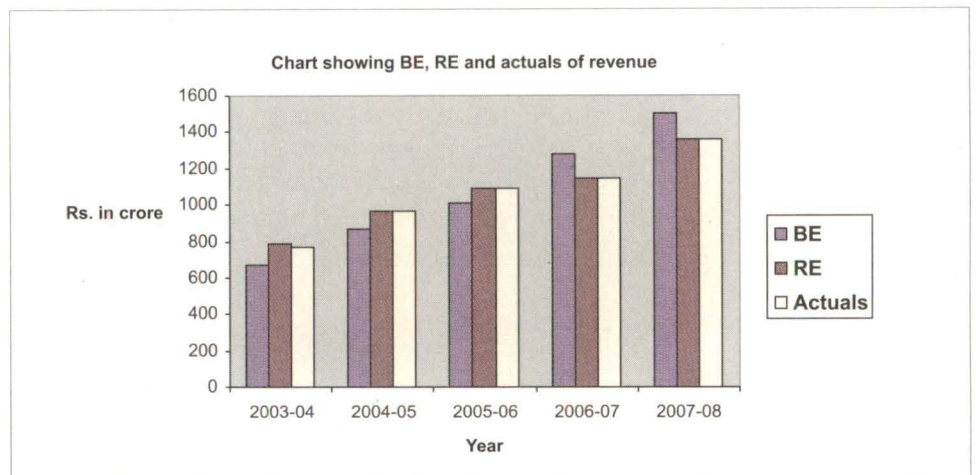
Indian Audit and Accounts Department acknowledges the co-operation of the Finance (Revenue) Department in providing necessary information and records to audit. An entry conference to discuss the objective and scope of audit was held in February 2009. The findings of the review was forwarded to the department/ Government in April 2009 and an exit conference was held in July 2009 with the IGR from the department. Replies of the department received during the exit conference and at other points of time have been appropriately incorporated in the respective paragraphs. Reply of the Government has not been received (October 2009).

### Audit findings

#### 6.2.6 Trend of revenue

Paragraph 16 of the West Bengal Budget Manual read with the Rules 338, 339 and 343 of the West Bengal Financial Rules states that in framing the budget estimate (BE) of the ensuing year, the actual of the previous years and revised estimate (RE) of the current year should be the best guide. Paragraphs 10 and 11 say that the 'RE' are forecasts, as accurate as possible, of the actual receipts of the current year and for preparation of 'RE', the actual receipts of those months of the current year which have already elapsed are the most important guide.

The bar chart indicates budget estimate, revised estimate and actual figure of the revenue under the head stamp duty and registration fees and their inter se variations.



Audit observed that the Finance department prepared the budget estimates by merely increasing the previous year's figures instead of preparing the budget based on estimates obtained from the field offices as required under the existing procedure. **During the exit conference, the Finance (Revenue) Department agreed to ensure better co-ordination between the field offices and the Finance department while preparing the BEs in future.**

## System deficiencies

### 6.2.7 Improper maintenance of database of revenue foregone

The Government in extending exemptions or remissions foregoes revenue in pursuance of certain defined objectives. A reliable database of revenue foregone is, therefore, a prerequisite for informed decision making and transparency.

Scrutiny of the records of the registering offices indicated that **there was no database or any other record to ascertain the revenue foregone due to concessions and remissions in respect of co-operative societies, discount on large land, Government's amnesty schemes etc.**

After this was pointed out, the department stated (July 2009) that revenue of Rs. 96 crore was foregone during the years 2003-04 to 2007-08 on account of grant of remission in stamp duty and registration fees under different amnesty schemes introduced by the Government during the period. **But the department could neither furnish the exact number of cases where remissions were allowed nor the number of cases in which exemptions were allowed to the members of co-operative societies and the money value involved.** Therefore, the database of revenue forgone maintained by the department is not complete.

**The Government may consider proper maintenance of a centralised database of remissions/concessions for effective monitoring of the schemes.**

### 6.2.8 Non-maintenance of statutory registers

Three registers namely Market Value Monitoring Register, Pending Register and Reference Register are maintained in the registering offices to keep watch over completion of registration of documents submitted in the respective offices.

Pending Register is an important register, which shows, *inter-alia*, the number of pending documents, market value assessed, total duty and registration fees payable, stamp duty and registration fees paid.

Scrutiny of the records of 50 registration offices indicated that in 20 offices<sup>2</sup> the register of pending cases was not maintained and in the remaining 30 offices the register of pending cases was not maintained properly; vital information columns like "market value assessed" and "deficit stamp duty and registration fees" were left blank. **Due to non-maintenance or improper maintenance of the register,**

2 ADJR - Alipore, Asansol, Balichak, Behala, Bethuadahari, Chinsurah, Contai-I, Deganga, Domjur, Egra, Howrah, Jhargram, Rampurhat, Suri, Sutahata, Sealdah. ARA-I, II, III and DSR-II, Barasat.

**audit was not in a position to ascertain the number of deeds pending and quantum of deficit stamp duty and registration fees realisable.**

After this was pointed out, the ADSR, Deganga and Suri stated in January 2009 that the pending register could not be maintained due to acute shortage of staff. The reply furnished by other ADSRs did not touch upon the issue raised by audit.

#### **6.2.9 Non-fixation of time limit for first assessment**

Under the provisions of the IS Act and WBS (PUI) Rules, 2001, the registering officer is required to register an instrument after assessment of market value of the property. But no time limit for assessment has been prescribed therein.

Audit scrutiny in 35 registration<sup>3</sup> offices indicated that **the market value was not ascertained by the registering officers in case of 30,391 deeds presented for registration between April 2003 and March 2008.**

After this was pointed out, the registering officers stated that the documents had not been referred to Collector/DIGR due to inadequate staff.

**The Government may prescribe a time limit for ascertaining the market value and registration of document either by issuing executive orders or amending the rules.**

#### **6.2.10 Lacunae in the Acts and Rules**

Under the provisions of the WBS (PUI) Rules, if the person by whom the stamp duty is payable does not pay the differential stamp duty within the specified period, the registering officer shall make a reference to the Collector for determination of the market value. But no time limit for ascertaining the market value and registration of document thereof has been prescribed in the rules.

**6.2.10.1** Audit scrutiny indicated that, due to above shortcoming, 8,187 cases were pending in 40 offices<sup>4</sup>. This has resulted in blockage of revenue for indefinite period.

**6.2.10.2** Audit scrutiny of 1,014 out of 2,228 pending deeds in eight registration offices indicated that the registering officers had ascertained the market value of

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3 ADSR - Amdanga, Arambagh, Asansol, Barasat, Barrackpore, Baruiপুর, Behala, Beldanga, Bethuadahari, Bidhan Nagar, Bishnupur, Bhagawangola, Bolpur, Burdwan, Chakdah, Chinsurah, Contai-I, Deganga, Egra, Habra, Jhargram, Joynagar, Kaliaganj, Katwa, Krishnanagar, Naihati, Sealdah, Sonamukhi, Sonarpur, Uluberia, ARA-I, II, III, DSR-I and II, Barasat.

4 ADSR - Alipore, Amdanga, Arambagh, Asansol, Balichak, Barasat, Barrackpore, Baruiপুর, Basirhat, Beldanga, Behala, Bethuadahari, Bidhan Nagar, Bishnupur, Bolpur, Burdwan, Chakdah, Contai-I, Domjur, Durgapur, Egra, Habra, Jhargram, Joynagar, Kaliaganj, Kalyani, Katwa, Krishnanagar, Naihati, Sealdah, Serampore, Sonarpur, Sonamukhi, Sutahata, Suri, Tamluk and Uluberia.  
DSR-I, II, Barasat, and DSR-I, Howrah.



properties in respect of 398 instruments presented between 2003 and 2008 at Rs. 61.46 crore against the value set forth therein of Rs. 25.68 crore. Though demand of differential stamp duty and registration fees was raised, the executants did not pay the differential amount within the prescribed period of 30 days. Thereafter, the cases were referred to the collector/DIGR between April 2004 and February 2008 but the cases were not returned by them after determination of market value even after the lapse of 1 to 48 months. Thus, Government revenue of Rs. 3.29 crore was not collected as mentioned below:

(Rupees in crore)

Name of the Office	No. of cases	Market value		Differential stamp duty
		set forth	assessed	
ADSR/Alipore	230	22.53	51.23	2.76
ADSR/Bidhannagar	1	0.003	0.39	0.03
ADSR/Tamluk	38	0.84	2.41	0.1
ADSR/Burdwan	22	0.63	2.11	0.10
ADSR/Behala	32	0.79	2.21	0.14
ADSR/Behuadahari	20	0.10	0.38	0.02
ADSR/Krishnanagar	22	0.39	0.80	0.03
ADSR/Egra	33	0.40	1.93	0.11
<b>Total</b>	<b>398</b>	<b>25.683</b>	<b>61.46</b>	<b>3.29</b>

After this was pointed out, the department stated in July 2009 that DIGRs have been instructed to dispose the cases as early as possible. It was further stated that a proforma had also been prescribed for monthly monitoring of pending cases. A report on further development has not been received (October 2009).

#### 6.2.11 Internal audit

Internal audit is a tool available to the management to monitor the functioning of an organisation. It helps the management to take corrective measures wherever necessary to ensure that the systems are functioning reasonably well and the stated objectives are achieved.

It was observed that the Department does not have an internal audit system of its own. Further, the department of internal audit of the State Government is yet to conduct internal audit of the directorate.

In reply the department stated (July 2009) that the matter has been taken up with the Commissioner of internal audit for initiating regular internal audit and system audit and there was no scope for building up a separate internal audit body for this directorate.

**The Government should take appropriate measures for conducting internal audit of the directorate at regular intervals.**

## Compliance deficiencies

### 6.2.12 Non-realisation of deficit stamp duty and registration fees

Under the Indian Stamp (IS) Act, 1899 as applicable in West Bengal read with the departmental circular issued in July 1998, where the registering authority has reason to believe that the market value of the property has not been truly set forth in the document presented for registration, the registration of the documents shall be kept in abeyance. Thereafter, he is required to ascertain the market value of the property and issue a notice to the party for payment of deficit stamp duty and registration fees, if any, within 30 days. In the event of non-payment within the stipulated period of 30 days, the case is to be referred to the Collector/DIGR within 15 days for determination of the market value of property and collection of deficit stamp duty and registration fees. There is no provision for registration of document provisionally.

**6.2.12.1** Scrutiny of the records of 49 Registering Offices in 13 districts<sup>5</sup> between April 2008 and May 2009 indicated that 7,634 documents presented for registration between April 2003 and March 2008 were kept in abeyance. Stamp Duty was levied on the consideration of Rs. 146.96 crore set forth in the instruments instead of on the market value of the property of Rs. 677.14 crore subsequently assessed by the registering authorities. Scrutiny further indicated that neither notices for payment of deficit stamp duty and registration fees were issued nor were the cases referred to the Collector/ DIGR. This resulted in non-realisation of revenue of Rs. 43.24 crore as mentioned in the Annexure.

After this was pointed out, the department stated (July 2009) in respect of 7,311 cases involving Rs. 42.79 crore that DRs and DIGRs have been directed to take special initiative to take up the matter with the registering officers for urgent issue of notices in a time bound manner and the matter has engaged the attention of the highest authority. In the remaining 323 cases involving Rs. 45 lakh, the department stated that majority of the referred documents have been disposed under the remission scheme introduced by the Government between 2003 and 2006. However, the number of deeds disposed under the remission scheme and revenue realised therefrom has not been furnished by the department.

**6.2.12.2** Scrutiny of the records of ADSR, Durgapur in the district of Burdwan in October 2008 indicated that 57 documents presented for registration between February 2006 and April 2008 were kept in abeyance due to undervaluation of properties. The stamp duty was paid on the value of Rs. 85.71 lakh as set forth in the instruments instead of on the market value of Rs. 4.24 crore subsequently assessed by the registering authority. Demand notices had been issued to the

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5 Bankura, Birbhum, Burdwan, Hooghly, Howrah, Kolkata, Murshidabad, Nadia, North 24-Parganas, South 24-Parganas, Paschim Medinipur, Purba Medinipur and Uttar Dinajpur.

concerned parties for payment of deficit stamp duty of Rs. 18.98 lakh and registration fees of Rs. 3.65 lakh within 30 days. The parties had not made the payment within the stipulated period but the cases were not referred to the DIGR/Collector even after the lapse of 6 to 24 months from the date of issue of the demand notices. This resulted in non-realisation of revenue of Rs. 22.63 lakh.

After this was pointed out, the department stated (July 2009) that the deficit stamp duty and registration fee had been realised in a number of cases under the Amnesty Scheme and steps had been taken by the DIGRs for realisation in other cases. A report on further development has not been received (October 2009).

### **6.2.13 Short levy of stamp duty due to undervaluation of property**

The WBS (PUI) Rules, 2001, provides that market value of any immovable property shall be determined on the basis of the highest sale price of property of similar nature and area, in a comparable locality, during the five consecutive years immediately preceding the date of execution of any instrument. For this purpose each registering officer maintained a market value monitoring register till computerisation of registration of documents was introduced.

**6.2.13.1** Scrutiny of the records of ARA-II, Kolkata indicated that in 11 cases, the registering officer determined the market value of the properties at Rs. 14.43 crore instead of Rs. 21.27 crore ascertainable as per market value monitoring register. The collector/DIGR further reduced the market value of the properties to Rs. 6.48 crore without assigning any reason. The value determined by the DIGR and the registering officer varied substantially though both the officers were expected to have considered the same set of documents. The variation ranged between 31 and 56 *per cent*. Besides, the value determined by the DIGR was 49 to 83 *per cent* lower than those prescribed in the market value monitoring register. This resulted in short realisation of stamp duty and registration fees of Rs. 1.26 crore.

**6.2.13.2** Scrutiny of the records of ADSR, Cossipore indicated that in three cases, the Registering officer determined the market value of the properties at Rs. 1.05 crore instead of Rs. 1.36 crore determinable as per market value monitoring register. This resulted in undervaluation of property by Rs. 31 lakh leading to non-realisation of stamp duty and registration fees of Rs. 2.21 lakh.

When these cases were pointed out, the department stated (July 2009) that every property was *sui-generis* in nature and in determining the market value, not only the market value monitoring register data but also other factors were being considered by registering officers. So, the apparent loss as pointed out by the audit is not actual loss as the value was determined by the registering officers duly observing the rules as framed under PUI Rules applicable at that time. The fact remains that no reasons were recorded in any of the cases for reducing the market value to a substantially lower rate than the rate determinable as per market value monitoring register.

**6.2.14 Short realisation of Government revenue due to non-levy of additional stamp duty**

In terms of the Government Order issued in March 2007, additional stamp duty at one *per cent* is leviable on the value of the properties of Rs. 25 lakh and above presented for registration on or after 1 April 2007.

Scrutiny of the records of five registration offices indicated that the registering authorities did not levy additional stamp duty on 46 deeds, presented and registered between April 2007 and January 2008, in which the value of property exceeded Rs. 25 lakh in each case. This resulted in short realisation of revenue of Rs. 21.24 lakh as mentioned below:

Sl. no.	Name of the unit	No of deeds	Period between	Market value (Rs. in crore)	Short realisation (Rs. in lakh)
1.	DSR-II, Barasat	15	01-04-07 and 31-05-07	6.40	6.40
2.	ADSR, Alipore	4	01-04-07 and 31-01-08	1.76	1.73
3.	ADSR, Bidhannagar	22	01-05-07 and 30-11-07	9.80	11.10
4.	ADSR, Cossipore	2	01-05-07 and 30-06-07	0.54	0.53
5.	ADSR, Sealdah	3	01-04-07 and 30-06-07	1.48	1.48
	<b>Total</b>	<b>46</b>		<b>19.98</b>	<b>21.24</b>

After the cases were pointed out, the department stated (July 2009) that short realisation was due to the late receipt of Government order and the process for recovery had started. A report on further development has not been received (October 2009).

**6.2.15 Short realisation of revenue due to levy of stamp duty at pre revised rate**

The IS Act and the Rules made thereunder provide that the stamp duty at the prescribed rate is to be realised on the market value of the property before its registration.

**6.2.15.1** Scrutiny of the records of ADSR, Alipore indicated that in two cases, the market value was assessed by the collector as Rs. 2.99 crore. The required stamp duty at 10 *per cent* of market value determined was Rs. 29.95 lakh but the registering authority realised only Rs. 22.25 lakh before the date of registration. This resulted in short realisation of revenue of Rs. 7.70 lakh.

After this was pointed out, the department stated (July 2009) that short realisation was due to late receipt of the Government order of 03.01.2003 and process had been started to recover the stamp duty. Report on realisation has not been received (October 2009).

**6.2.15.2 Short realisation of revenue due to computation mistake**

Scrutiny of the records of ADSR, Howrah indicated that in one case the Registering Authority assessed the market value of the property at Rs. 64.07 lakh. The required

stamp duty was Rs. 5.13 lakh of which Rs. 4,000 only was paid by the executant at the time of presentation of the deed. However, the registering authority mistakenly determined the differential stamp duty at Rs. 4.09 lakh instead of Rs. 5.09 lakh. The executant accordingly paid Rs. 4.09 lakh and the deed was registered on 31 March 2006. This resulted in short realisation of revenue of Rs. 1 lakh.

After this was pointed out, the department stated (July 2009) that the apparent mistake in calculation of stamp duty was being looked into and registering officer had been advised to check the documents and report. Report on further development has not been received (October 2009).

#### **6.2.16 Irregular allowance of discount on the value of the property**

In terms of Circular No. 5 issued in 2002 by the IGR, West Bengal, in assessing the market value of large piece of land, discount ranging approximately between 20 *per cent* and 50 *per cent* may be allowed depending on whether the land is situated in rural or urban area. Assessment of market value must reflect application of mind and exercising of quasi judicial discretion and function.

**6.2.16.1** Scrutiny of the records of ADSR, Sealdah indicated that the Registering Officer assessed the market value of a property at Rs. 4.81 crore after allowing 40 *per cent* discount from Rs. 8.01 crore determinable as per market value monitoring register. The case was referred to the DIGR in October 2007, who redetermined the market value at Rs. 3.55 crore which exceeded the permissible discount of 50 *per cent*. This undervaluation of the property by Rs. 45.41 lakh resulted in short levy of stamp duty and registration fees of Rs. 3.68 lakh.

After the case was pointed out, the department stated (July 2009) that discount allowed by the DIGR after hearing and considering all the factors as an appellate authority was justified and the judgment was passed on the guideline of the IGR.

The fact remains that the DIGR allowed depreciation at such a rate, which was higher than the limit of 50 *per cent*.

**6.2.16.2** In terms of circular No. 5 of 2002 of the IGR, West Bengal, tenancy depreciation will be allowed at 15 *per cent* maximum on the occupied portion for a tenancy of more than 15 years.

Scrutiny of the records of ARA-II, Kolkata indicated that the Registering Officer initially determined the market value of a plot of land with fully tenanted building at Rs. 12.21 crore, but allowed tenancy depreciation at 30 *per cent* instead of maximum allowable limit of 15 *per cent*. Thus, finally determined market value was Rs. 8.54 crore instead of Rs. 10.37 crore, which led to short levy of stamp duty and registration fees of Rs. 20.32 lakh.

After the case was pointed out, the department stated (July 2009) that the circumstances under which the depreciation was granted would be looked into. Report on further development has not been received (October 2009).

#### **6.2.17 Short realisation of stamp duty on set forth value of pending deeds**

Under the provisions of the IS Act and Rules made thereunder, no instrument chargeable with duty shall be admitted for any purpose, unless such instrument is duly stamped.

Scrutiny of the records of ARA-II, Kolkata indicated that in seven instruments presented for registration between January 2004 and May 2006, the set forth value of the properties was Rs. 45.03 lakh on which stamp duty and registration fees of Rs. 0.27 lakh was paid instead of Rs. 3.77 lakh payable on the set forth value. Further scrutiny indicated that though the registering officers have recorded the amount pending against each document in their records yet no action has been taken to realise the balance dues till the date of audit (February 2009). Thus, acceptance of instruments by registering officers without realisation of full stamp duty on the set forth value was irregular which resulted in short realisation of stamp duty of Rs. 3.50 lakh.

After this was pointed out, the department stated (July 2009) that Section 41 of the IS Act states that if any person fails to pay proper stamp duty due to any mistake or urgency and offers to pay the stamp duty suo-motu, the document shall not be impounded. In such cases the registering officers realised such deficit stamp duties after determination of the market value of the property. Further, this is the normal practice of registering officers who was the best authority to judge whether that section of the IS Act should be considered for a particular document and the action of the registering officer appeared to be justified. The fact remains that market value of the properties assessed by the registering officer in five out of seven cases was higher than the value set forth in the documents and deficit stamp duty was not realised for those cases. Market value of the property in the remaining two cases was not at all determined by the registering officer though two years have elapsed after presentation of those deeds.

#### **6.2.18 Short realisation of stamp duty due to short determination of additional stamp duty on Market Value**

The IS Act and the rules made thereunder provide that required stamp duty is to be realised on market value of property before its registration.

Scrutiny of the records of ADSR, Sealdah indicated that in six referred cases, the DIGR assessed the market value of property at Rs. 2.43 crore. The required stamp duty leviable at the rate of five *per cent* plus two *per cent* additional stamp duty was Rs. 17.01 lakh, but the DIGR determined the stamp duty at Rs. 13.56 lakh without assigning any reason. This resulted in short realisation of stamp duty of Rs. 3.45 lakh.

After this was pointed out, the department stated (July 2009) that the DIGR assessed the stamp duty on the basis of the market value determined by him and considering the nature of the document as well as article on which additional stamp duty at the rate of two *per cent* is chargeable. Such duty was chargeable on sale including certificate of sale, gift and mortgage. The fact remains that the rate of stamp duty on sale deeds prevailing at the time of execution of those deeds was 7 *per cent* (5 plus 2 *per cent* stamp duty as per Calcutta Improvement Act) instead of 5 *per cent*.

#### **6.2.19 Conclusion**

The review indicates there is no centralised database of remission/ concession for effective monitoring of the schemes and there are lapses in the monitoring of receipt and collection of Government revenues due to non-finalisation of cases by the registrars and collectors. As a result, amounts due to Government have remained unrealised. The position of disposal of pending cases was not monitored at any level. And there is no effective internal control mechanism.

#### **6.2.20 Summary of recommendations**

The Government may consider following recommendations to rectify the system and compliance deficiencies:

- maintenance of a centralised database of remissions/concessions for effective monitoring of the schemes;
- prescribe a time limit for ascertaining the market value and registration of document either by issuing executive orders or amending the rules; and
- take appropriate measures for conducting internal audit of the directorate at regular intervals.

## 6.3 Information Technology - Computerisation of Registration of Documents (CoRD)

### Highlights

- Database in four ADSR offices revealed that market rate in Market Value Monitoring Register was not updated between 1 April 2007 and 31 March 2008 for which there was short levy of stamp duty and registration fees of Rs. 2.43 crore in 14,977 sale deeds.

(Paragraph 6.3.6)

- In three ADSR offices, user charges of Rs. 75.56 lakh was realisable from 38,422 documents registered between 7 November 2006 and 31 March 2008 but no records of its realisation and remittance in Government account was available in database.

(Paragraph 6.3.7)

### 6.3.1 Introduction

Directorate of Registration and Stamp Revenue (DoR), West Bengal has taken up an IT project of e-Registration of documents in the year 2000. The receipt from stamp revenue is the second highest revenue receipt of the State. The Directorate collects stamp duty and registration fees and other fees payable for the registration of the instruments.

The Directorate is also responsible for maintaining records of registered documents. In the State of West Bengal, there are 237 registration offices (RO) spread over 19 districts. The State Government approved the Public Private Partnership (PPP) model in 2005 for infrastructure development and initial commissioning of the project. Three agencies<sup>6</sup> were entrusted with the job for three zones<sup>7</sup> covering all the 237 ROs on the basis of recommendation of the Evaluation Committee. The Registering Offices are categorised on the basis of volume of transactions (deeds executed) as large, medium and small offices. The application software was developed by NIC.

**An Information Technology review of Computerisation of Registration of documents was conducted which indicated a number of compliance and other deficiencies which are discussed in the succeeding paragraphs.**

### 6.3.2 Organisational set-up

Stamp duty and registration fees are administered by the Finance (Revenue) Department headed by the Principal Secretary to the Government of West Bengal. The overall control and superintendence over assessment, levy and collection of stamp duty and registration fees vests with the Inspector General of Registration & Commissioner of Stamp Revenue (IGR & CSR), West Bengal. He is assisted by

<sup>6</sup> CMC Ltd., CMS Ltd. and WTL.

<sup>7</sup> Burdwan, Jalpaiguri and Presidency Divisions.



nine Deputy Inspectors General of Registration (DIGR), 17 District Registrars (DR), three Additional Registrars of Assurances (ARA), 26 District Sub-Registrars (DSR), 191 Additional District Sub-Registrars (ADSR) and 17 Sub-Registrars (SR).

### 6.3.3 Audit objectives

Audit of the application software CoRD was taken up to evaluate and assess whether the software addresses the needs of the Directorate and is effective in achieving the objectives of the project by improving the quality of the service. The audit objectives were to establish whether

- the data captured in the system were complete and correct;
- built-in-process of input-data and resultant output were adequate;
- all the business rules were properly incorporated in system; and
- internal control framework and monitoring mechanism were adequate.

### 6.3.4 Scope and methodology of audit

The review of CoRD was carried out between March and June 2009. Out of 237 Registration Offices, 158 offices were computerised till March 2008. Out of 37 Registration Offices selected for review of the CoRD system, dump-data<sup>8</sup> were made available for four ADSR offices<sup>9</sup> only. The samples have been selected from three strata<sup>10</sup> of the audited units (ADSR/DSR) depending upon the number of deeds registered during a year by the units. Of these, 60 *per cent* of the 'A' category units (13), 40 *per cent* of the 'B' category units (22) and rest two of the 'C' category units have been selected through computer (IDEA) by Random Selection Method. The data obtained from four ADSR offices were analysed using CAATs<sup>11</sup> (IDEA and EXCEL) to ensure accuracy and completeness of the data and its application in registration of the documents for the period from the date of commissioning of CoRD system in respective ADSR offices<sup>12</sup> to March 2008.

### 6.3.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Department of Finance (Revenue) for providing information and records to audit. Audit findings of the review were reported to the Government in June and July 2009 and discussed with the IGR & CSR in exit conference held in July 2009. The views of the Directorate have been incorporated in the respective paragraphs.

8 Version of CoRD-Bidhannagar-6.1.2; Chandannagar-2005.0.0; Sadar-6.1.3 and Serampore - 2005.0.1.

9 Bidhannagar, Chandannagar, Sadar and Serampore.

10 'A' category: Number of deeds more than 8,000.

'B' category: Number of deeds between 4,000 and 8,000.

'C' category: Number of deeds below 4,000.

11 Computer aided audit tools.

12 Bidhannagar- 30.11.2007, Chandannagar-12.07.2004, Sadar-21.02.2006 and Serampore-31.05.2004.

## Compliance deficiencies

### 6.3.6 Non-updation of MV in MVMR database

The IGR, West Bengal, issued instructions to all the ADSRs to update the Market Value of land by appreciating the rate at five *per cent* for rural area and at eight *per cent* for urban area, annually on 1<sup>st</sup> day of each financial year<sup>13</sup>.

Analysis of the database of four ADSR offices<sup>14</sup> indicated that the market value in the Market Value Monitoring Register (MVMR) was not updated between 01-04-2007 and 31-03-2008. There were 14,977 sale deeds presented for registration during the period. The market value monitoring register of the four ADSR offices<sup>15</sup> were not updated on the stipulated date resulting in short determination of market value of 14,977 documents and consequent loss of stamp duty and registration fees of Rs. 2.43 crore.

After this was pointed out, the ADSR, Bidhannagar affirmed (April 2009) that the system had no provision for automatic updation of the market value of property. The department stated (July 2009) that the updation is not frequent. However, the fact remains that the software should have the provision for automatic updation of market value on the stipulated date to avoid loss of revenue due to delay in updation of market value.

### 6.3.7 Non-levy of standard user charges

Finance (Revenue) Department, West Bengal, fixed 'Standard User Charges' (SUC)<sup>16</sup> at the rate of Rs. 175 per transaction up to 15 pages and Rs. 6 for each additional page to be collected from the registrant public.

Scrutiny of the computerised database of three ADSRs<sup>17</sup> indicated that 38,422 documents were registered between 07.11.2006 and 31.03.2008 for which a minimum Rs. 75.56 lakh was realisable as user charges from the registrant public. However, no records are available in the database regarding its realisation and remittance into government account.

The ADSRs, Chandannagar and Serampore replied (April and July 2009) that the matter had been referred to their State Data Centre whereas the ADSR, Sadar, did not furnish any reply. The department stated (July 2009) that the system did not allow continuing if the standard user charges are not collected and the completion of the document will be held up. However, the matter was being looked into.

The fact remains that the SUC had not been incorporated in the CoRD for the period covered in audit resulting in loss of revenue.

13 Business process(May 2007) read with memo no.489(19)/1M-200/04 dt.20.2.07.

14 Bidhannagar, Chandannagar, Sadar and Serampore.

15 Bidhannagar, Chandannagar, Sadar and Serampore.

16 Order no.1816-F.T./FT/O/IM-17/06-Stamp dated 07.11.2006.

17 Chandannagar, Sadar and Serampore.

### **6.3.8 Non-mapping of business process/rules in Master Data File**

All the relevant business rules and procedures are required to be identified and suitably incorporated in the application system. Master data file controls are meant for integrity and accuracy of Master Files.

### **6.3.9 Non-mapping of business process in respect of MVMR flat**

The CoRD system generates market value of the property in rural and urban areas through the module market value monitoring register as per the business rule. The business process provides that the rate per square feet of commercial and semi commercial flats would be 2.5 and 1.5 times of the residential ones respectively.

Analysis of market value monitoring register data in respect of three ROs<sup>18</sup> indicated that the ratio had not been maintained in respect of these records for 9,48,571 semi-commercial and 9,18,556 commercial plots out of total number of 9,65,141 records.

After this was pointed out, the department stated (July 2009) that the business process was a general guideline for determination of the market value of commercial and semi-commercial apartments at the rate of 2.5 and 1.5 times of the residential flats. But in some cases it might differ according to the prevailing market value of that area. Hence, a fixed multiplier on the basic rate could not be permanently applied to arrive at the correct market value.

The fact remains that the purpose of the development of the system was to bring transparency and uniformity in valuation of market value. Exceptional cases should have the approval of the competent authority and system should have a module to accommodate exceptional cases.

### **6.3.10 Non-mapping of business process in respect of road width**

Width of the approach road to a plot of land is a factor in determination of market value of the land. The depreciation/appreciation of the basic rate varies between minus 15 *per cent* and plus 25 *per cent* depending on road width (other than KMC/HMC<sup>19</sup>).

Analysis of the data of two ADSR offices<sup>20</sup> indicated that in those cases where the property is situated on road/metal road, the road width is not considered in assessment of the market value of the property by the system. But market value of the property appreciates/depreciates according to the width of the approach road in case the property is not situated on road/metal road.

As the road width is not mapped in the system as per business process there could be underassessment of the market value of the property.

18 Bidhannagar, Chandannagar and Serampore.

19 Kolkata Municipal Corporation/Howrah Municipal Corporation.

20 Sadar and Serampore.

## Incomplete master database

### 6.3.11 Incomplete master database of MVMR for flats

The SRS<sup>21</sup> prescribed that data preparation relating to the market value of all plots, flats/apartments in any plot must be completed prior to use of the CoRD software.

In the system there were four market value monitoring register files<sup>22</sup> separately for urban and for rural area, one each for land and flat. The market value of the land had been recorded plot-wise under each *mouza*<sup>23</sup> and market value for flat had also been recorded plot-wise on which the building stands. Analysis of the database of three ADSR offices<sup>24</sup> indicated that there was no record of market value in respect of 2,10,009 plots in 13 *mouzas*.

Further, residential plot of land is termed as 'Bastu' (code '010'). In case of 'Bastu', number of *mouzas* and land records in market value monitoring register for land should be equal to the number of *mouzas* and plot records in the market value monitoring register for flat. Detailed analysis indicated that number of the 'Bastu' plots in the market value monitoring register of land in urban area differed from the number of plot records in the market value monitoring register for flats as detailed below:

Name of the ADSR offices	No. of <i>Bastu</i> <i>mouzas</i> in MVMR land	No. of <i>Bastu</i> plots in MVMR land	No. of <i>mouzas</i> in MVMR flat with market rate	No. of plots in MVMR flat with market rate	Difference in number of plots between MVMR land and MVMR flat
	(1)	(2)	(3)	(4)	(5)
ADSR, Serampore	20	3,89,682	15	2,81,900	1,07,782
ADSR, Chandannagar	46	1,71,015	44	94,493	76,522
ADSR, Sadar	16	918	24	1,15,440	1,14,522

The above table indicated that in case of ADSR, Serampore and ADSR, Chandannagar, 20 and 46 *mouzas* were categorised as 'Bastu' land consisting of 3,89,682 and 1,71,015 plots respectively, but market value monitoring register for flats shows the records against 15 and 44 *mouzas* consisting of 2,81,900 and 94,493 plots respectively. Whereas in case of ADSR, Sadar, there was only 16 *mouzas* in market value monitoring register for land containing 918 plots whereas market value monitoring register for flats contains 24 *mouzas* and 1,15,440 plots.

21 System Requirement Specification.

22 a) MVMR land (Urban), b) MVMR land (Rural), c) MV Flat (Urban) and MV Flat (Rural).

23 *Mouza*: A *mouza* is a unit of survey adopted for revision of map of a village boundary and records-of-rights (ROR).

24 Chandannagar, Sadar and Serampore.

The CoRD system should ensure that the procedures and controls reasonably guarantee that the data received for processing are genuine, complete, accurate and properly authorised. Absence of flat records in market value monitoring register for flat on 2,10,009 plots in 13 *mouzas* rendered the market value monitoring register database incomplete.

On this being pointed out, the department stated ( July 2009) that District Registrars (DR) had been advised to verify the total number of missing *mouzas*, if any, and report. On the basis of such report, market value monitoring register should be modified accordingly.

#### **6.3.12 Incomplete master database of MYMR for developed land**

The business process provides that in case of land of development authorities, notified areas, cantonment areas and housing estates, market value of land and flats is based on its location inputs like sector or action area, layout block, layout plot number, etc.

Scrutiny of the records of ADSR, Bidhannagar, indicated that the West Bengal Housing Infrastructure Development Company Ltd. (WBHIDCO) had sold land in Rajarhat. The department had not mapped the developed land of Rajarhat in the market value monitoring register and therefore market value of the properties sold out were not assessed through the system. 536 sale documents (year 2007) were registered at the value set forth by WBHIDCO Ltd. The market value of the land was not assessed by the system and set forth value was accepted, bypassing the registration process.

After this was pointed out, the ADSR, Bidhannagar, stated (February 2009) that since it was treated as 'sale by Government', as such set forth value is treated as market value and there was no scope for assessment of market value.

Further, the department stated (July 2009) that the concerned authority had not completed the survey of area and block numbers and plot numbers had not been allotted. The matter had been taken up with Rajarhat Development Authority (RDA). The software for the RDA area was being developed.

No reply had been furnished by the department regarding registration of documents at the set forth value treating the sale by the WBHIDCO as 'sale by Government'.

There is an inherent risk of registration of any plot by showing 'sale by Government' which is actually not a Government sale. In case of Government sale, a separate module may be designed in the software.

#### **6.3.13 Overlap of database file**

Business process provides that the same plot should not be included in both the market value monitoring register of rural and market value monitoring register of urban area in the district.

Analysis of the market value monitoring register of the three ADSR offices<sup>25</sup> indicated that 1,49,897 plot records were included both in urban as well as in market value monitoring register of rural area.

After this being pointed out, the department stated (July 2009) that some *mouzas* were within both the urban and rural area. But actual plot numbers for the urban and rural area could not be identified. So all the plots of those *mouzas* have been included both in urban and rural area. Stamp duty is charged on the basis of the declaration of the citizen whether the same plot is under urban area or rural area. However, as pointed out by audit, the matter would be examined before introduction of the next version.

From the reply it is clear that the department depends on the declaration of the registrant and not on the database of the department. The inclusion of same plots in two market value monitoring registers in the system compromises the data integrity.

#### **6.3.14 Existence of unrelated data in the database**

The ADSR/SR offices are the lowest level registration offices in the district at sub-division or at the block level. Registration of a property is carried out in its respective jurisdiction of ADSR/SR offices only.

During the analysis of database of ADSR, Sadar, Hooghly, it was observed that the market value monitoring register for rural land contained 85,59,444 plot records of 12 other ADSR offices. It was further noticed that market value monitoring register for urban land also contained 11,68,238 records of four other ADSR offices.

Thus, the market value monitoring register of ADSR, Sadar, Hooghly, the lowest level office, contained market value records of other same level offices in its database, which compromises the data integrity.

After this being pointed out, the department stated (July 2009) that it had been provided for registration of the document containing properties of other sub-divisions/districts.

The fact remains that one ADSR office could not register the properties of other ADSR office and hence should not contain the market value monitoring register of other offices. This besides occupying the space in the disk, is also fraught with the risk of misuse of data.

#### **Other deficiencies**

#### **6.3.15 Input control-data validation checks**

Input controls ensure that the data received for processing is genuine, complete,

properly authorised, entered accurately without duplication and not previously processed. Input controls also serve as an effective measure to prevent error in input of irrelevant data and fraud in a computerised system.

It was noticed that for input of the data in the important fields, (the factors affecting the market value of the flat/land) e.g. the rate per unit area of a flat/plot, area of the flat/plot, floor type, width of the approach road, nature of usage of the flat/plot, age of the flat and other amenities like lift facility, gymnasium, parking space, etc., were not made mandatory. This resulted in incomplete database. Further, to restrict the invalid values in the records, data input validation is essential.

Analysis of the database of three ADSR offices<sup>26</sup> indicated inaccuracies in the database of market value monitoring register which affected the determination of the market value of a property as shown below :

Property	Fields	Total no. of records	No. of inaccurate records
Apartment	Built area as well as parking area shown as '0'	5,348	83
	Market value shown as '0'	5,348	50
	Plot no. left blank	102	42
	Approach road shown as '0'	5,348	633
Land	Approach road shown as '0'	54,079	8,952
	Market value shown as '0'	54,079	3,253

**Thus, there was no input control regarding entry data in the above fields leading to undervaluation of property and consequent short realisation of stamp duty and registration fees.**

Further, the data field of built area accepts any value including 'zero' in ADSR, Chandannagar, and any value except 'zero' in ADSR, Sadar. However, the system should not accept 'zero' in this field as this value is a factor in calculating market value. Additionally, this field needs to have a minimum limit of area for apartment/flat. Thus, there was no inbuilt input validation check in the field of super built area of apartment/flats.

The department stated (July 2009) that column showing 'zero' 'area' and 'approach road' were not taken into consideration by the Registration Officer (RO) at the time of registration.

The fact remains that the fields of 'area' and 'approach road' were the determining factors for the generation of market value. Therefore, consideration of these fields should be mandatory. The possibility of undue benefit to the registrant may not be ruled out.

Further, the following discrepancies were noticed which were a result of absence of data validation checks.

Observations	Total no. of records	Irregularities (No. of records)
Date of payment shown earlier than the date of purchase of bank draft	38,408	67
Date of completion of deed shown earlier than the date of bank draft	33,827	58
Date of execution of deed shown earlier than the date of purchase of stamp paper	29,317	2
Date of completion of deed shown earlier than the date of purchase of stamp paper	28,394	2
Date of completion of deed shown earlier than the date of presentation of the deed	28,394	2
Transaction date falling on Saturday or Sunday	43,711	276

Thus, there is no input validation control regarding transaction date and day fields.

### 6.3.16 Inadequate audit trails

Analysis of the database of the four ADSR offices<sup>27</sup> indicated 46 duplicate deed numbers out of 1,28,556 cases and 107 missing deeds out of 31,281 cases of auto generated consecutive deed numbers. There was no internal control mechanism to detect any attempt at deletion of deeds which enhanced the risk of frauds by unauthorised deletion.

Moreover, audit trails viz. 'updated by', 'updated on', 'updated from', 'deleted by' and 'authorised by' to track the history of transactions had not been incorporated in the system.

After this being pointed out, the department stated (July 2009) that in respect of duplicate deeds any mistake in data entry detected after generation of the permanent deed number was corrected with the permission of the District Registrar through a special inbuilt system in the software. In case of gap in deed numbers, the department stated that registration officers (ROs) had been advised to verify and report.

### 6.3.17 Delay in completion of document

One of the objectives of CoRD system is to deliver the registered documents to the registrants on the same day of its presentation.

Analysis of the database of four ADSR offices<sup>28</sup> indicated that after starting of registration through CoRD, 44,731 documents were presented of which 28,813 documents were not completed and delivered on the same day of their presentation. The delay ranged between 1 and 30 days in respect of 60 *per cent* cases and more than 30 days in respect of four *per cent* cases as shown in the following table :

27 Bidhannagar, Chandannagar, Sadar and Serampore.

28 Bidhannagar, Chandannagar, Sadar and Serampore.



Total number of documents presented for registration	No. of documents delayed	
	Delay upto 30 days (per cent)	Delay more than 30 days (per cent)
44,731	27,015 (60)	1,798 (4)

After this was pointed out, the department stated (July 2009) that the document had been delivered after admission for registration. Therefore, service to the citizens had not been jeopardised.

The fact remains that the CoRD has been developed and implemented with the objective of providing fast service.

### 6.3.18 Short levy of stamp duty and registration fees

Scrutiny of 20 deeds registered between January and February 2008 under the ADSR, Bidhannagar, indicated that in one case the consideration value of land was Rs. 60.69 crore after a rebate of Rs. 1.24 crore allowed by the seller (WBHIDCO Ltd.). The stamp duty and registration fees was realised by the registering authority on Rs. 60.69 crore instead of Rs. 61.93 crore. In absence of market value monitoring register of developed area in the system, the system could not assess the market value of the said property but accepted the set forth value as stated in the document produced by the WBHIDCO Ltd. The document bypassed the CoRD leading to non-assessment of the market value of the property by the system. This resulted in short realisation of stamp duty and registration fees of Rs. 8.80 lakh.

After this was pointed out, the ADSR, Bidhannagar, stated (February 2009) that the rebate was not allowed by the Government, rather the consideration was fixed after allowing rebate etc. by the WBHIDCO Ltd. The said consideration was taken as the market value of the property.

The fact remains that the set forth value of the land was Rs. 61.93 crore before the rebate. Hence stamp duty is realisable on market value as assessed by the system or set forth value, whichever is higher.

The department stated (July 2009) that the matter was being looked into.

### 6.3.19 Non-mapping of stamp Act

Indian Stamp Act, 1899, provides for stamp duty at concessional rate of 0.5 per cent of market value of the gift made in favour of family members.<sup>29</sup>

Detailed scrutiny of the system indicated that in three ADSR offices,<sup>30</sup> there were

29 Shall mean parent, spouse, son, daughter (unmarried, widowed or divorcee), son's wife, grandson, granddaughter and brother or sister (unmarried, widowed or divorcee).

30 Chandannagar, Sadar and Serampore.

10,480 records of gift deed in favour of family members. However, there was no audit trail to establish the donor-donee relationship for registration of the gift deeds at concessional rate. Non-mapping of stamp rules for registration of 'gift' deed at concessional rate in the system may lead to execution of gift deeds at concessional rate in favour of ineligible family members. Test check in one ADSR office<sup>31</sup> indicated that in 7 out of 40 cases the relationship between donor and donee had not been established.

Analysis of database indicated that in seven cases incorrect application of concessional rate and in 1,222 cases short levy of concessional rate resulted in short levy of stamp duty of Rs. 1.34 lakh and Rs. 10.10 lakh respectively.

**The Government may consider incorporating necessary controls into the software to ensure collection of correct amount of stamp duty.**

#### **6.3.20 Inadequate general and logical access controls**

The existence of appropriate general and logical access controls ensure a sound and healthy working environment for any application system. It was observed that the state of general and logical access controls was inadequate and hence was prone to external and internal threats.

**The Government may consider strengthening of physical access and logical access controls.**

#### **6.3.21 Conclusion**

The Computerised System of Registration of documents was developed with the objective of improving the efficiency and effectiveness of collection of the stamp duty and registration fees and providing hassle free service to the registrant people. However, the application system is not free from wrong application of the business rules in the transactions due to lack of proper data input control and validation. The department also did not devise any monitoring mechanism to ensure the correctness and completeness of data input in the system. Thus, implementation of the system did not fully achieve the objective.

#### **6.3.22 Summary of recommendations**

The Government may consider the following recommendations to rectify the system and compliance deficiencies :

- incorporate necessary controls into the software to ensure collection of correct amount of stamp duty;
- strengthen physical access and logical access controls;

- map all business process/rules etc., into CoRD system and update regularly to avoid leakage of revenue;
- build the validation controls into the system to avoid inconsistent data entry;
- design and incorporate audit trails in the system to track the transactions, in order to monitor exceptional changes made to the data; and
- establish interface between CoRD and other packages in local bodies and land revenue offices to derive the benefits envisaged.

#### **6.4 Non-registration of agreement and non-payment of stamp duty and registration fees**

Under the provisions of the Indian Stamp (IS) Act, 1899, any agreement signed under a public private partnership project is a lease agreement and such agreement exceeding one year has to be registered on payment of requisite stamp duty and registration fee at the prescribed rate. As per the West Bengal Taxation Laws (Amendment) Act, 2003, where the lease purports to be for a term of not less than one year, but not more than five years, stamp duty is payable at the rate of rupees forty for Rs. 1,000 of average annual rent and rupees twenty for every Rs. 500 or part thereof in excess of Rs. 1,000. In addition, registration fees at 1.1 *per cent* of average annual rent is also chargeable.

Scrutiny of the records of Hooghly River Bridge Commissioners (HRBC) indicated that the HRBC executed an agreement (effective from 1 April 2006) for installation, operation and maintenance of electronically operated toll collection system on Vidyasagar Setu, Kolkata, at a contractual amount of Rs. 100.35 crore for a period of 60 calendar months under a PPP project. As per the provisions of the IS Act the lease agreement was required to be registered, but the agreement was executed on a non-judicial stamp paper of Rs. 100 only and the same was accepted by the HRBC. This resulted in non-realisation of stamp duty and registration fees of Rs. 1.02 crore.

After this was pointed out, the Vice Chairman, HRBC did not furnish any specific reply.

The case was forwarded to the Government in April 2009; their reply has not been received (October 2009).



## CHAPTER VII OTHER TAX RECEIPTS

### 7.1 Results of audit

Test check of the records of Agricultural Income Tax Officers, Profession Tax Officers and Officer-in-Charge, Electricity duty conducted during the year 2008-09 indicated non-levy/realisation etc. of revenue of Rs. 1.92 crore in 29 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Categories	No. of cases	Amount
<b>A. AMUSEMENT TAX</b>			
1.	Non-realisation of luxury tax	1	0.40
2.	Non-levy of entertainment tax	1	0.21
3.	Other irregularities	3	0.04
<b>Total</b>		<b>5</b>	<b>0.65</b>
<b>B. PROFESSION TAX</b>			
1.	Non-realisation of profession tax due to non-enrolment	9	0.24
2.	Non-realisation of profession tax from enrolled professionals/registered employers	4	0.06
3.	Other irregularities	4	0.10
<b>Total</b>		<b>17</b>	<b>0.40</b>
<b>C. ELECTRICITY DUTY</b>			
1.	Non-assessment/non-realisation of electricity duty	4	0.86
2.	Other irregularities	3	0.01
<b>Total</b>		<b>7</b>	<b>0.87</b>
<b>Grand total</b>		<b>29</b>	<b>1.92</b>

During the course of the year 2008-09, the departments concerned accepted underassessment and other deficiencies in 22 cases involving Rs. 2.19 crore of which 18 cases involving Rs. 1.13 crore were pointed out in audit during the year 2008-09 and the rest in the earlier years. An amount of Rs. 3.38 lakh involved in four cases was realised at the instance of audit during the year 2008-09.

A few illustrative audit observations involving Rs. 1.47 crore are mentioned in the succeeding paragraphs.

## **7.2 Audit observations**

Scrutiny of the records in the offices of Agricultural Income Tax Officers, Profession Tax Officers and Officer-in-Charge, Electricity duty indicated non-levy of luxury tax, non-realisation of entertainment tax, profession tax and non-assessment of electricity duty as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out in audit repeatedly but not only do these persist; these also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

### **A. AMUSEMENT TAX**

#### **7.3 Non-levy of luxury tax on banquet hall charges**

Under the provisions of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax (WBELT) Act, 1972, a luxury tax is to be charged, levied and paid to the State Government by the proprietor of every hotel in which there is provision of luxury i.e. airconditioning. Such tax is calculated at the rate of 10 per cent of the daily charges realised or realisable for an occupied room provided with luxury.

Scrutiny of the assessment records of hotels under the Agricultural Income Tax Officer (AITO), Kolkata in October 2008 indicated that three hotels viz. 'Taj Bengal', 'The Oberoi Grand' and 'The Park' received Rs. 4 crore as rental/hire charges for banquet halls provided with luxury as reflected in their annual accounts for the years 2004-05 and 2005-06. But the assessing authority (AA) while assessing luxury tax between February and March 2008, did not include rental/hire charges for banquet halls which resulted in non-levy of luxury tax of Rs. 39.95 lakh.

After this was pointed out, the department stated (August 2009) that the luxury tax could not be levied on the daily charges for banquet hall as this was not supported by the Act and Rules in force prior to April 2008. The reply is untenable as the Government had agreed with the audit contention and had issued notification in March 2008 through which banquet hall had been brought under the purview of luxury tax. Further, the concerned AA while completing the assessments between February 2000 and February 2004 for the years 1999-2000 and 2001-02 duly levied luxury tax on hire/rental charges of banquet halls of two other hotels.

The case was forwarded to the Government in December 2008 followed by reminders issued up to June 2009; their reply has not been received (October 2009).

#### **7.4 Non-realisation of entertainment tax on horse racing**

Under the Bengal Amusement Tax Act, entertainment tax shall be charged at the rate of 60 per cent on all payments for admission to horse racing for entertainment. Further, the Act defines 'admission' as admission as a spectator, an audience and also a participant.

Scrutiny of the Profit & Loss Account of Royal Calcutta Turf Club (RCTC) in October 2008 indicated that the club received Rs. 15.65 lakh as entry money during 2006-2007, on which entertainment tax was not paid by the club. The AITO, Kolkata also did not levy and demand entertainment tax. This resulted in non-realisation of the entertainment tax of Rs. 9.39 lakh.

After the case was pointed out, the department stated (August 2009) that the owners of the horses or the horse riders took part in the competition after depositing entry fee which was not chargeable to entertainment tax as they were providers of the entertainment. The reply is not tenable as the admission to take part in the horse racing either as spectator or participant is taxable under the Act. Further, the entire amount of Rs. 15.65 lakh of entry fee can not be received from owners of horses or horse riders.

The case was forwarded to the Government in December 2008 followed by reminder issued upto June 2009; their reply has not been received (October 2009).

## **B. PROFESSION TAX**

### **7.5 Non-realisation of profession tax due to non-enrolment**

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act 1979, every person coming under the purview of the Act shall be liable to be enrolled and pay tax at the prescribed rates. There is no provision of cross verification in the Act.

Cross verification of the records of seven licence issuing offices<sup>1</sup> with those of three unit offices<sup>2</sup> of profession tax conducted in audit between June and November 2008 indicated that 474 professionals, traders, etc. failed to apply for enrolment under the Act and continued with their professions during the period between April 2003 and March 2008 without payment of tax. Absence of provision for cross-verification in the Act resulted in non-realisation of profession tax of Rs. 14.62 lakh.

After the cases were pointed out, two Profession Tax Officers (PTOs)<sup>3</sup> admitted between August and November 2008, the audit observations in respect of 451 professionals, traders etc. involving Rs. 13.67 lakh. Report regarding their enrolment as well as realisation of tax has not been received (August 2009). In respect of the remaining 23 professionals, traders etc. involving Rs. 95,000, the reply furnished by the PTO, West Bengal, Central Unit-VII, Baruipur, did not touch upon the issue raised by audit.

The cases were forwarded to the Government between July and December 2008 followed by reminders issued upto June 2009; their reply has not been received (October 2009).

<sup>1</sup> Chief Medical Officer Health, South 24-parganas; District Magistrate, Coochbehar; Asansol Municipal Corporation and Coochbehar Municipality, RTO, Coochbehar and SEs, Asansol and Coochbehar.

<sup>2</sup> PTOs Central Unit-VII, Baruipur; North Unit-IV, Coochbehar and West Unit-III, Asansol.

<sup>3</sup> PTOs North Unit-IV, Coochbehar and West Unit-III, Asansol.

## C. ELECTRICITY DUTY

### 7.6 Non-assessment and non-realisation of electricity duty

Under the provisions of the West Bengal Duty on Inter-State River Valley Authority Act, 1973 and rules framed thereunder, a person who receives electricity directly from an inter-state river valley authority, is required to pay electricity duty and submit returns in prescribed forms. The assessing authority may assess the electricity duty to the best of his judgment in case the data necessary for assessment is not furnished within one month from the date of notice. The rate of electricity duty payable for domestic consumption is 10 per cent of the net charge of energy consumed.

Scrutiny of the records of the Officer-in-Charge, Electricity Duty under the Collector, Burdwan in March 2009 indicated that the Chittaranjan Locomotive Works (CLW), which receives electricity from the Damodar Valley Corporation (DVC), had neither furnished returns nor paid electricity duty for the consumption period from August 2003 to March 2008. The collector neither took action to obtain the data for assessment of electricity duty nor did he assess the duty to the best of his judgment. This resulted in non-assessment and non-realisation of electricity duty of Rs. 83.06 lakh<sup>4</sup>.

After the case was pointed out, the department stated (August 2009) that the Collector, Burdwan has served demand notice upon CLW for realisation of electricity duty. A report on realisation has not been received (October 2009).

The case was forwarded to the Government in February, 2007 followed by reminders issued upto June, 2009; their reply has not been received (October 2009).

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<sup>4</sup> Calculated on the basis of average monthly consumption of electricity of 8.93 lakh units per month for 56 months from August 2003 to March 2008 at net unit charge of Rs. 1.66 per unit.



## CHAPTER VIII MINES AND MINERALS

### 8.1 Results of audit

Test check of the records of different District Land and Land Reforms (DL and LR) offices as well as the office of the Cess Deputy Collector (CDC), Chief Mining Officer (CMO) and other mining officers conducted during the year 2008-09, indicated underassessment and non/short realisation of revenue amounting to Rs. 9.49 crore in 44 cases, which could be classified under the following categories:

(Rupees in crore)			
Sl. no.	Categories	No. of cases	Amount
1.	Non/short realisation of price of minerals extracted unauthorisedly	24	2.71
2.	Short recovery of penalty for unauthorised extraction of minerals	1	5.75
3.	Non/short realisation of royalty and cess	7	0.38
4.	Other irregularities	12	0.65
<b>Total</b>		<b>44</b>	<b>9.49</b>

During the course of the year 2008-09, the department accepted underassessment and other deficiencies of Rs. 7.72 crore involved in 32 cases which were pointed out in audit during the instant year. An amount of Rs. 6.98 lakh was realised in four cases at the instance of audit during the year.

A few illustrative audit observations involving Rs. 1.59 crore are mentioned in the succeeding paragraphs.

## **8.2 Audit observations**

Scrutiny of the records maintained in the offices of District Land and Land Reforms Officers, Cess Deputy Collector (CDC) and Chief Mining Officer indicated non/short realisation of price of minerals, dead rent, water rate, cess on brick earth and interest as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions are pointed out repeatedly in audit, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

## **8.3 Non/short realisation of revenue from minor minerals extracted unauthorisedly**

Under the provisions of the Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 as amended from time to time and Rules made thereunder, no person is entitled to undertake mining operation except under the authority of a valid quarry permit/mining lease. In the event of unauthorised extraction of minerals, apart from other penal action, the department is empowered to recover the minerals raised unlawfully or the price<sup>1</sup> thereof.

Scrutiny of the records of 20 BL and LR offices under five DL and LR offices<sup>2</sup> between June 2007 and September 2008 indicated that in 180 cases, illegal extraction of 1.45 crore cubic feet (cft) of minor minerals<sup>3</sup> by 118 brickfield owners, three individuals and one company between 2004-05 and 2007-08 was detected by the department. Though price of such minerals extracted was recoverable under the MMDR Act, the DL and LR offices did not initiate any action to recover the price of minerals. In 132 cases, the price of minerals of Rs. 80.03 lakh had not been realised. In the remaining 48 cases Rs. 12.59 lakh was paid as royalty and cess instead of Rs. 26.60 lakh realisable as price of minerals. This resulted in non/short realisation of revenue of Rs. 94.04 lakh.

After the cases were pointed out, the district authorities admitted the audit observation and stated between June 2007 and September 2008 that action would be taken to realise the dues. A report on realisation has not been received (October 2009).

The cases were forwarded to the Government between August 2007 and October 2008 followed by reminders issued up to June 2009; their reply has not been received (October 2009).

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<sup>1</sup> Brick earth - Rs. 30 per 100 cft for 1981 with an increase of Rs. 1.50 per 100 cft. each year. In the absence of fixation of price of sand/boulder, the procurement price of PW (Roads) Department has been taken into account.

<sup>2</sup> Burdwan (East), Burdwan (West), Darjeeling, Hooghly and South 24-Parganas.

<sup>3</sup> Brick earth - 1.44 crore cft., sand - 96,300 cft. and boulder - 25,000 cft.

#### **8.4 Non-realisation of dead rent**

Under the provisions of MMDR Act, the holder of a mining lease is liable to pay dead rent at the prescribed rate. However, where the holder of such mining lease becomes liable to pay royalty for any mineral removed or consumed by him or by his agent or sub-lessee from the leasehold area, he is liable to pay either such royalty or the dead rent in respect of that area, whichever is greater.

Scrutiny of the records of the office of the CMO, Asansol in March 2008 indicated that though in 19 collieries under the Eastern Coalfields Ltd. (ECL) having leasehold area of 9,833.34 hectares no operation was carried out during the year 2006-07, yet no action was taken by the CMO to assess the dead rent and to raise the demand accordingly. In other five collieries having leasehold area of 13,239.79 hectares, the royalty assessed fell short of dead rent for the year 2006-07. However, while assessing the royalty, the amount payable was not taken into consideration. This resulted in non-realisation of dead rent of Rs. 34.56 lakh.

After the cases were pointed out, the CMO, Asansol, stated in August 2008 that Rs. 5.03 lakh has been realised from ECL. A report on realisation of the balance amount has not been received (October 2009).

The cases were forwarded to the Government in April 2008, followed by reminders issued upto June 2009, their reply has not been received (October 2009).

#### **8.5 Non-realisation of water rate due to non-completion of assessment**

Under the provisions of the Mineral Concession (MC) Rules, 1960 and the terms and conditions of the mining lease, the lessee shall pay water rate at the prescribed rate in respect of all parts of surface of land occupied or used by him under the West Bengal Irrigation (Imposition of Water Rate) Act, 1974. Water rate is realisable at the rate of Rs. 54 per acre per annum.

Mention was made in paragraph 6.2.6 in the report of the Comptroller and Auditor General of India for the year 2005-06, Government of West Bengal, regarding non-assessment of water rate which resulted in non-realisation of Rs. 98.05 lakh. While responding to the audit paragraph, the Government stated in June 2006 that the Finance Department would take up the matter with Irrigation and Waterways Department and decide the authority for assessment.

Scrutiny of the records indicated that this matter has not been settled so far and no instruction has been issued by the Government regarding the authority who would assess the water rate. During test check of records of CDC, Asansol in March 2008 it was noticed that water rate on 25,820.55 acres of land occupied/used by four lessees<sup>4</sup> for extraction of coal during 2006-07 was not assessed. This resulted in non-realisation of revenue of Rs. 13.85 lakh.

After the cases were pointed out, the CDC, Asansol stated (March 2008) that the office had already moved the Joint Secretary, L and LR Department and

<sup>4</sup> Eastern Coal Field Ltd., M/s Bharat Coking Coal Ltd., M/s Bengal EMTA Coal Mines Pvt. Ltd. and M/s Integrated Coal Mines Ltd.

the Joint Secretary, Irrigation and Waterways Department, for seeking instructions in this regard. A report on further development has not been received (October 2009).

The cases were forwarded to the Government in April 2008, followed by reminders issued up to June 2009, their reply has not been received (October 2009).

### **8.6 Non/short realisation of cess on brick earth**

Under the provisions of the Cess Act, 1880 as amended in 1984, read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976 holders of quarry permits under the WBMM Rules, are liable to pay cess<sup>5</sup> at the rate of Rs. 15 per 100 cft.

Scrutiny of the records of three DL and LR offices<sup>6</sup> between June 2006 and August 2008 indicated that in 51 cases the quarry permit holders extracted and dispatched 65.11 lakh cft. of brick earth during the period from 2003-04 to 2007-08, of which in 34 cases the district authorities did not realise cess of Rs. 6.81 lakh for extraction of 45.39 lakh cft. of brick earth and in 17 cases, the amount realised was Rs. 1.91 lakh less than the realisable amount. This resulted in non/short realisation of cess of Rs. 8.72 lakh.

The Government to whom the cases were forwarded between August 2006 and September 2008 stated in July 2009 that:

- in 45 cases involving Rs. 6.74 lakhs, an amount of Rs. 4.98 lakh has been realised. Report on realisation of balance amount has not been received (October 2009);
- in one case involving Rs. 18,000, recovery proceedings under BPDR Act, 1913 have been ordered; and
- in five cases involving Rs. 1.80 lakh, the brick fields were not in operation during the period of audit. However, the fact remains that the five brickfield owners extracted 12 lakh cft. of brick earth during 2006-07 for which cess is realisable.

Report on further development has not been received (October 2009).

### **8.7 Non-levy of interest**

Under the provisions of the MC Rules, read with the notification of Government of WB issued in January 1979 and February 1991 mining dues other than minor minerals including royalty relating to the quarters ending March, June, September and December every year are required to be paid by the first day of the succeeding month. If the quarterly dues remain unpaid on the expiry of sixtieth day from the due date, the assessing authority shall charge simple interest at 24 per cent per annum till the date of payment.

Scrutiny of the records of CDC, Asansol in January 2007 indicated that Bengal EMTA Coal Mine Ltd. paid royalty of Rs. 1.86 crore between January

<sup>5</sup> Public works cess: Rs. 3, road cess: Rs. 3, primary education cess: Rs. 6 and rural employment cess: Rs. 3.

<sup>6</sup> Darjeeling, Hooghly and Nadia.

and September 2006 for various quarters ending between September 2005 and March 2006. The delay ranged between 46 and 99 days after expiry of the grace period of 60 days. The CDC, Asansol, however, had not levied and realised interest of Rs. 7.72 lakh for the delay.

After the cases were pointed out, the assessing authority raised demand for interest against the lessee in January 2007. A report on realisation has not been received (October 2009).

The cases were forwarded to the Government in February 2007 followed by reminders issued up to June 2009; their reply has not been received (October 2009).



## CHAPTER IX OTHER NON-TAX RECEIPTS

### 9.1 Results of audit

Test check of the records of Agriculture, Finance, Housing, Power and Transport departments relating to interest receipts on loans, Guarantee Commission, receipts from forests, State Lottery and Irrigation and Waterways conducted during the year 2008-09, indicated non/short realisation, short assessment etc. of revenue amounting to Rs. 1,087.58 crore in 61 cases as mentioned below:

(Rupees in crore)			
Sl. no.	Nature of receipts	No. of cases	Amount
1.	Interest receipts	15	420.00
2.	Forest receipts	31	3.51
3.	Guarantee Commission	3	663.02
4.	Receipts from irrigation and waterways	8	0.77
5.	Receipts from state lottery	4	0.28
<b>Total</b>		<b>61</b>	<b>1,087.58</b>

During the course of the year 2008-09, the departments concerned accepted audit observations of Rs. 245.80 crore involved in 39 cases of which 33 cases involving Rs. 245.44 crore were pointed out during the year 2008-09 and the rest in the earlier years. An amount of Rs.8.45 lakh was realised in six cases at the instance of audit.

A few illustrative audit observations involving Rs. 615.55 crore are mentioned in the succeeding paragraphs.

## 9.2 Audit observations

Scrutiny of the records of Agriculture, Finance, Housing, Power and Transport Departments indicated non-realisation of interest on loan sanctioned, non-charging of guarantee commission and non-realisation of water rate as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

### A. INTEREST RECEIPTS

#### 9.3 Non-realisation of interest on Loans

Under the provisions of the West Bengal Financial Rules (WBFR), before sanctioning and disbursing a loan, the sanctioning authority is required to specify the terms and conditions including the date of commencement of payment of instalments, their periodicity and the time within which each loan has to be fully repaid with interest due. Interest is to be determined on the balance of loan remaining outstanding till the dues are fully paid. Any default in the payment of interest upon a loan or advance, or in the repayment of the principal will be promptly reported by the Accountant General to the authority which sanctioned the loan or the advance. On receipt of such a report, the authority concerned should immediately take steps to get the default remedied.

**9.3.1** Scrutiny of the records of loans disbursed by the Transport Department indicated (January 2009) that, in 492 cases, loans aggregating to Rs. 282.94 crore were sanctioned and disbursed by the department to three state transport corporations and a company between April 1974 and January 1994 without fixing the terms and conditions for repayment of loan and the rate of interest of the loans which remained outstanding even after 179 to 416 months from the date of disbursement till the date of audit.

This resulted in non-levy of interest of Rs. 126.99 crore for the period from 2003-04 to 2007-08 calculated at the rate fixed by the Finance Department for contemporary loans as mentioned below:

(Rupees in crore)

Sl. no	Name of Loanee	Cases where terms and conditions not fixed	Delay in months		Amount of loan	Rate of interest (per cent)	Amount of interest
			From	To			
1.	CTC <sup>1</sup>	74	180	307	88.25	6.50 to 12.25	38.65
2.	SBSTC <sup>2</sup>	207	179	416	14.78	6.00 to 12.25	12.92
3.	CSTC <sup>3</sup>	90	179	345	109.79	5.25 to 12.25	47.34
4.	NBSTC <sup>4</sup>	121	180	338	70.12	5.25 to 12.25	28.08
<b>Total</b>		<b>492</b>			<b>282.94</b>		<b>126.99</b>

- <sup>1</sup> Calcutta Tramways Company Ltd.
- <sup>2</sup> South Bengal State Transport Corporation.
- <sup>3</sup> Calcutta State Transport Corporation.
- <sup>4</sup> North Bengal State Transport Corporation.



The Government to whom the cases were reported in March 2009 stated (August 2009) that the principal amount of loan and interest thereon had not been paid by the corporations due to financial stringency. It was further stated that the loans and interest had neither been written off nor converted into equity.

**9.3.2** Scrutiny of the records of Agriculture, Transport and Information & Cultural Affairs Departments between January and March 2009 indicated that 118 loans aggregating to Rs. 180.60 crore were disbursed by them to six corporations and one company between July 1984 and March 1998. The loans were repayable within 15 years alongwith interest of 6.25 to 13 *per cent* per annum. However, the corporations or the company had neither paid the principal due for repayment of Rs. 113.93 crore as of March 2008 nor the accrued interest. The amount of interest due for the period from April 2003 to March 2008 was Rs. 99.53 crore. The department-wise position is mentioned below:

(Rupees in crore)				
Sl. no.	Name of the department Name of loanee organisation	Amount of loan/No. of cases	Principal due for repayment	Interest due (2003-04 to 2007-08)
<b>Agriculture</b>				
1.	WBSSC Ltd. <sup>5</sup>	32.50/11	32.50	10.56
2.	WBAIC Ltd. <sup>6</sup>	15.75/17	15.75	5.96
<b>Total</b>		<b>48.25/28</b>	<b>48.25</b>	<b>16.52</b>
<b>Transport</b>				
1.	SBSTC	30.87/21	14.99	19.51
2.	NBSTC	38.95/21	19.02	24.65
3.	CSTC	35.35/20	18.87	22.29
4.	CTC Ltd	20.59/16	10.30	13.04
<b>Total</b>		<b>125.76/78</b>	<b>63.18</b>	<b>79.49</b>
<b>Information and Cultural Affairs</b>				
1.	W.B.F.D.C <sup>7</sup>	6.59/12	2.50	3.52
<b>Grand total</b>		<b>180.60/118</b>	<b>113.93</b>	<b>99.53</b>

Thus, failure of the department to take action resulted in non-realisation of interest of Rs. 99.53 crore and principal of Rs. 113.93 crore.

The Government to whom the cases were reported between March and April 2009 stated between June and August 2009 that;

- in 28 cases of WBSSC Ltd. and WBAIC Ltd. involving Rs. 64.77 crore, the authorities concerned had been requested to take urgent action for repayment of loans and interest thereon. A report on realisation has not been received (October 2009).

<sup>5</sup> West Bengal State Seed Corporation Ltd.

<sup>6</sup> West Bengal Agro Industries Corporation Ltd.

<sup>7</sup> West Bengal Film Development Corporation.

- in 78 cases of four State Transport Corporations involving Rs. 142.67 crore, the corporations had not paid the principal and interest on loans due to financial stringency.

In case of WBFDC Ltd., the reply of the Government has not been received (October 2009).

**9.3.3** Test check of the records in February 2009 indicated that the Micro and Small Scale Enterprise and Textile Department (MSSETD) sanctioned and disbursed 252 loans between March 1979 and March 2008 aggregating to Rs. 26.98 crore to the West Bengal Ceramic Development Corporation Ltd. (WBCDCL), West Bengal Leather Industries Development Corporations Ltd. (WBLIDCL) and West Bengal Handloom and Powerloom Development Corporation (WBHPDC). All the organisations had closed down their operation in 2006 without making payment of a single instalment of the loan and the interest thereon. The Government had disbursed loan of Rs. 75 lakh to the WBCDCL even after it had closed down its operation. The Departments did not take any action to recover the dues even after closure of the loanee organisations. Thus, principal of Rs. 26.98 crore and interest of Rs. 31.78 crore was due from the closed organisations as of March 2008 as shown in the table below:

(Rupees in crore)

Sl. no.	Name of the Loanee organisation	No. of loans	Date of closure	Amount of Loan	Amount of Interest
1.	W.B.C.D.C.L.	226	31.01.2006	23.44	26.03
2.	W.B.L.I.D.C.L.	16	31.03.2006	2.37	3.78
3.	W.B.H.P.D.C.	10	01.02.2006	1.17	1.97
<b>Total</b>		<b>252</b>		<b>26.98</b>	<b>31.78</b>

The Government to whom the cases were reported in March 2009 stated (July 2009) that the department will take up the matter with the Finance department to write off the loan and interest of those closed organisations. Report on further development has not been received (October 2009).

## **B. GUARANTEE COMMISSION**

### **9.4 Non-charging of guarantee commission**

According to the powers conferred by Article 293 of the Constitution of India, State Government may give guarantee upon the consolidated fund of the State, to various lending institutions/bond holders to assure them of the repayment of principal amount of the loan/investment and the interest payable thereon. Such guarantees constitute contingent liabilities of the State. As per the West Bengal Ceiling on Government Guarantees (WBCGG) Act 2001, the departments shall charge guarantee commission at the rate of one *per cent* per annum with effect from August 2001<sup>8</sup> which shall not be waived under any circumstances.

<sup>8</sup> Prior to August 2001, the rate was 0.5 *per cent* per annum vide Finance Department's notification No. 3336(60) FB dt. 12.6.1974.

For monitoring the guarantees given by the Government it is essential that a database of guarantees be maintained in the concerned departments in order to keep record of

- guarantees given and guarantee Commission outstanding;
- periodic reviews of the above to ensure that these are carried out regularly; and
- realisation of guarantee commission.

Scrutiny of the records of three departments between February and March 2009 indicated that the Housing and the Power departments did not maintain any records of guarantees and guarantee commission whereas the Finance department maintained records of guarantees given only. It was further noticed that the three departments in 68 cases had given guarantees for loans to six corporations/organisations<sup>9</sup> amounting to Rs. 7,027.19 crore between March 1986 and August 2006 but did not charge guarantee commission of Rs. 83.85 crore and short charged guarantee commission by Rs. 52.12 crore. Besides, Rs. 79.97 crore was also not realised by the departments though guarantee commission was charged. This resulted in non/short charging and non-realisation of guarantee commission of Rs. 215.94 crore.

In their reply, the Government to whom the cases were reported between February and April 2009 did not touch upon the issue raised by audit (October 2009).

## C. RECEIPTS FROM IRRIGATION AND WATERWAYS

### 9.5 Non-realisation of water rate

Under the provisions of the West Bengal Irrigation (Imposition of Water Rate) Act, 1974, occupiers of land receiving the benefit of irrigation from canals are required to pay water rates at the prescribed rate<sup>10</sup>. Assessment of water rates is made by the respective revenue division on receipt of test notes from the engineering divisions of the Irrigation and Waterways (I and W) Department. According to the instruction issued by the department in June 1977, any difference between the irrigated areas shown by the engineering divisions and assessment figure as shown by the revenue divisions should be reconciled by both the offices within one month.

Scrutiny of the records of the Revenue Officer (RO), Damodar Irrigation Revenue Division-II at Durgapur in August 2008 indicated that test notes received from the concerned engineering division indicated the area irrigated as 4.48 lakh acres during the assessment periods between 2006-07 and 2007-08. However, Galsi sub-division did not make any assessment of water rate on 27,790.50 acres in the assessment year 2007-08 whereas five sub divisions<sup>11</sup> made assessment on 3.41 lakh acres only against the area of 4.20 lakh acres indicated in the test notes. Thus, assessment of 1.07 lakh<sup>12</sup> acres of

<sup>9</sup> West Bengal Housing Infrastructure Development Corporation, Durgapur Projects Limited, West Bengal State Electricity Transmission Company Ltd., West Bengal Power Development Corporation Ltd., West Bengal Infrastructure Development Finance Corporation Ltd. and West Bengal Finance Corporation.

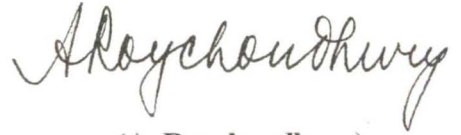
<sup>10</sup> Boro season - Rs. 50 per acre and Kharif season - Rs. 15 per acre.

<sup>11</sup> Avirampur, Durgapur, Guskara, Indus and Sonamukhi.

<sup>12</sup> 67,232 acres during boro season and 39,350 acres during Kharif season.

land was not done. No attempt was made by the RO to reconcile the difference between the area assessed and the area shown in the test notes. This led to non-realisation of revenue of Rs. 39.53 lakh.

The Government to whom the cases were reported in September 2008 stated (August 2009) that the matter had been taken up with the Land and Land Reforms Department to get a detailed picture of the use of land and the owners of lands for reconciliation of the whole position of the irrigated and non-irrigated land. A report on further development has not been received (October 2009).



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13 APR 2010

Countersigned



(VINOD RAI)  
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New Delhi  
The

21 APR 2010

**Annexure**  
(Ref: Para 6.2.12.1)

(Rupees in crore)

Sl no.	Name of Office	No of deeds	Setforth value	MV Assessed by RO	Non-realisation of revenue
1.	DSR Howrah	57	1.70	4.78	0.76
2.	DSR-I Barasat	251	4.99	38.28	2.87
3.	DSR-II Barasat	420	6.73	29.40	1.57
4.	ARA-I,II,III	323	28.25	181.14	15.57
5.	ADSR, Amdanga	153	2.08	6.25	0.20
6.	ADSR, Arambagh	253	3.58	14.05	0.55
7.	ADSR, Asansol	616	9.47	42.00	1.96
8.	ADSR, Bagawangola	51	0.13	0.31	0.01
9.	ADSR, Barasat	135	0.83	3.67	0.24
10.	ADSR, Barrackpore	321	8.49	34.72	1.72
11.	ADSR, Baruipur	27	0.36	1.17	0.04
12.	ADSR, Basanti	60	0.30	1.13	0.06
13.	ADSR, Basirhat	30	0.59	1.65	0.09
14.	ADSR, Behala	169	2.87	9.23	0.59
15.	ADSR, Beldanga	23	0.06	0.14	0.01
16.	ADSR, Bethuadahari	199	0.79	1.83	0.07
17.	ADSR, Bidhannagar	101	2.09	5.40	0.27
18.	ADSR, Bishnupur	126	1.01	4.70	0.27
19.	ADSR, Bolpur	124	1.23	3.12	0.14
20.	ADSR, Burdwan	378	13.75	51.22	2.33
21.	ADSR, Chakdah	63	0.41	1.50	0.08
22.	ADSR, Chinsurah	138	1.31	4.24	0.21
23.	ADSR, Cossipore	284	6.20	21.34	1.16
24.	ADSR, Deganga	328	2.08	8.24	0.40
25.	ADSR, Dhaniakhali	23	0.33	0.67	0.02
26.	ADSR, Durgapur	176	2.42	11.81	0.60
27.	ADSR, Egra	29	0.45	1.28	0.04
28.	ADSR, Habra	229	3.81	11.90	0.51
29.	ADSR, Haripal	56	0.67	1.51	0.05
30.	ADSR, Howrah	104	1.88	10.93	0.86
31.	ADSR, Jangipur	34	0.41	1.32	0.05
32.	ADSR, Jhargram	70	0.40	1.46	0.08
33.	ADSR, Joynagar	27	0.38	0.89	0.03
34.	ADSR, Kakdwip	98	0.94	5.12	0.22
35.	ADSR, Kaliaganj	405	1.92	6.37	0.31
36.	ADSR, Kalyani	44	1.06	3.11	0.13
37.	ADSR, Katwa	13	0.04	0.16	0.01
38.	ADSR, Khatra	111	0.86	2.96	0.13
39.	ADSR, Krishnanagar	153	1.35	3.76	0.19
40.	ADSR, Monteswar	52	0.29	1.23	0.05
41.	ADSR, Naihati	489	11.00	46.74	2.52
42.	ADSR, Rampurhat	95	1.27	3.37	0.08
43.	ADSR, Sealdah	105	7.65	55.25	4.07
44.	ADSR, Serampore	37	0.45	1.37	0.08
45.	ADSR, Sonamukhi	165	0.45	2.27	0.11
46.	ADSR, Sonarpur	40	2.03	4.60	0.15
47.	ADSR, Suri	111	0.43	1.16	0.04
48.	ADSR, Tamluk	188	1.66	5.56	0.36
49.	ADSR, Uluberia	150	5.51	22.83	1.38
<b>Total</b>		<b>7,634</b>	<b>146.96</b>	<b>677.14</b>	<b>43.24</b>

