

**REPORT  
OF THE**

**COMPTROLLER  
AND  
AUDITOR GENERAL OF  
INDIA**

For the year ended 31 March 2003

**(REVENUE RECEIPTS)**

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**GOVERNMENT OF BIHAR**

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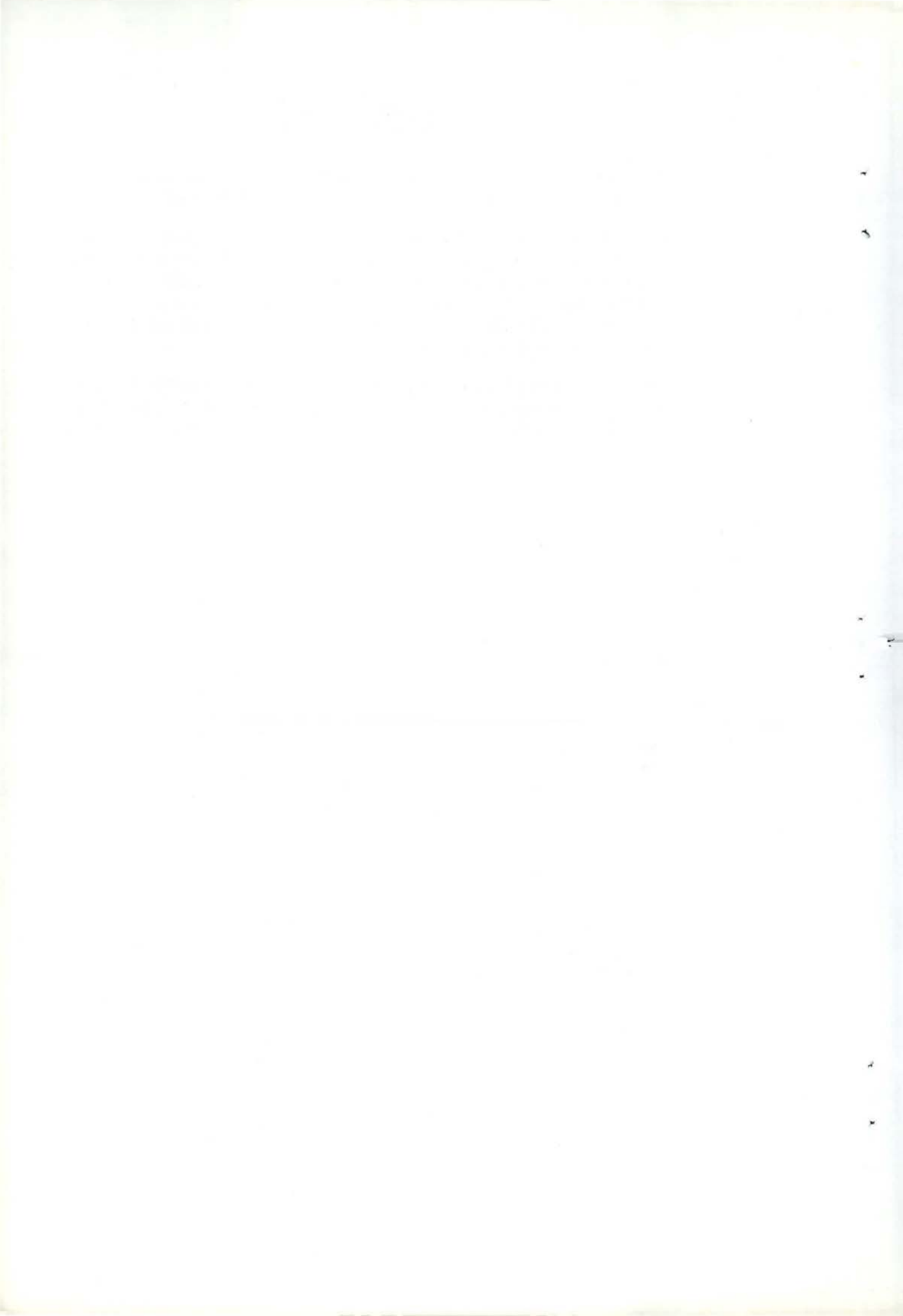


## **PREFACE**

This Report for the year ended 31 March 2003 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 taxes on sales, trade etc., state excise, taxes on vehicles, land revenue, other tax receipts, mineral concession, fees and royalties 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 2002-2003 as well as those which came to notice in earlier years but could not be covered in previous Reports.



## OVERVIEW

This Report contains 26 paragraphs including two reviews relating to non-levy/short levy of tax etc. involving Rs 175.15 crore. Some of the major findings are mentioned below:

### I. GENERAL

The total receipts of the Government of Bihar for the year 2002-2003 were Rs 10,968.42 crore. The revenue raised by the State Government amounted to Rs 3,021.87 crore comprising tax revenue of Rs 2,761.05 crore and non-tax revenue of Rs 260.82 crore. The receipts from the Government of India were Rs 7,946.55 crore (State's share of divisible Union taxes Rs 6,549.23 crore and grants-in-aid Rs 1,397.32 crore). Thus, the State Government could raise only 28 per cent of total revenue. Taxes on Sales, Trade etc. (Rs 1,647.62 crore) and Non-ferrous Mining and Metallurgical Industries (Rs 61.20 crore) were the major source of tax and non-tax revenue respectively during the year 2002-2003.

(Paragraph 1.1.1, 1.1.2 and 1.1.3)

The percentage of cost of collection in respect of State Excise and Stamps and Registration fee during the year 2002-2003 was notably higher than that of all India average for the corresponding period.

(Paragraph 1.3)

Test check of the records of Commercial Taxes, State Excise, Taxes on Vehicle, Land Revenue, Non-ferrous Mining and Metallurgical Industries and other departmental offices conducted during the year 2002-2003 revealed under assessment/short levy/loss of revenue amounting to Rs 292.74 crore in 13,180 cases. During the course of the year 2002-2003, the concerned departments accepted under assessments etc. of Rs 0.48 crore involved in 37 cases pointed out in audit prior to 2002-2003.

(Paragraph 1.10)

The number of Inspection Reports and audit observations issued upto December 2002 but not settled by June 2003 stood at 7,052 and 30,989 respectively involving Rs 2,589.57 crore. In respect of 1,948 Inspection Reports, even first replies have not been received although these were required to be furnished within six weeks of their receipts.

(Paragraph 1.11)

### II. Taxes on Sales, Trade etc.

A review, Accountal and utilisation of declaration forms/certificates revealed as under:



- \* There was discrepancy in maintenance of stock registers of various declaration forms.  
(Paragraph 2.2.4)
- \* Use of defective declaration forms by dealers resulted in under assessment of tax of Rs 2.97 crore.  
(Paragraph 2.2.10)
- \* Suppression of purchase/sales turnover resulted in under assessment of tax of Rs 9.81 crore.  
(Paragraph 2.2.14)
- \* Incorrect utilisation of declaration form resulted in under assessment of tax of Rs of 26.78 lakh.  
(Paragraph 2.2.17)

Cross verification of the records of Customs Department in five circles revealed suppression of taxable turnover of Rs 21.68 crore by 47 dealers resulting in short levy of tax of Rs 6.82 crore.

(Paragraph 2.3)

In nine circles, suppression of sales/purchase turnover of Rs 11.76 crore by 13 dealers resulted in short levy of tax of Rs 3.24 crore .

(Paragraph 2.4)

### **III. State Excise**

A review, **Working of State Excise Department** revealed as under;

- \* There was a loss of revenue of Rs 4.13 crore due to low recovery of alcohol from molasses.  
(Paragraph 3.2.5)
- \* There was loss of revenue of Rs 10.22 crore due to non-settlement of excise shops.  
(Paragraph 3.2.7)
- \* Due to non-filing of certificate proceedings interest of Rs 32.91 crore was foregone.  
(Paragraph 3.2.18)

### **IV. Other Tax Receipts**



**Taxes on Vehicles**

In 29 District Transport Offices, there was non-recovery of tax amounting to Rs 11.80 crore in respect of 1,448 transport vehicles that stopped payment of tax.

(Paragraph 4.2)

Delay in remittance to government account resulted in loss of government revenue in the shape of interest amounting to Rs 38.91 lakh.

(Paragraph 4.5.2)

**Land Revenue**

In 37 Revenue Anchals, 1,954 raiyats (tenants) converted 286.19 acres of agricultural land into land for commercial purposes but department recovered rent at agriculture rate which resulted in short realisation of revenue of Rs 2.58 crore.

(Paragraph 4.6)

In three Revenue Anchals, 4.19 acres of public land was encroached by 29 persons, resulting in non-realisation of salami and residential/commercial rent of Rs 19.81 lakh

(Paragraph 4.7)

**Stamps and Registration Fees**

A deed of conveyance for transfer of land was under valued resulting in short levy of stamp duty and registration fee of Rs 24.29 crore

(Paragraph 4.10)

**V. Other Non-Tax receipts****Mineral Concession, Fees and Royalties**

Supply of 1,11,479 cubic metre of stone ballast in works of Railway Department was made by illegal extraction/removal of minor minerals. Thus, contractors were liable to pay a sum of Rs 2.92 crore in the shape of price of minerals and royalty.

(Paragraph 5.2.1 )

Supply of 80,748 cubic metre of stone ballast was made by unauthorised extraction/removal of minor mineral and as such the lessees were liable to pay Rs 1.87 crore as price of mineral and royalty.

(Paragraph 5.2.2)

Penalty amounting to Rs 14.33 crore for unauthorised operation of 4,418 brick kilns in 15 District Mining Offices was either not levied or levied short.

(Paragraph 5.3)

Settlement of 143 sand bearing areas without executing proper deeds of settlement resulted in loss of stamp duty of Rs 1.06 crore

(Paragraph 5.4)

### **Water Rates**

Khatianis in respect of 5.56 lakh acres of irrigated land was not prepared which resulted in non-raising of demand of water rates amounting to Rs 3.75 crore.

(Paragraph 5.7)



## CHAPTER- I: General

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of Bihar during the year 2002-2003, 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 given below:

		(Rupees in crore)				
		1998-1999	1999-2000	2000-2001 <sup>1</sup>	2001-2002	2002-2003
I.	Revenue raised by the State Government					
	(a) Tax revenue	2,681.35	3,084.79	2,809.23	2,318.95	2,761.05
	(b) Non-tax revenue	1,146.29	1,165.86	711.68	286.70	260.82
	<b>Total</b>	<b>3,827.64</b>	<b>4,250.65</b>	<b>3,520.91</b>	<b>2,605.65</b>	<b>3,021.87</b>
II.	Receipts from the Government of India					
	(a) State's share of divisible Union taxes	4,441.23	4,962.59	6,575.63	6,176.62	6,549.23
	(b) Grants-in-aid	1,027.32	1,446.29	1,080.78	1,057.02	1,397.32
	<b>Total</b>	<b>5,468.55</b>	<b>6,408.88</b>	<b>7,656.41</b>	<b>7,233.64</b>	<b>7,946.55</b>
III.	Total receipts of the State Government <sup>2</sup> (I&II)	9,296.19	10,659.53	11,177.32	9,839.29	10,968.42
IV.	Percentage of I to III	41	40	31	26	28

The above table indicates that during the year 2002-2003 the State Government could raise only 28 per cent of the total revenue receipts (Rs 10,968.42 crore) and 72 per cent of receipts were from the Government of India. The contribution of revenue raised by the State Government to the total revenue receipts has decreased continuously during the period from 1998-1999 to 2001-2002 and increased marginally by two per cent during 2002-2003.

<sup>1</sup> The figures for 1999-2000 represent receipt for erstwhile Bihar (including Jharkhand) whereas the same for 2000-2001 represent Bihar excluding Jharkhand.

<sup>2</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 2002-2003. Figures under the Major Heads "0020-Corporation Tax", "0021-Taxes on Income other than Corporation Tax", "0028- Other Taxes on Income and Expenditure", "0032-Taxes on Wealth", "0044-Service Tax", "0037-Customs", "0038-Union Excise Duties" and "0045-Other Taxes and Duties on Commodities and Services" - Minor Head - "901-Share of net proceeds assigned to State" booked in the Finance Accounts under "A-Tax Revenue" have been excluded from "Revenue raised by the State" and included in "State's share of divisible Union Taxes" in this statement.

**1.1.2** The details of the tax revenue raised during the year 2002-2003 alongwith the figures for the preceding four years are given below:

(Rupees in crore)							
Sl. No.	Head of Revenue	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	Percentage of Increase (+) / decrease (-) in 2002-2003 over 2001-2002
1	Taxes on Sales, Trade etc.	1,821.85	2,067.79	1,821.47	1,412.96	1,647.62	(+) 16
2	State Excise	239.51	277.80	242.58	238.90	241.95	(+) 1
3	Stamps and Registration Fees	279.34	325.77	301.86	304.44	348.21	(+) 14
4	Taxes and Duties on Electricity	67.04	85.25	36.77	14.08	14.30	(+) 2
5	Taxes on Vehicles	164.96	178.47	223.98	141.54	177.98	(+) 26
6	Taxes on Goods and Passengers- Tax on entry of goods into Local Areas	59.78	93.92	124.84	153.32	262.91	(+) 71
7	Other Taxes on Income and Expenditure - Tax on Professions, Trades, Callings and Employments	-	-	-	-	3.95	-
8	Other Taxes and Duties on Commodities and Services	24.26	27.10	23.38	19.62	27.98	(+) 43
9	Land Revenue	24.60	28.67	34.33	34.08	36.15	(+) 6
10	Taxes on Agricultural Income	0.01	0.02	0.02	0.01	-	-
	<b>Total</b>	<b>2,681.35</b>	<b>3,084.79</b>	<b>2,809.23</b>	<b>2,318.95</b>	<b>2,761.05</b>	<b>(+) 19</b>

The reasons for significant variation in receipts from that of previous year, though called for (June 2003) from the concerned departments, have not been received (August 2004).

**1.1.3** The details of non-tax revenue raised during the year 2002-2003 alongwith the figures for the preceding four years are given below:

(Rupees in crore)							
Sl. No.	Head of Revenue	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	Percentage of Increase(+) / decrease (-) in 2002-2003 over 2001-2002
1.	Interest Receipts	135.99	135.75	30.68	11.75	53.01	(+) 351
2.	Dairy development	0.03	0.04	0.17	0.55	0.00 <sup>...</sup>	(-) 98
3.	Other Non-Tax Receipts	92.80	112.56	135.96	138.05	65.77	(-) 52
4.	Forestry and Wild Life	18.48	28.03	11.50	17.07	10.04	(-) 41
5.	Non-ferrous Mining and Metallurgical Industries	740.92	707.56	409.92	39.20	61.20	(+) 56

<sup>...</sup> Only Rs 0.48 lakh



Sl. No.	Head of Revenue	1998-1999	1999-2000	2000 -2001	2001-2002	2002-2003	Percentage of Increase(+) / decrease (-) in 2002-2003 over 2001-2002
6.	Miscellaneous General Services (including lottery receipts)	15.17	29.82	0.61	13.95	0.60	(-) 96
7.	Power	4.97	0.02	0.00	0.04	0.00	(-) 100
8.	Major and Medium Irrigation	42.05	41.40	33.90	15.58	15.43	(-) 1
9.	Medical and Public Health	14.05	15.07	13.70	16.50	13.92	(-) 16
10.	Co-operation	1.65	1.95	7.97	6.82	1.84	(-) 73
11.	Public Works	1.78	1.36	0.99	0.78	1.11	(+) 42
12.	Police	7.66	3.63	4.70	3.98	22.71	(+) 471
13.	Other Administrative Services	70.74	88.67	61.58	22.43	15.19	(-) 32
	<b>Total</b>	<b>1,146.29</b>	<b>1,165.86</b>	<b>711.68</b>	<b>286.70</b>	<b>260.82</b>	(-) 9

The reasons for substantial variations in receipts from that of previous year, though called for (June 2003) from the concerned departments, have not been received (August 2004).

## 1.2 Variations between budget estimates and actual

The variations between budget estimates of revenue receipts for the year 2002-2003 and the actual receipts under the principal heads of revenue are given below:

(Rupees in crore)					
Sl. No.	Revenue head	Budget estimates revised	Actual receipts	Variations increase (+) shortfall (-)	Percentage
<b>A</b>	<b>Tax Revenue</b>				
1	Taxes on Sales, Trade etc.	1,627.01	1,647.62	(+) 20.61	(+) 1
2	State Excise	250.00	241.95	(-) 8.05	(-) 3
3	Stamps and Registration fees	400.00	348.21	(-) 51.79	(-) 13
4	Taxes on Vehicles	205.00	177.98	(-) 27.02	(-) 13
5	Taxes and Duties on Electricity	16.35	14.30	(-) 2.05	(-) 13
6	Land Revenue	56.19	36.15	(-) 20.04	(-) 36
7	Other Taxes and Duties on Commodities and services	55.41	27.98	(-) 27.43	(-) 49
8	Taxes on Goods and Passengers –Tax on entry of goods into Local Areas	189.24	262.91	(+) 73.67	(+) 39
<b>B</b>	<b>Non-Tax Revenue</b>				
1	Non-ferrous Mining and Metallurgical Industries	60.00	61.20	(+) 01.20	(+) 2
2	Forestry and Wild Life	21.00	10.04	(-) 10.96	(-) 52
3	Interest Receipts	29.03	53.01	(+) 23.98	(+) 83

The reasons for variation between the budget estimates and actual receipts though called for (June 2003) from concerned departments have not been received (August 2004).

### 1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2000-2001 to 2002-2003 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 2001-2002 are given below:

(Rupees in crore)						
Sl. No.	Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2001-2002
1	Taxes on Sales, Trade etc.	2000-2001	1,821.47	24.96	1.37	1.26
		2001-2002	1,412.96	18.81	1.33	
		2002-2003	1,647.62	21.30	1.30	
2	State Excise	2000-2001	242.58	17.03	7.02	3.21
		2001-2002	238.90	13.72	5.74	
		2002-2003	241.95	13.75	5.68	
3	Stamps and Registration fee	2000-2001	301.86	17.41	5.87	3.51
		2001-2002	304.44	18.22	5.76	
		2002-2003	348.21	17.56	5.04	
4	Taxes on Vehicles	2000-2001	223.98	4.88	2.18	2.99
		2001-2002	141.54	4.14	2.92	
		2002-2003	177.98	4.11	2.30	

The above table indicates that the percentage of expenditure on collection in respect of State Excise and Stamps and Registration Fees was more than the all India average percentage for the year 2001-2002.

### 1.4 Collection of sales tax per assessee

Year	No. of assessees	Sales tax revenue (Rupees in Crore)	Revenue per assessee (Rupees in lakh)
1998-1999	1,27,830	1,821.85	1.42
1999-2000 <sup>3</sup>	79,938	2,067.79	2.58
2000-2001	50,407	1,821.47	3.61
2001-2002	55,077	1,412.96	2.56
2002-2003	58,495	1,647.62	2.81

<sup>3</sup> The figures for 1999-2000 represent receipt for erstwhile Bihar (including Jharkhand) whereas the same for 2000-01 represent Bihar excluding Jharkhand.

The efforts made in 1998-1999 to contain the arrears need to be sustained and stepped up to facilitate further reduction of arrears.

### 1.8 Evasions of tax

The details of cases of evasion of taxes and duties detected by the departmental authorities, cases finalised and demand for additional tax raised as furnished by the concerned departments are given below:

(Rupees in crore)

Sl. No.	Department	Cases pending as on 31 March 2002	Cases detected during 2002-2003	Number of cases in which assessment/ investigation completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31 March 2003
				No. of cases	Amount of demand	
1	Finance (Commercial Taxes)	339	478	536	4.10	281
2	Irrigation	16	-	-	-	16

Information from other departments, though called for (June 2003), have not been received (August 2004) despite several reminders to departmental heads.

### 1.9 Refunds

The number of refund cases pending at the beginning of the year 2002-2003, claims received during the year, refunds allowed during the year and cases pending at the close of the year (March 2003), as reported by the departments are given below:

(Rupees in crore)

		Sales Tax		Taxes and Duties on Electricity		State Excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	2,914	6.51	-	-	2,850	3.76
2.	Claims received during the year	157	3.46	1	0.01	1,056	2.04
3.	Refunds made during the year	47	3.16	-	-	1,050	2.32
4.	Balance outstanding at the end of the year	3,024	6.81	1	0.01	2,856	3.48

### 1.10 Results of audit

Test check of the records of Sales Tax, State Excise, Motor Vehicles Tax, Stamps and Registration Fees, Electricity Duty, Other Tax Receipts, Forest receipts and other Non-tax receipts during the year 2002-2003 revealed under-



assessment/short levy/loss of revenue amounting to Rs 292.74 crore in 13,180 cases. During the course of year 2002-2003, the concerned department accepted under assessments etc. of Rs 0.48 crore involved in 37 cases pointed out in audit prior to 2002-2003.

The Report contains 26 paragraphs including two reviews relating to non-levy/short levy of taxes, duties, interest and penalties etc. involving Rs 175.15 crore. The Department/Government have accepted audit observations involving Rs 0.48 crore in 37 cases. No replies have been received in remaining cases (August 2004).

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

Principal Accountant General (Audit) Bihar conducts periodical inspection of Government departments to test check transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. Their inspections are followed up with Inspection Reports (IRs) incorporating irregularities etc, detected during inspection and not settled on the spot, which are issued to the head of offices inspected with copies to next higher authorities for taking prompt corrective action. The Head of offices/Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report on compliance through initial reply to the Principal Accountant General within six weeks from the date of issue of IRs. Serious financial irregularities are reported to the Head of the Departments and to the Government.

Inspection Reports issued up to December 2002 disclosed that 30,989 paragraphs involving money value of Rs 2,589.57 crore relating to 7,052 IRs remained outstanding at the end of June 2003. Even the first replies required to be received from the heads of office within six weeks from the date of issue of the IRs, were not received in respect of 1,948 IRs issued upto December 2002.

(A) Outstanding audit observations relating to the following departments as given below:

Sl. No.	Department	Revenue Head	Number of Outstanding		The Year to which earliest inspection report relates	Amount involved
			Inspection Reports	I. R. Paras		
1	Revenue	Land Revenue	4,236	13,999	1980-1981	549.87
2	Finance (Commercial Taxes)	Taxes on Sales, Trade etc.	805	5,712	1982-1983	497.03
3	Excise and Prohibition	State Excise	661	4,217	1981-1982	652.33
4	Transport	Taxes on Vehicles	418	3,326	1981-1982	65.78
5	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	299	1,502	1982-1983	76.52
6	Water Resource	Water Rates	397	1,629	1982-1983	579.88



Sl. No.	Department	Revenue Head	Number of Outstanding			
7	Cane	Taxes on Sugarcane	185	470	1981-1982	98.91
8	Forest and Environment	Forest receipts	51	134	1981-1982	69.25
<b>Total</b>			<b>7,052</b>	<b>30,989</b>		<b>2,589.57</b>

(B) First replies of Inspection Report not furnished by the Department.

Department	Revenue Head	Number of inspection reports to which even first reply has not been received	The year to which earliest inspection reports relate
1. Revenue	Land Revenue	1,384	1982-1983
2. Excise and Prohibition	State Excise	54	1982-1983
3. Transport	Taxes on vehicles	124	1981-1982
4. Finance (Commercial Taxes)	(i) Taxes on Sales, Trade etc.	62	1999-2000
	(ii) Electricity Duty	20	1999-2000
	(iii) Taxes on Goods and Passengers		
	(iv) Entertainments Tax		
5. Revenue (Registration Department)	Stamps and Registration Fees	141	1984-1985
6. Mines and Geology	Non-ferrous Mining and Metallurgical Industries	62	1982-1983
7. Cane	Taxes on sugarcane	59	1981-1982
8. Water Resources	Water Rates	28	1998-1999
9. Forest and Environment	Forest Receipts	14	1984-1985
<b>Total</b>		<b>1,948</b>	

This large pendency of IRs due to non-receipt of replies is indicative of the fact that the Heads of offices and Heads of Department failed to initiate action to rectify the defects, omissions and irregularities pointed out by the Pr. Accountant General in the IRs.

It is recommended that the Government should take suitable steps to ensure that an effective procedure exists for (a) prompt and appropriate response to the audit observations (b) action against official/officers failing to send replies to the I.Rs/paras as per the prescribed time schedules (c) action to recover loss/outstanding demand in a time bound manner.

### 1.12 Departmental Audit Committee Meetings

In order to expedite settlement of outstanding audit observations contained in Inspection Reports, Departmental Audit Committees were constituted by the Government. The Committees are chaired by the Administrative Secretary of the department concerned and attended among others by the officers

concerned of the State Government and of the office of the Principal Accountant General (Audit) Bihar.

The meetings were required to be held quarterly for reviewing and monitoring the progress of settlement of audit observations/audit Paras. During the year 2002-2003 only four audit committee meetings were held. Most of the Government departments did not take any initiative for settling outstanding audit observations through this meeting. Government should ensure periodical meeting of this committee for effective progress.

### **1.13 Response of the departments to Draft Audit Paragraphs**

Department of Finance issued directions to all departments to send their response to the Draft Audit Paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The Draft Paragraphs are forwarded by Pr. Accountant General to the Secretaries of the departments concerned through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The facts of non-receipt of replies from the departments are invariably indicated at the end of each paragraph included in the Audit Report.

Twenty six Draft Paragraphs including two Reviews included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003 were forwarded to the Secretaries of the departments concerned during June to September 2003 through demi-official letters.

The Secretaries of the various departments did not send replies to 26 draft paragraphs. Therefore, all the 26 paragraphs have been included in this report without the response of the Government.

## CHAPTER-II: Taxes on Sales, Trade etc.

### 2.1 Results of Audit

Test check of records relating to assessments and refund of sales tax in various commercial taxes circles, conducted in audit during the year 2002-2003, revealed under assessment of tax of Rs 131.84 crore in 345 cases which broadly fall under the following categories:

Sl. No.	Category	(Rupees in crore)	
		No. of cases	Amount
1.	Irregular allowance of exemption from tax	124	61.92
2.	Incorrect allowance of concessional rates of tax	12	0.42
3.	Short levy of tax due to incorrect determination of gross turnover	61	14.77
4.	Non-levy of penalty	46	8.44
5.	Non-levy/short levy of additional tax and surcharge	28	1.12
6.	Application of incorrect rate of tax	22	27.46
7.	Review: <b>Accountal and Utilisation of declaration forms/certificates</b>	1	15.54
8.	Other cases	51	2.17
Total		345	131.84

During the year 2002-2003, the concerned department accepted under assessment etc, of Rs 0.37 crore involved in 23 cases pointed out in audit prior to 2002-2003.

A few illustrative cases including a review, **Accountal and utilisation of declaration forms/certificates** involving Rs 28.40 crore are given in the following paragraphs:



## **2.2 Review : Accountal and utilisation of declaration forms/ certificates**

### **Highlights**

**There was discrepancy in maintenance of stock registers of various declaration forms.**

**(Paragraph 2.2.4)**

**Use of defective declaration forms by dealers resulted in under assessment of tax of Rs 2.97 crore.**

**(Paragraph 2.2.10)**

**Suppression of purchase/sales turnover resulted in under assessment of tax of Rs 9.81 crore.**

**(Paragraph 2.2.14)**

**Incorrect utilisation of declaration forms resulted in under assessment of tax of Rs 26.78 lakh.**

**(Paragraph 2.2.17)**

### **Introduction**

**2.2.1** Under the provisions of Bihar Finance Act, 1981 (BF Act), the Central Sales Tax (CST) Act 1956, rules made and notification issued thereunder, the State Government grants various incentives to dealers for furtherance of trade and commerce and to industrial units for speedy growth of industries in the state. These incentives are allowed on production of specified declaration forms/ certificates as prescribed by the Government. It is the responsibility of the Department to ensure proper accountal of declaration forms and to take adequate safeguards against misutilisation of declaration forms/ certificates on which tax relief is allowed involving large amount of revenue to the state exchequer.

Exemption from sales tax/tax at concessional rate or at special rate are allowed on the claim of a registered dealer if the claim has been substantiated with the declaration forms/certificates as prescribed under the Acts, Rules and notification issued from time to time. As exemption/concession means foregoing of state revenue, it is absolutely essential to have well designed internal control mechanism to ensure proper accountal of declaration forms/certificates, and proper utilisation of declaration forms for granting exemption/concessions thereon.



## **Organisational set up**

**2.2.2** At the apex level, the Commissioner of Commercial Taxes (CCT) is responsible for the administration of Acts & Rules in the Commercial Taxes Department. He is assisted by an Additional Commissioner or a Joint Commissioner, Deputy Commissioner and Assistant Commissioner of Commercial taxes. The Investigation Bureau (IB) Vigilance and Monitoring wing also function under him. The state is divided into seven Commercial Taxes Divisions, each under the charge of a Joint Commissioner (Admn), (JCCT (Admn)) and a Joint Commissioner (Appeal). These divisions are further divided into circles under the charge of Deputy Commissioner (DCCT)/ Assistant Commissioner of Commercial taxes (ACCT) for administration of the tax laws.

## **Audit objectives**

**2.2.3** Scrutiny of records maintained in the office of CCT, four out of seven divisions and 19 out of 46 circles was made for the period 1996-1997 to 2002-2003 during the period January to June 2003 in order to:

- seek assurance whether the records of receipt/issue of declaration forms were maintained properly.
- to examine whether exemption from tax or concessional rate of tax was allowed in accordance with the provisions of Act and Rules.
- to ascertain whether the internal control system in position was adequate to ensure compliance with the relevant provisions.

## **Maintenance of accounts of receipts and use of declaration forms**

**2.2.4** Under the provisions of the BF Act and Rules, made thereunder prescribed declarations in form IX, IX C and XXVIII B are supplied by the CCT to the divisions for further supply to the circles under their jurisdiction. After assessing total requirement for the year, on the basis of requisition furnished by the divisions/circles, the declaration forms are got printed by the Headquarters Office from press confidentially and issued to the field offices. Similarly, declaration forms as prescribed under the provisions of CST Act, are obtained by the CCT from the Government of India Press, Nasik and supplied to the divisions for distribution amongst the circle offices under their jurisdiction.

Declaration forms are issued to registered dealers by circle offices to enable them to issue it to another registered dealer for purposes specified in their registration certificate in order to avail of exemption from levy of tax or to pay tax at concessional rate under the provisions of Act and Rules. Dealers have to submit periodical utilisation certificate to the circle office concerned for the declaration forms received and utilised by them, and the same is to be properly recorded by the Assessing Officer. No declaration form is to be issued by the

circle office to the dealers till accounts of the utilisation of forms issued earlier to the dealer is submitted by him.

The irregularities in receipt, issue and use of declaration forms as noticed in audit, are discussed in the succeeding paragraphs.

### Receipt and issue

The receipt and issue of aforesaid declaration forms are accounted for in separate stock registers by the division and circle offices indicating receipt and issue of various declaration forms. When the forms are issued to the dealer, the signature of the dealer as token of receipt is to be obtained in the register.

**2.2.5** Test check of records of the office of the Commissioner of Commercial Taxes, as well as of seven out of 19 circle offices revealed the following discrepancies in maintenance of accounts of declaration forms.

Sl. No	Name of the circle/office	Name of stock register	Discrepancies/irregularities
1.	Commissioner of Commercial Taxes, Bihar, Patna	Stock register of form C <sup>1</sup> (Central)	The stock register was opened on 10 November 1995 with nil balance. During the period from 1 April 1996 to 16 October 2000, the receipt, issue and closing balance of the declaration forms was not worked out and the balance shown on 17 October 2000 was not authenticated by competent authority.
2.	Commissioner of Commercial Taxes, Bihar, Patna.	Stock Register of form F <sup>2</sup>	The opening balance in the stock register started on 14 January 1994 was not shown. The entries in the register were not signed by any officer.
3.	-do-	Form IXC <sup>3</sup> , IX <sup>4</sup> and XXVIII B <sup>5</sup>	Stock and issue register of form IX, IXC and XXVIII B for the period 1 April 1996 to 22 December 1997 was not produced to audit. No opening balance was shown at the start of the new register started from 23 December 1997.
4.	Muzaffarpur Circle	Stock and issue register of form IXC	Ten forms were issued to the dealers without obtaining acknowledgement from them in the register.
5.	Patna City, East	Stock register of form IX	The closing balance of 2,750 forms on 29 January 1999 was not carried forward as opening balance on 30 January 1999.
6.	- do -	Stock and issue register of form C	115 numbers of forms were reduced from the stock register during the period between 9 March 1999 and 17 May 1999 but these were not shown as issued in the daily issue register.

<sup>1</sup> Utilised for making purchases in the course of interstate trade or commerce at concessional rate of tax by registered dealer

<sup>2</sup> Utilised for availing exemption of tax on account of branch transfer/consignment sale outside the State

<sup>3</sup> Utilised for subsequent sales i.e. for sales after the first sales of goods which are only taxable at the first point of sales.

<sup>4</sup> Utilised for purchase from one registered dealer to another such dealer for re-sale of goods in the state.

<sup>5</sup> Utilised in movement of goods from one place to another.



Sl. No	Name of the circle/office	Name of stock register	Discrepancies/irregularities
7.	Patna City, East	Stock register of form IXC	25 form IXC were cancelled without assigning any reasons.
8.	Bhagalpur circle	Stock register of XXVIII B (Pink)	50 forms were reduced from the issue register during the period from 24 March 1998 to 27 July 1999 and the same was again taken into stock on 5 May 2000 i.e. after delay ranging between 10 months to 14 months.
9.	-do-	Stock register of form IX & IXC	Closing balance was not carried forward as opening balance on 7 February 1998 (Form IX), 18 February 1998 (Form IX C) resulting in shortage of forms.
10.	Patna West Circle	Stock register of form IXC	7 books were issued to dealers on 18 January 1999 without acknowledgement from them.
11.	Hajipur Circle	Stock register of form IXC	On 27 April 1998 opening balance was shown as 2,000 forms received on 25 April 1998 without taking into account previous balance of 1,831 forms as on 4 March 1998.
12.	-do-	Stock register of form IX	Closing balance on 5 June 1998 was shown as form 375 only, without taking into account previous balance of 1,761 forms.
13.	Sasaram Circle	Stock register of form XXVIII B	On 11 March 1998, 1,000 forms were received and accounted for. However, the previous balance of 105 forms was not accounted for.

**2.2.6** Under the provisions of the Bihar Sales Tax (BST) Rules, 1983, the CCT on receipt of intimation from circle offices regarding theft, destruction or loss of any forms may declare such forms invalid or obsolete, from such date as may be specified in the notification, to avoid misuse of such declaration forms.

As per records of the CCT, Bihar there was delay in sending notifications regarding stolen or lost forms for publication in Official Gazette ranging between one year two months to six years two months from the date of occurrence of theft or loss as detailed below:

Sl No.	Name of Circle	Form number	No. of forms	Date of theft/loss	Date of publication of notification	Extent of delay
1.	Patliputra	Form F D-499480 to D-499484	5	21 January 1994	15 March 2000	6 Years 2 months
2.	Buxar	Form XXVIII B 511047 to 511049	3	20 August 1995	27 January 2000	4 year 5 months
3.	Barh	Form IXC B-681099-682099-682175-682263-683554	5	02 December 1996	03 July 2000	3 years 7 months
4.	Patna South	Form XXVIII B BC 390075	1	09 May 1998	08 July 1999	1 year 2 months
5.	Sitamarhi	Form XXVIII B BC 017771	1	17 March 1998	11 April 2000	2 year 1 month



Sl No.	Name of Circle	Form number	No. of forms	Date of theft/loss	Date of publication of notification	Extent of delay
6.	Raxaul	Form XXVIII B BC 018600	1	29 May 1998	18 November 1999	1 year 6 month
7.	Raxaul	Form XXVIII B BC 809502	1	03 April 1998	15 December 1999	1 year 8 months
8.	Patna North	Form XXVIII B D 310488	1	04 March 1998	25 February 2000	2 years
9.	Patna South	Form IX C A-826173 to 826175 B-149182 to 149187 B-149193 to 149194	11	26 July 1998 26 December 1998	11 April 2000	1 year 9 months

It would be seen that the CCT issued notifications declaring the above forms invalid and obsolete very late. Hence, the possibility of the utilisation of such forms during the intervening period cannot be ruled out.

**2.2.7** In the office of DCCT Muzaffarpur circle, a review of stock register of form F revealed that five forms were shown as lost and 167 forms as damaged but the intimation to this effect was not sent to the CCT for declaring these forms as invalid and obsolete.

### Utilisation

#### Incorrect issue of declaration forms

The Government, by a notification issued in January 1998, prescribed new declaration forms IX, IXC, XXVIII B and declared the earlier forms (printed at Gaya Press) as obsolete and invalid with effect from 01 February 1998.

**2.2.8** Test check of the records in five circles, revealed that 1,908 declaration forms IX, IXC and XXVIII B were issued by the ACCTs to the dealers after being declared obsolete and invalid by the Government. This resulted in utilisation of obsolete/invalid declaration forms and allowing exemption/concession to the dealers on the basis of such invalid forms.

Sl. No.	Name of ACCT	Nature of forms	No. of forms	Date of issue
1.	Motihari circle	IXC	125 leaves	12 February 1998 to 27 March 1998
	-do-	IXC	36 leaves	19 March 1998 to 30 April 1998
2.	Bettiah circle	IX	265 leaves	03 February 1998 to 27 February 1998
	-do-	IX	30 leaves	10 February 1998
3.	Katihar circle	IX	200 leaves	04 February 1998 to 10 February 1998
	-do-	IXC	545 leaves	02 February 1998 to 20 February 1998

4.	Begusarai circle	XXVIII B	500 leaves	03 February 1998 to 24 February 1998
	-do-	IX	32 leaves	03 February 1998 to 24 February 1998
5.	Hajipur circle	IXC	150 leaves	19 February 1998
	-do-	IX	25 leaves	05 February 1998
<b>Total</b>			<b>1,908 leaves</b>	

On this being pointed out ACCT Bettiah, Katihar and Hajipur stated that notification was received late in the circle offices whereas ACCTs Motihari and Begusarai stated that matter would be examined. Further, the Department did not take any action to prevent misuse of such forms issued to the dealers. Failure of the Department in sending the notification to the circles in time resulted in misuse of invalid forms and consequent incorrect grant of exemption/concession.

### **Incorrect utilisation of declaration forms**

As per the notification issued in January 1998, the unused forms were required to be surrendered by the registered dealers to issuing authority within 15 days.

**2.2.9** Test check of the assessment records of 24 dealers of eight circle offices<sup>6</sup> revealed that 235 IXC forms already declared obsolete and invalid were issued by the selling dealers during period 20 June 1998 to 08 July 2001 for availing exemption/concessional rate of tax. This resulted in incorrect allowance of exemptions/concession of tax of Rs 24.53 lakhs.

Under the provisions of B.F. Act and rules framed thereunder, to avail exemption/concession of tax a selling/purchasing dealer is required to furnish, the prescribed declaration form in "original" duly filled in and signed by the first/previous dealer. No exemption/concession of tax can be allowed on the basis of duplicate declaration forms furnished by the dealer.

**2.2.10** Test check of records of 10 circle offices<sup>7</sup> revealed that in 20 cases exemption/concession of tax was allowed on duplicate declaration forms between the period March 1998 to December 2002. This resulted in incorrect allowance of tax of Rs 2.97 crore.

Exemption/concession from tax cannot be allowed on the basis of declaration forms which pertain to the period not relating to the concerned assessment year, and on the declaration forms which are not properly filled in i.e. without the name of purchasing dealers, their registration certificate number etc.

**2.2.11** Audit scrutiny revealed that in the case of 18 dealers of eight circle offices<sup>8</sup>, exemption/concession from tax was allowed during March 1998 to July 2001 by the Assessing Officers on the strength of declaration forms

<sup>6</sup> Begusarai, Bettiah, Darbhanga, Katihar, Motihari, Patna North, Patna City West and Purnea

<sup>7</sup> Begusarai, Bettiah, Darbhanga, Motihari, Nawada, Patna City West, Patliputra, Patna West, Purnea and Sasaram

<sup>8</sup> Begusarai, Bettiah, Bhagalpur, Gaya, Motihari, Patna City West, Purnea and Sasaram



having bill numbers and dates not pertaining to relevant period. The irregular grant of exemption/concession of tax on the basis of defective forms resulted in short levy of tax amounting to Rs 30.87 lakh.

**2.2.12** In four cases, in two circle offices (Bhagalpur and Patna Special) it was noticed that concession/exemption of tax was allowed during the period 1997-1998 to 1999-2000 on the basis of declaration forms in which bill/invoice numbers and date and registration numbers of purchasing dealers were not quoted. This resulted in short levy of tax to the tune of Rs 54.96 lakh.

### Non/late submission of utilisation certificate

Under the provisions of BST Rules and notifications issued thereunder, every registered dealer to whom any declaration form is issued by the appropriate authority shall maintain complete account of every such form. The dealer has to furnish utilisation certificate to the competent authority showing the name of dealer to whom the form is issued, bill number and date and description of goods with value.

**2.2.13** It was noticed that in the case of six dealers, either utilisation certificate was not furnished or furnished after a long period (ranging from 34 months to 60 months) from the date of issue of forms.

Name of circle	Name of forms/ (Number)	Name of dealer and Reg. No.	Date of issue of forms	Remarks
Patna Special circle	Form 'C' (19 Nos.)	M/s Jagdamba Plywood S.L.-653(R)	20 July 1999	Utilisation certificate was not submitted till May 2003
-Do-	Form 'C' (2 Nos.)	M/s Orient General Industries SL-699 (R)	19 March 1999	- Do -
Patna North Circle	Form- C (5 Nos.)	M/s Plastic works PTN – 293 (R)	24 June 1998	- Do -
-Do-	XXVIII B (25 Nos.) (Pink)	M/s Sound & Music PTN-10(R)	23 March 1996	The utilisation certificate was submitted on 2nd February 1999 with delay of 34 months.
-Do-	XXVIII B (15 Nos.)	Do	2 February 1999	The utilisation certificate was submitted on 12 March 2003 after 48 months.
-Do-	Do (Green) (2 Nos.)	Do	20 February 1999	The utilisation certificate was submitted on 7 June 2002 after 39 months.
-Do-	IX-C (25 Nos.)	M/s Indo National company PTN- 2 (R)	17 March 1998	The utilisation certificate was submitted on 12 March 2003 after 60 months.
-Do-	Do (125 Nos.)	M/s Abbott Lab PTN-104(R)	10 April 2001	Not submitted till May 2003
-Do-	Do (100 Nos.)	Do	29 June 2001	Do
-Do-	Do (75 Nos.)	Do	28 June 2002	Do



### **Non-detection of suppression of purchase/sales turnover**

Under the BF Act read with CST Act, if the prescribed authority has reason to believe that a dealer has concealed, omitted or failed to disclose willfully the particulars of turnover or has furnished incorrect particulars of such turnover and thereby returned figure below the real amount, the said authority shall assess or re-assess the amount of tax due from the dealer in respect of such turnover and direct him to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

**2.2.14** In 16 commercial taxes circle, in 94 cases, it was noticed on cross verification of the assessment records with the utilisation certificates of declaration forms C and F furnished by the dealers and information collected in audit from outside the state, that the dealers had suppressed purchase/sale turnover of Rs 28.47 crore on account of goods brought, sold or transferred on declaration forms during the assessment period between 1995-1996 to 2001-2002, assessed during June 1996 to January 2003 which remained undetected by the Department. The failure of the Department to detect concealment of purchases/sales resulted in under assessment of tax amounting to Rs 9.81 crore including additional tax and surcharge and penalty of Rs 7.20 crore.

**2.2.15** On cross verification of records of two dealers of DCCTs Muzaffarpur and Patna West, it was noticed that the selling dealer had shown sale of fertilizer and pesticide valued at Rs 31.61 lakh supported by form IXC to a dealer of another circle whereas according to the statement of the purchasing dealer, he had purchased the goods valued at Rs 2.25 crore on the same form during 1998-1999. This resulted in short accountal of sales turnover of Rs 1.93 crore on which the selling dealer was liable to pay tax amounting to Rs 47.56 lakh including penalty of Rs 34.80 lakh.

**2.2.16** In another case of DCCT Muzaffarpur, a selling dealer issued form IXC during 1999-2000 to a purchasing dealer of another circle for Rs 1.46 crore on account of sale of synthetic adhesive but had shown sales turnover of Rs 46.36 lakh only in the utilisation certificate furnished to the circle. This resulted in short accountal of sales turnover of Rs one crore by the selling dealer on which he was liable to pay tax of Rs 37.23 lakh including penalty of Rs 27.24 lakh.

### **Incorrect grant of exemption**

Under the provision of BF Act, a registered dealer can purchase goods from another registered dealer if the goods are taxable at the last point of sale in the state, and in such cases, each preceding sale by a registered dealer to another registered dealer is not assessed to tax, if the selling dealer produces a declaration in form IX obtained from the purchasing dealer duly filled and signed by him.

**2.2.17** In the course of test check of assessment records it was seen that in nine circles offices<sup>9</sup> in the case of 14 dealers, exemption from levy of tax on sale of goods valued at Rs 2.89 crore was allowed during the years 1995-1996 to 2000-2001 on production of declaration form IX treating the goods as leviable to tax at the last point of sale whereas the goods were leviable to tax at first point of sale being a specified item, and certain goods leviable to tax at last point of sale were allowed as first point of sale on form IX C. Failure of the Department to prevent misutilisation of declaration form and allowing incorrect exemption resulted in short levy of tax of Rs 26.78 lakh.

**2.2.18** Test check of record of DCCT, Muzaffarpur, revealed that in the case of two dealers, exemption from levy of tax on sale of goods viz. fevicol/synthetic adhesive valued at Rs 52.95 lakh during the period 1996-1997, 1998-1999 & 1999-2000 for resale was incorrectly allowed on production of declaration form IX obtained from the purchasing dealers. On cross verification with the registration certificate of the purchasing dealers it was noticed that the dealers were not authorised to purchase these goods. Failure of the Department to verify the correctness of the use of declaration form IX resulted in incorrect allowance of exemption of tax of Rs 5.21 lakh.

Under the provisions of BF Act, as amended by the Bihar Finance (Amendment) Act 1989 effective from 3rd May 1989, where any dealer claims that no tax is payable by him on any part of his gross turnover in respect of any goods by reason of transfer of goods by him to another dealer or his branches within the state for sale, the burden of proving the claim shall be on the dealer and for this purpose, he shall furnish a declaration in the form and manner prescribed by the Department. The Department prescribed a declaration in form IXD in February 2000 for this purpose.

**2.2.19** In case of a dealer, it was noticed, that exemption from tax on account of stock transfer within the state valued at Rs 64.35 lakh made during 19 February 2000 to 31 March 2000 was allowed without production of form IXD which resulted in grant of irregular exemption of Rs 7.14 lakh.

#### **Irregular use of declaration form (non-statutory)/certificates for exemption from levy of tax**

By a notification issued in September 1987, Government of Bihar allowed exemption from levy of sales tax or purchase tax, for a specified period, on sale/purchase of raw materials to/by a newly set up industrial units in large medium, small and tiny sector or any existing industrial unit registered by the Industries Department of the Government of Bihar or by Government of India, on submission of declaration in form 'C' (State)<sup>10</sup> or 'Cha'<sup>11</sup> duly authenticated by the officer-in-charge of the concerned circle bearing printed book and serial numbers.

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<sup>9</sup> Begusarai, Bhagalpur, Gaya, Motihari, Muzaffarpur, Patna City West, Patna North, Patna South and Patna West

<sup>10</sup> Form of declaration given by owners of industries for purpose of purchase of raw materials free of sales tax or purchase tax.

<sup>11</sup> Use for exemption from levy of sales tax on sale of finished goods by a newly set up industrial unit



**2.2.20** In eight circle offices<sup>12</sup>, it was noticed that 12 dealers were allowed exemption from sales tax on sale of goods amounting to Rs 3.40 crore during 1995-1996 to 2000-2001 on the strength of defective form C (State) and Cha, as either printed book numbers and serial numbers were not given on the body of the forms of the dealer had furnished duplicate/counter-foil copies thereof. Thus, the declaration forms furnished by the dealers were invalid. This resulted in incorrect grant of exemption of tax of Rs 33.63 lakh.

### **Dealers not traceable**

Under the provisions of B.F. Act, if upon information, the prescribed authority is satisfied that there exists reasonable ground to believe the any dealer liable to pay tax has willfully failed to apply for registration, such dealer shall be assessed to tax to the best of judgement, after being given reasonable opportunity of being heard.

**2.2.21** In Muzaffarpur circle, it was noticed that four dealers purchased goods viz. turmeric/fireworks from outside the state valued at Rs 56.24 lakh during the period 1996-1997 and 1999-2000 on the basis of declaration forms issued to another dealer of same circle and on invoices. The purchasing dealers had neither furnished returns nor were these traceable. Tax and penalty due from such dealers worked out to Rs 8.22 lakh.

### **Internal control and monitoring**

**2.2.22** As per provisions of the BF Act, CST Act, 1956 and the rules framed thereunder, a registered dealer should submit an account of receipt and issue of declarations. However, Act/Rules do not provide for furnishing of utilisation certificate by the dealers alongwith the return (monthly/quarterly/annually) to the effect that the declarations used and issued by them were for the purposes for which they were entitled as per their registration certificates.

A copy of the declaration form is to be placed in the record of the dealers who furnishes the declaration with a copy of the same being sent to the other concerned dealer of other circle to be placed on his assessment record to facilitate cross verification of such transactions. A system for cross verification of such accounts with circles situated in the same place or other places in the state or with concerned offices outside the state was not prevalent.

It was noticed in the course of audit that dealers did not furnish declaration forms alongwith returns. Utilisation certificate of forms were also not furnished periodically. As a result, the sales and purchases statements furnished by the dealers at the time of assessment were not cross verified. This resulted in leakage of revenue due to suppression of sales/purchase turnover.

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<sup>12</sup> *Motihari, Purnea, Darbhanga, Katihar, Patna City West, Patna City East, Patna South and Begusarai.*



## **Recommendations**

**2.2.23** The audit findings reveal that the authorities concerned were not enforcing the statutory provisions regarding allowances of exemption on the strength of various forms. Exemptions were allowed against unsigned, invalid, and incomplete forms without proper scrutiny and cross-verification.

Government may consider evolving a sound mechanism:

- to ensure prompt dissemination of information in respect of invalid declaration forms with a view to curb their misuse;
- for scrutiny and cross verification of forms before allowance of exemptions or concessional rate of tax.

The matter was reported to the Department and the Government in September 2003; their reply was awaited (August 2004).

### **2.3 Suppression of turnover due to excess disclosure of export sale**

Under the provision of the CST Act, no tax shall be payable on sale or purchase of goods which have taken place in the course of export sale. Further, if the prescribed authority has reason to believe that the dealer has concealed, omitted or failed to disclose willfully the particulars of turnover or has furnished incorrect particulars of such turnover and thereby returned figures below the correct amount, the said authority shall assess or re-assess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax of the escaped turnover.

Cross verification of assessment records of 47 dealers of medicine, pesticides, coir mattress, soap, toothpaste and brush, motor parts, milk products, paints, cookers and stationery materials, etc. registered with five commercial taxes circles<sup>13</sup> with the records maintained in Customs Department revealed that the assessee had disclosed turnover account of export sale of goods to Nepal amounting to Rs 117.06 crore in their return during the period 1998-1999 to 2000-2001, assessed between September 1999 and April 2003, and were allowed the exemption accordingly against the actual export value of goods of Rs 95.38 crore as shown in the records of Customs Department. Failure of the Assessing Authorities to cross verify the records with the Customs Department resulted in availing irregular exemption on excess taxable turnover of Rs 21.68 crore and consequent short levy of tax of Rs 6.82 crore including additional tax, surcharge and penalty.

On this being pointed out, the Department stated between May and June 2003 that the cases would be reviewed. Further reply has not been received (August 2004).

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<sup>13</sup> Patna Special, Patliputra, Patna South, Patna North and Patna City West.

The cases were reported to the Government in September 2003; their reply has not been received (August 2004).

## 2.4 Suppression of sales/ purchase turnover

Under the BF Act, read with the CST Act, if the prescribed authority has reason to believe that the dealer has concealed, omitted or failed to disclose willfully the particulars of turnover or has furnished incorrect particulars of such turnover, the said authority shall assess or re-assess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

In nine commercial taxes Circles, it was noticed from the assessment records, assessed between November 2000 and November 2002 and utilisation certificates of declaration forms 'IX C', 'F', road permits, trading account, etc., that 13 dealers had suppressed sales/ purchase turnover of Rs 11.76 crore bought/sold on declaration forms during the years 1998-1999 to 2000-2001 which remained undetected by the Department. Thus, failure of the Department to check the suppression of purchases/sales resulted in short-levy of tax amounting to Rs 3.24 crore including additional tax, surcharge and leviable penalty as detailed below:

(Rupees in lakh)							
Sl. No.	Name of circle No. of dealers	Period of assessment Month /Year of assessment	Commodity	Actual purchase / sale turnover Accounted for	Amount concealed Rate applicable (per cent)	Amount of tax/penalty	Total
1.	Bettiah 1	1999-2000 September 2000	Molasses	185.25 Nil	185.25 25 +1+SC	53.49 48.63	102.12
2.	Lakhisarai 1	1999-2000 November 2002	Packing material	13.42 3.27	10.15 8+1+SC	1.01 0.92	1.93
3.	Muzaffarpur 1	1998-1999 September 2000	Cement	730.00 700.03	29.97 11+1+SC	3.99 3.63	7.62
4.	Patliputra 1	1999-2000 August 2001	Medicine	808.82 699.43	109.39 7+SC	8.42 7.66	16.08
5.	Patna City West 2	1998-1999 & 2000-2001 November 2000 & December 2001	Toilet soap and detergent	4,759.45 4,455.77	303.68 10, 12 +1+SC	43.44 39.49	82.93
6.	Patna North 2	1999-2000 & 2000-2001 November 2001 & February 2002	Tyre, cement	3,377.97 3,234.83	143.14 9,11+1+SC	16.79 15.26	32.05
7.	Patna South 3	1998-1999 & 1999-2000 January 2001 and March 2002	Medicine, horlicks	10,731.40 10,411.70	319.70 7, 10+1+SC	35.66 32.41	68.07
8.	Patna West 1	1998-1999 December 2001	Pesticides	283.71 241.13	42.58 4+1+SC	2.36 2.15	4.51



Sl. No.	Name of circle No. of dealers	Period of assessment Month /Year of assessment	Commodity	Actual purchase / sale turnover Accounted for	Amount concealed Rate applicable (per cent)	Amount of tax/penalty	Total
9.	Siwan 1	1999-2000 November 2000	Soap & detergent	326.26 293.67	32.59 12+1+SC	4.70 4.28	8.98
	13			21,216.28 20,039.83	1,176.45	169.86 154.43	324.29

On these cases being pointed out, the Department stated, between November 2001 and January 2003 that the cases would be examined. Further reply has not been received (August 2004).

The cases were reported to the Government in September 2003; their reply has not been received (August 2004).

## **2.5 Under assessment of Central Sales Tax**

**2.5.1** Under the provision of the CST Act, 1956, the Government of Bihar by issuing a notification in May 1996, granted exemption to industrial units from levy of sales tax on inter-state sale of manufactured goods, provided these are covered by 'C' forms. In case of inter-state sale of goods which are not supported by prescribed declaration forms, the tax is leviable at the rate of ten per cent or at the rate applicable in the state whichever is higher. In case of declared goods, the tax is leviable at twice the rate applicable in the state if sale is not supported by prescribed form.

In Patna South Circle in the case of a manufacturing dealer, who was granted certificate for availing the benefit of tax exemption on inter-state sale of manufactured goods, exemption from levy of tax was incorrectly allowed on inter-state sale of ingots, runner, etc valued at Rs 19.20 crore made during the period 1996-1997 to 1998-1999, and assessed between September 1999 and December 2000, though the sale was not supported by declaration forms 'C'. This incorrect allowance of exemption resulted in under assessment of tax amounting to Rs 1.54 crore.

On this being pointed out in audit the Department stated in June 2001 that the case would be reviewed. Further reply was not received (August 2004).

The case was reported to the Government in September 2003; their reply was not received (August 2004).

**2.5.2** Under the provisions of CST Act, 1956, the BF Act, 1981 and Rules framed thereunder, no tax shall be payable on sale or purchase of goods, which have taken place in the course of export out of territory of India provided the sale is substantiated by documentary evidence. According to orders issued by State Government in March 1986 and August 1991, for exemption from levy of tax on sale in the course of export to Nepal, the transaction must be supported, apart from other evidence, by bills of export granted by the custom officials of India.



In four commercial taxes circles<sup>14</sup> it was noticed that export sale of goods viz. coir mattresses, pesticides, spirit, IMFL and wagons valued at Rs 2.27 crore during the years between 1994-1995 and 1998-1999 and assessed between September 2000 and November 2002 were not supported by the prescribed documentary evidence like bill of export granted by a custom official of India, but the exemption from levy of tax was allowed. This resulted in under assessment of tax amounting to Rs 29.20 lakh including additional tax and surcharge.

On this being pointed out, the Department stated in November 2002 in case of a dealer of Muzaffarpur that production of bill of export was not mandatory. The reply is not tenable in view of above orders of the Government that the transactions must be supported by bill of export granted by custom officials of India. In respect of the other cases, the Department stated between September 2000 and April 2002 that the cases would be reviewed. Further reply has not been received (August 2004).

The matter was reported to the Government in September 2003; their reply has not been received (August 2004).

## **2.6 Misclassification of goods**

Under provisions of the BF Act, 1981, *zarda* has been exempted from levy of tax, but *quiwam* is not covered by the term *zarda*. Both are commercially different commodities and sales of *quiwam* as such are taxable at the rate of eight per cent being an unspecified item.

In Muzaffarpur Commercial Taxes Circle, it was noticed in case of a dealer that on sale of *quiwam* valued at Rs 4.89 crore made during the years 1996-1997 and 1998-1999 and assessed between August 2000 and January 2001, tax was not levied treating the same as *zarda*, a tax free item. *Quiwam* being different from *zarda*, tax was leviable at general rate. Misclassification of goods resulted in short levy of tax amounting to Rs 48.89 lakh.

On this being pointed out, the Department stated in March 2002 that the case would be reviewed. Further reply has not been received (August 2004).

The case was reported to the Government (September 2003); their reply has not been received (August 2004).

## **2.7 Incorrect grant of exemption**

By a notification issued under the BF Act, 1981, the State Government specifies in respect of every goods, that if sales tax is levied at the first point of sale in the State then subsequent sale of the same goods shall not be levied to tax, provided the subsequent sale is supported by prescribed declaration in Form IX C.

<sup>14</sup>

Bagha, Hajipur, Muzaffarpur and Patna West.

In Patliputra circle, Patna, it was noticed that the dealer had sold taxable electronic goods valued at Rs 46.62 lakh during 1994-1995 and assessed in December 1998, but he had accounted for the same as sale of tax-paid goods in the trading account to avail of the exemption from levy of tax without supporting the same by requisite declarations. Thus, the incorrect grant of exemption resulted in short levy of tax worth Rs 5.18 lakh.

On this being pointed out in audit, the Department stated in January 2000 that the case would be reviewed. Further reply has not been received (August 2004).

The matter was reported to the Government (September 2003); their reply has not been received (August 2004).

## 2.8 Application of incorrect rates of tax

Under the B.F. Act, 1981, the State Government may from time to time, by notification, specify the rate of tax on any class or description of goods.

In three Commercial Taxes Circles, it was noticed in the case of four dealers that on sale of goods valued at Rs 3.47 crore made during the years between 1995-1996 and 1999-2000 and assessed between December 1998 and October 2001, tax was levied at incorrect rate. This resulted in short levy of tax amounting to Rs 21.49 lakh including additional tax and surcharge as detailed below:

Sl. No.	Name of Circle Number of dealers	Name of commodity	Assessment Year Date of Assessment	Sales turnover	Rate of tax (Per cent)		Short levy of tax
					Leviable	Levied	
1.	Patna South 1	Hair dryer	1998-1999 October 2001	107.20	12+1+SC	8	4.76
2.	Patna North 1	Polyurethane	1995-1996 to 1998-1999 Between December 1998 & October 2000	22.02	7+1+SC	4	1.07
3	Central Circle, Kolkata 1	Boiler	1997-1998 to 1999-2000 Between April 2000 & November 2000	69.00	8+1+SC	4	4.13
4	Patna South 1	Purity barley	1995-1996 January 1999	148.49	10+1+SC	4	11.53
	4	Total		346.71			21.49

On these cases being pointed out the Department stated between April 2000 and October 2001 that the cases would be reviewed. Further reply has not been received (August 2004).

The cases were reported to the Government (September 2003); their reply has not been received (August 2004).



### **2.9 Non- levy of additional tax**

Under the provisions of the BF Act, 1981, every dealer is required to pay additional tax at the rate of one per cent (except on liquor) on gross turnover.

In Central Circle, Kolkata, in the case of a dealer engaged in the business of petroleum products, additional tax amounting to Rs 15.35 lakh on sale of Aviation Turbine Fuel (ATF) made during 1997-1998 and assessed in January 2001 was not levied treating the goods as being exempt from levy of additional tax.

On this being pointed out in audit the Department stated in April 2002 that ATF including aviation spirit was exempted from levy of additional tax. The reply is not tenable as only aviation spirit was exempted from levy of additional tax. Further reply was awaited (August 2004).

The matter was reported to the Government in September 2003; their reply has not been received (August 2004).

### **2.10 Short levy of tax due to computation mistake**

Under the provisions of the Bihar Finance Act, 1981, every dealer whose gross turnover during a year exceeds rupees ten lakh shall, in addition to the tax payable by him under the Act, pay a surcharge at the rate of ten per cent of tax (including additional tax) payable by him.

In two Commercial Taxes Circles (Central Circle, Kolkata and Patliputra), it was noticed that in the cases of two dealers, assessed in December 1999 and January 2001, tax of Rs 2.98 crore instead of the correct amount of Rs 3.03 crore, was levied for the year 1997-1998 and 1999-2000. The mistake in computation of tax resulted in short levy of tax of Rs 5.91 lakh.

On this being pointed out in audit, the Department in case of Patliputra circle stated in December 2001 that the demand notice was issued after adjusting entry tax. The reply is not tenable as there was mistake in computation of tax. In the other case the Department stated in January 2001 that the case would be reviewed. Further reply was not received (August 2004).

The case was reported to the Government (September 2003); their reply has not been received (August 2004).

## CHAPTER-III: State Excise

### 3.1 Results of Audit

Test check of the records of the excise offices, conducted in audit during the year 2002-2003, revealed under assessments and losses of revenue amounting to Rs 89.05 crore in 1,043 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/delayed settlement of excise shops	177	6.91
2.	Non- realisation of license fee	97	0.37
3.	Loss of revenue due to wastage of spirit including foreign liquor/denatured spirit	02	0.01
4.	<b>Review : Working of State Excise Department</b>	01	78.95
5	Other cases	766	2.81
<b>Total</b>		<b>1,043</b>	<b>89.05</b>

During the year 2002-2003, the concerned department accepted under assessment etc of Rs 0.11 crore involved in 11 cases pointed out in audit prior to 2002-2003.

A Review, **Working of State Excise Department** involving tax effect of Rs 78.95 crore is discussed in the following paragraphs:



### 3.2 Review: Working of State Excise Department

#### Highlights

There was a loss of Rs 4.13 crore due to low recovery of alcohol from molasses.

(Paragraph 3.2.5)

There was loss of revenue of Rs 10.22 crore due to non-settlement of excise shops.

(Paragraph 3.2.7)

Due to Non-filing of certificate proceedings interest of Rs 32.91 crore was foregone.

(Paragraph 3.2.18)

#### Introduction

**3.2.1** State Excise duty is levied by the State Government under constitutional provision. State list of the seventh Schedule to the Constitution empowers a State Government to levy excise duty on alcoholic liquors for human consumption, on opium, Indian hemp and other narcotic drugs manufactured or produced in the State. The levy of excise duty is governed by the Bihar Excise Act, 1915 (BE Act) and the rules made thereunder.

State Excise revenue is one of the most important sources of tax revenue in the state. It is derived from auction fees for the grant of licences of various vends of country spirit and India Made Foreign Liquor (IMFL) and from excise duty levied on country spirit, spiced liquor, IMFL, beer removed from distilleries and breweries and on import/export thereof.

#### Organisational set up

**3.2.2** State Government through the Excise and Prohibition Department administers the excise laws. The Excise Commissioner (EC) is the Head of the Department. He is primarily responsible for the administration and execution of the excise policies and programme of the State Government. He is assisted by the Joint Commissioner of Excise (JCE), Deputy Commissioner of Excise (DCE) and Assistant Commissioner of Excise (ACE) at the Headquarters and DCEs in divisions.

At the district level, the Collector of the district is in-charge of the Excise administration and is assisted by the ACEs where the excise revenue exceeds rupees one crore or by Superintendent of Excise (SE) where it is less and

Excise Inspectors, Sub-Inspectors and Excise Constables. For efficient control, the district is further divided into circles and blocks.

### Audit objectives

**3.2.3** Detailed scrutiny of records of Commissioner of Excise Bihar, Patna, 15<sup>1</sup> out of 37 District Excise offices (D.E.O.) and two distilleries for period from 1997-1998 to 2001-2002 was conducted between January and May 2003 to;

- seek assurance that the provision of Act, Rules and executive instructions were followed in the realisation of revenue by the Department,
- ascertain whether government had taken adequate steps to realise the arrears.

### 3.2.4 Budget estimates and actuals

(Rupees in crore)				
Year	Budget estimates	Actual	(+) Excess (-) Short fall	Percentage variation
1997-1998	264.50	226.36	(-) 38.14	(-) 14.42
1998-1999	361.00	239.51	(-) 121.49	(-) 33.65
1999-2000	450.00	277.80	(-) 172.20	(-) 38.26
2000-2001*	275.90	242.58	(-) 33.32	(-) 12.12
2001-2002	275.00	238.90	(-) 36.10	(-) 13.13

\* (Lower BEs are due to reorganisation of Bihar state)

It was noticed that the budget estimates were never achieved during the period 1997-1998 to 2001-2002. The shortfall varied between 12 percent to 38 percent during this period. It is evident that budget estimates were not prepared on realistic basis.

### Loss of revenue due to low recovery of alcohol from molasses

**3.2.5** Under the Bihar Excise (B.E.) Act, 1915 and rules framed thereunder read with notification issued on 11 January 2000, the distillers shall be responsible for maintaining a minimum recovery of 92 London Proof Litre (LPL) (52.5 alcoholic litres) of alcohol per quintal of fermentable sugar present in molasses.

Test check of spirit production register, molasses consumption register and chemist's report regarding fermentable sugar contents revealed that three distillers failed to achieve the minimum recovery of alcohol from molasses consumed during 2001-2002 resulting in loss of revenue amounting to Rs 4.13 crore by way of excise duty as per details given below:

<sup>1</sup> Arrah (Bhojpur), Begusarai, Darbhanga, Gopalganj, Gaya, Katihar, Muzaffarpur, Motihari, Madhubani, Madhepura, Purnea, Patna, Rohtas (Sasaram), Saran (Chapra) and Siwan.



(Rupees in crore)						
Year	Name of distillery	Qty. of molasses distilled (in Quintals)	Minimum recovery of alcohol required as per chemist's report (in LPL)	Actual recovery of alcohol (in LPL)	Short-fall (in LPL)	Loss of excise duty
2001-2002	U.B. Distillery Mirganj, Gopalganj	2,45,350.00	59,33,665.50	58,48,458.90	85,206.60	0.85
2001-2002	Mc Dowell Distillery Hathidah, Patna	1,56,502.08	49,46,937.88	46,34,074.18	3,12,863.70	3.13
2001-2002	S.C.I. Distillery Rajaun, Banka	65,880.00	20,25,466.69	19,81,503.29	43,963.40	0.15
	<b>Total</b>	<b>4,67,732.08</b>	<b>1,29,06,070.07</b>	<b>1,24,64,036.37</b>	<b>4,42,033.70</b>	<b>4.13</b>

### Non-realisation of establishment cost from licensee

**3.2.6** Rule 36 A framed under Section 90 of the B.E. Act, 1915 provide that the EC shall decide whether a whole time or part time excise official is necessary for proper supervision of operation of blending, compounding and bottling of foreign liquor for the purpose of sale. The licensee shall pay to the Government the actual cost of the Excise staff deployed at the distillery.

In two distilleries, viz. McDowell, Hathidah and U.B. Distillery Ltd., Mirganj, Gopalganj, it was noticed that expenditure of Rs 48.59 lakh incurred on pay and allowances of excise officials deployed in the distilleries during the years 1996-1997 to 2001-2002 was not recovered by the Department.

On this being pointed out, the Superintendent of Excise, McDowell distillery, Hathidah, Patna replied in December 2002 that notices had been issued for payment of establishment cost. The Superintendent of Excise, U.B. Distillery, Mirganj, Gopalganj stated in February 2003 that action would be taken after scrutiny of records.

### Loss of revenue due to non-settlement of excise shops

**3.2.7** Under Bihar Excise Act, 1915 and rules made thereunder, the system of settlement of excise shops through auction is in force for the retail vend of country spirit, spiced country spirit and IMFL. The excise shops are put to auction subject to a reserved/upset fee. When the upset fee is not obtained the Collector of the district may accept a lower fee subject to the approval of EC. The EC also issued instructions in June 1995 for operation of unsettled excise shops departmentally. If the shops are settled subsequently, the departmental operation would be withdrawn.

In 17 Excise districts<sup>2</sup>, it was noticed that 109 country spirit shops, 88 spiced country spirit shops and 32 IMFL shops remained unsettled during 2000-2001 and 2001-2002 resulting in loss of revenue of excise duty and licence fee

<sup>2</sup> Araria, Bhojpur, Bhagalpur, Darbhanga, Gopalganj, Gaya, Katihar, Khagaria, Kishanganj, Muzaffarpur, Madhubani, Madhepura, Motihari, Munger, Rohtas cum Kaimur, Saran and Siwan.

amounting to Rs 10.22 crore. No efforts were made to run the shops departmentally.

On this being pointed out 10<sup>3</sup> Superintendents of Excise replied that the efforts were made several times to settle the shops but due to non-availability of bidders, the shops in question could not be settled. A.C.E., Gaya stated in August 2002 that the shops in question could not be settled due to the district being a naxalite affected area, but efforts were being made for settlement. But none of the A.C.E./S.E. had stated why the unsettled shops could not be operated departmentally in accordance with the instructions of the EC.

### **Loss of revenue due to belated settlement of excise shops**

**3.2.8** As per sale notification issued by Excise Department for the year 2000-2001 auction of retail vends was to be held on 14 March 2000 and the vends were to be settled with effect from 1 April 2000 to 31 March 2001. Similarly, for the year 2001-2002, the sale notification for settlement of retail vends for the period from 1 June 2001 to March 2002 was issued in the month of May 2001.

In eight excise districts<sup>4</sup>, it was noticed that though the auction of various retail vends were held in March 2000 for the year 2000-2001 and in May 2001 for the year 2001-2002, 38 country spirit shops, 15 spiced country spirit shops and 25 IMFL shops were settled belatedly during 2000-2001 and 2001-2002. The delay ranging between three to eleven months, resulted in loss of excise duty and licence fee amounting to Rs 1.80 crore.

On this being pointed out, the S.E., Gopalganj stated in February 2003 that shops could not be settled in time due to late approval of reduced rate of monthly license fee from the competent authority while seven SEs stated that due to non-availability of bidders, shops were settled belatedly.

### **Loss of revenue due to non-settlement of excise shops after cancellation**

**3.2.9** Under condition No. 14 (b) of the sale notification issued by the Department for settlement of shops, every bidder is required to deposit six months licence fee immediately after the bid. The balance amount of licence fee is to be deposited in equal monthly instalments between July and December by 10<sup>th</sup> of each month failing which licence shall be cancelled and security money forfeited. Further, each licensee is required to lift the approved Minimum Guaranteed Quota (MGQ) of country spirit, India Made Foreign Liquor (IMFL) and spiced country spirit by last day of the month.

In eight excise districts<sup>5</sup>, it was noticed that licences of 28 country spirit shops, 17 spiced country spirit shops and six IMFL shops were cancelled between

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<sup>3</sup> Bhagalpur, Araria, Katihar, Munger, Madhubani, Motihari, Muzaffarpur, Madhepura, Siwan and Saran (Chapra)

<sup>4</sup> Gaya, Munger, Muzaffarpur, Motihari, Patna, Rohtas, Siwan and Saran (Chapra).

<sup>5</sup> Gaya, Munger, Muzaffarpur, Motihari, Patna, Rohtas, Siwan and Saran.



June 2001 and March 2002 due to non-payment of licence fee by the vendors. These shops remained unsettled after the date of cancellation i.e. upto March 2002. The Department also failed to run these shops departmentally. This resulted in loss of revenue of excise duty (based on the MGQ) and licence fee amounting to Rs 44.72 lakh.

On this being pointed out 6 S.E.<sup>6</sup>, replied that efforts were made several times for settlement of shops but due to non-availability of bidders, the shops could not be resettled. But none of the A.C.E./S.E. stated as to why the unsettled shops could not be operated departmentally in accordance with the instructions of the EC. No reply was received in remaining cases (August 2004).

### **Non-realisation of outstanding licence fee**

**3.2.10** As per the sale notification for the year 2001-2002, the excise vendors was required to deposit licence fee of the excise shop for six months at the time of settlement of the shop, and subsequent licence fee was to be realised on monthly installments basis from July to December by 10th of each month.

In nine Excise districts<sup>7</sup>, it was noticed that the licensees of 36 country spirit shops, 20 spiced country spirit shops and 32 IMFL shops did not deposit licence fee in full leaving a balance of Rs 14.20 lakh during 2001-2002. This resulted in loss of licence fee amounting to Rs 14.20 lakh.

On this being pointed out, S.E. Saran (Chapra) stated in February 2003 that distress warrant had been issued for realisation of arrears. Reply in other cases was awaited (August 2004).

### **Non-realisation of additional licence fee on excess lifting of country spirit beyond the permissible limit**

**3.2.11** In accordance with the sale notification for the year 2001-2002, the licensed vendor of country spirit was required to pay additional licence fee at the rate of Rs 15 per LPL at the time of lifting the country spirit in excess of 30 per cent of the quota fixed for a particular month.

In 12 excise districts<sup>8</sup>, it was noticed that 28,262.48 LPL of country spirit was lifted by vendors in excess of permissible limit without payment of the additional licence fee during the period 2001-2002. This resulted in non-realisation of additional licence fee amounting to Rs 4.24 lakh.

<sup>6</sup> Munger (2000-2001), Motihari, Muzaffarpur, Patna, Siwan and Saran (Chapra).

<sup>7</sup> Araria, Bhagalpur, Gaya, Gopalganj, Muzaffarpur, Motihari, Patna, Siwan and Saran

<sup>8</sup> Araria, Bhojpur, Gaya, Gopalganj, Khagaria, Munger, Muzaffarpur, Madhepura, Motihari, Patna, Rohtas and Vaishali.

### Non-realisation of additional licence fee

**3.2.12** As per the condition of the agreement of licence (Form 27) for exclusive privilege of sacheting/bottling for wholesale supply of country liquor, the licensee is to pay licence fee in advance in one lump sum calculated on the basis of annual M.G.Q. However, if the total wholesale lifting of the country liquor exceeds the annual M.G.Q., additional licence fee shall be realised at the rate of Re one per LPL.

In four excise districts viz. (Bhojpur, Gopalganj, Saharsa and Vaishali), it was noticed that the Department failed to realise the additional licence fee of Rs18.45 lakh on excess lifting of country spirit by 12 licensees having exclusive privilege licence for bottling and sacheting for wholesale supply during the year 2000-2001 and 2001-2002.

### Arrears of revenue

**3.2.13** The position of arrears of revenue of state excise during 1997-1998 to 2001-2002 is as under:

(Rupees in crore)			
Year	Total arrears	Arrears more than 5 years	Percentage (Col. 3 to 2)
1	2	3	4
1997-1998	21.04	10.91	51.85
1998-1999	47.27	36.01	76.17
1999-2000	52.77	45.21	85.67
2000-2001	45.44	40.72	89.61
2001-2002	44.74	37.96	84.84

The total arrears increased from Rs 21.04 crore during 1997-1998 to Rs 52.77 crore in 1999-2000. Thereafter, the arrears declined marginally to Rs 45.44 crore in 2000-2001 due to reorganisation of Bihar State. The percentage of arrears for more than five years increased from 51.85 per cent in 1997-1998 to 89.61 per cent in 2000-2001 which marginally declined to 84.84 per cent in 2001-2002.

**3.2.14** The position of certified arrears to total excise arrears as on 31 March 2002 is as under:

(Rupees in crore)			
Year	Total arrears	Certified	Percentage
1997-1998	21.04	5.78	27.47
1998-1999	47.27	5.76	12.18
1999-2000	52.77	7.34	13.90
2000-2001	45.44	2.84	6.25
2001-2002	44.74	3.36	7.51

The percentage of certified arrears to total arrears decreased during the period from 1997-1998 to 2000-2001 with a marginal rise in 2001-2002. This indicated that the Department did not take effective steps to recover the excise arrears under the Bihar and Orissa Public Demand and Recovery Act, 1914.



**3.2.15** The agewise position of arrears as on 31 March 2002 was as under:

(Rupees in crore)	
More than 10 years	20.88
More than 5 years but less than 10 years	17.08
More than 3 years	4.10
More than 1 year	2.68
<b>Total</b>	<b>44.74</b>

Out of total arrears of Rs 44.74 crore, the demand certified for recovery was Rs 3.36 crore, stay granted by the Court/Government was Rs 2.68 crore, amount likely to be written off was Rs 0.12 crore and Rs 38.58 crore was pending for recovery for other reasons.

Test check of records of 15 excise districts and two distilleries (Narkatiaganj and Mirganj) revealed that there were arrears of Rs 39.64 crore pertaining to the period 1981-1982 to 2001-2002 which accounted for 88.64 per cent of the total state excise arrears of the State. Out of this, certificate cases were instituted only for Rs 1.17 crore in nine districts and recovery of Rs. 2.47 crore was stayed by the Courts and Government and the balance of Rs 36 crore was outstanding for "other reasons". The Department could produce details of Rs 10.32 crore and details of the balance amount of Rs 25.68 crore were not available with the Department.

### Understatement of arrears

**3.2.16** In 15 excise districts<sup>9</sup>, it was noticed that arrears of Rs 11.42 crore was outstanding as on 31 March 2002, whereas as per the records maintained by the E.C., Bihar, an amount of Rs 10.28 crore was shown as arrears pertaining to these offices. Thus, there was understatement of arrears to the extent of Rs 1.14 crore.

### Undue financial aid to distillers

**3.2.17** Under the provision of the Bihar Excise Act, 1915 and the Bihar and Orissa Public Demand and Recovery Act, 1914, an arrear of excise revenue may be recovered from the person primarily liable to pay the same or from his surety, if any, by distress sale of his movable property or by process prescribed for the recovery of arrears of revenue.

Scrutiny of records of SEs of two distilleries (New Swadeshi distillery, Narkatiaganj and U.B. distillery, Mirganj, Gopalganj) revealed that against these distilleries an arrear of Rs 26.49 crore was outstanding for the period from 1981-1982 to 2001-2002 i.e. for 21 years, out of which details of Rs 10.32 crore was available while no details of arrears for Rs 16.17 crore was available with the Department. The Department had not taken any step to initiate certificate proceedings in the Court of Law under the Public Demand and Recovery Act (P.D.R. Act), or to adopt any other measure to effect

<sup>9</sup> Arrah (Bhojpur), Begusarai, Darbhanga, Gopalganj, Gaya, Katihar, Muzaffarpur, Motihari, Madhubani, Madhepura, Purnea, Patna, Rohtas (Sasaram), Saran (Chapra) and Siwan.

recovery of the same. It is also pertinent to mention here that U.B. distillery, Mirganj, Gopalganj against which an arrear of Rs 2.54 crore was outstanding had stopped operation in February 2003, so recovery from this distillery might not be feasible. This resulted in undue financial aid to the distilleries.

Non-institution of certificate proceedings for recovery of excise arrear or non-adoption of other measures against these distilleries was indicative of negligence on the part of the Department in realisation of excise arrears as well as of poor monitoring of outstanding dues.

### **Loss of interest due to non-filing of certificate cases**

**3.2.18** The Bihar Excise Act, 1915, does not provide for levy of interest for late payment of dues. As per the PDR Act, interest upon public demand to which certificate relates shall be charged at the rate of 12 per cent from the date of signing of the certificate upto the date of realisation. Any delay in institution of certificate proceedings would result in loss of revenue in the form of interest.

In 11 Excise districts<sup>10</sup> and two distilleries (Mirganj and Narkatiaganj), it was noticed that arrears of Rs 33.92 crore relating to the period 1990-1991 to 2001-2002 were outstanding as on 31 March 2002. But the Department had not taken any steps to institute the certificate cases till now. Due to non-institution of certificate proceedings Government had foregone revenue of Rs 32.91 crore by way of interest.

### **Certified arrears**

**3.2.19** Under the BE Act, read with PDR Act, arrears of excise revenue can be recovered as arrears of land revenue. As per instructions of Board of Revenue, the Requiring Officer (Superintendent of Excise) is primarily responsible for systematic application of certificates and prompt disposal of objection if raised by the Certificate Officer. The Requiring Officer (RO) and the Certificate Officer (CO) are jointly responsible for the disposal of certificate cases.

In three excise districts (Aurangabad, Gopalganj and Muzaffarpur), it was noticed that 106 certificate cases involving Rs 91.94 lakh were filed during 1990-1991 to 2001-2002 against which 11 cases involving Rs 1.46 lakh were disposed of and 11 cases involving Rs 1.74 lakh were dropped upto 31 March 2002 as the defaulters were not traceable. So, 84 certificate cases involving Rs 88.74 lakh were still pending as on 31 March 2002. This shows that effective steps were not taken by the ROs and COs for disposal of certificate cases filed during 1990-1991 to 2001-2002 resulting in non-realisation of Rs 88.74 lakh.

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<sup>10</sup> Begusarai, Darbhanga, Gopalganj, Khagaria, Madhubani, Motihari, Madhepura, Patna, Purnea, Sasaram (Rohtas) and Vaishali.



### **Non-realisation of revenue due to non-pursuance of certificate proceedings**

**3.2.20** In the excise district of Gopalganj, it was noticed that the CO had called for certain informations/details of the dealers in 36 cases involving Rs 6.74 lakh in August 1999, but the same was not supplied by the RO, Gopalganj so far. Thus, the failure on the part of RO in supplying the required information resulted in non-realisation of Rs 6.74 lakh.

### **Recommendations**

**3.2.21** There was loss of revenue due to less recovery of alcohol from molasses, non/belated settlement of excise shops, non-realisation of additional licence fee and inadequate steps taken to realise arrears.

The Government may consider taking following action:

- enforce the minimum recovery requirements of alcohol from molasses as per prescribed norms..
- take effective steps for timely settlement of excise shops to avoid loss of excise revenue.
- take appropriate action to realise the long outstanding arrears.

The matter was reported to Department in September 2003 and Government in September 2003; their replies were awaited (August 2004).

## CHAPTER - IV: Other Tax Receipts

### 4.1 Results of Audit

Test check of the records of the following receipts conducted in audit during the year 2002-2003, revealed under assessments of tax, fee and duty, and losses/non-recovery of revenue etc. as indicated below:

(Rupees in crore)			
Sl.No.	Category	No. of cases	Amount
<b>Taxes on Vehicles</b>			
1.	Non/short levy of taxes	1,551	8.42
2.	Non-imposition of fees, fines and penalties	-	-
3.	Other cases	3,387	13.40
<b>Total</b>		<b>4,938</b>	<b>21.82</b>
<b>Land Revenue</b>			
1.	Non-settlement of vested lands	3	0.05
2.	Non-fixation of commercial rent	35	4.12
3.	Non-levy/short levy of cesses	6	0.06
4.	Non-realisation/non-execution of <i>sairats</i>	24	0.35
5.	Other cases	43	0.31
<b>Total</b>		<b>111</b>	<b>4.89</b>
<b>Stamps and Registration fees</b>			
1.	Non-realisation of revenue due to delay in disposal of referred cases	308	0.25
2.	Blockage of revenue due to non-disposal of referred cases	1,129	0.71
3.	Other cases	5,149	5.13
<b>Total</b>		<b>6,586</b>	<b>6.09</b>
<b>Grand Total</b>		<b>11,635</b>	<b>32.80</b>

During the year 2002-2003, the concerned department accepted under assessment etc of Rs 0.50 lakh involved in 3 cases pointed out in audit prior to 2002-2003.

A few illustrative cases involving tax effect of Rs 42.84 crore are discussed in the following paragraphs:



## TAXES ON VEHICLES

### 4.2 Non-recovery of tax

Under the Bihar Motor Vehicles Taxation (BMVT) Act, 1994, and rules made thereunder, tax in respect of a vehicle is payable annually or quarterly within 15 days from the commencement of the year or quarter, as the case may be. Non-payment of tax in time attracts imposition of penalty at prescribed rates.

In 29 district transport offices<sup>1</sup>, it was noticed that the owners of 1,448 transport vehicles had stopped payment of taxes in the offices where they were originally registered and no reasons were found recorded for their non-payment. The Department had also not taken any action to realise the same. This resulted in non-recovery of tax of Rs 11.80 crore pertaining to the period between April 1991 and May 2002.

On this being pointed out, the concerned District Transport Officers (DTOs) stated between January and December 2002 that demand notices would be issued for realisation of the arrears due. Further replies were awaited (August 2004).

The cases were reported to the Government in June 2003; their reply has not been received (August 2004).

### 4.3 Non-realisation of trade tax and penalty on delayed payment

Under the provision of the Bihar Motor Vehicles Taxation Act, 1994, trade tax at the prescribed rates is to be paid by the dealer in respect of motor vehicles in his possession in the course of his business. Further, according to the instructions issued by the Government in May 2001, penalty on delayed payment of trade tax is to be levied at the rate as prescribed in the Act.

In two district transport offices (Begusarai and Bhojpur), it was noticed that in the case of 19 dealers of motor vehicles, the trade tax was either not collected or penalty on delayed/non-payment of trade tax for the years 1998-1999 to 2001-2002 was not levied. This resulted in non-realisation of trade tax and penalty amounting to Rs 6.57 lakh.

On this being pointed out, the DTO, Begusarai stated in August 2002 and December 2002, that demand notices had been issued and certificate cases would be filed. The DTO, Bhojpur stated in December 2002 that matter would be examined. Further reply was not received.

<sup>1</sup> Araria, Aurangabad, Begusarai, Bhabhua, Bhagalpur, Bhojpur, Buxar, Darbhanga, East Champaran, Gaya, Jamui, Jahanabad, Kaimur, Khagaria, Kishanganj, Madhepura, Madhubani, Munger, Muzaffarpur, Nalanda, Nawada, Patna, Samastipur, Saran, Sasaram, Sitamarhi, Siwan, Vaishali and West Champaran.

The matter was reported to the Government in June 2003; their reply has not been received (August 2004).

#### **4.4 Non-realisation of tax on rejection/cancellation of surrender**

The State Transport Commissioner (STC), Bihar issued instructions on 12 January 1990, that in respect of vehicles surrendered for more than three months prior to issue of this memo, notice be issued to the vehicle owners to withdraw the surrendered documents within 15 days of the issue of notice failing which surrender would be automatically cancelled and taxes alongwith penalty would be realised from them.

In the District Transport Office, Munger, it was noticed that documents in respect of five motor vehicles were surrendered for exemption from payment of tax during the year 1988-1989. The DTO rejected in June 1996 the surrenders of document after due examination of the records but did not recover the tax from February 1990. This resulted in non-realisation of taxes of Rs 7.42 lakh.

On this being pointed out, the DTO stated in July 2002 that demand notices for realisation would be issued. Further reply has not been received (August 2004).

The matter was reported to the Government in June 2003; their reply has not been received (August 2004).

#### **4.5 Loss due to delay in deposit of revenue collected**

Under the provision of the Bihar Financial Rules, all transactions must be brought to account without delay and should be credited to Public Account. According to instructions issued by Government in June and November 1978, all collecting banks are required to transfer the amount of taxes, fees, etc. deposited by owners of vehicle under the Taxation Act to the State Bank of India (SBI), Secretariat Branch, Patna. As per instruction of STC issued in 1996, the amount deposited in bank by the owners of vehicles during April to February is to be transferred to the SBI, Secretariat Branch, Patna in such a manner that all receipts of preceding months stand transferred latest by first week of the succeeding month. Further, the amount deposited in the month of March is to be transferred by 31 March positively so that all receipts of a financial year stand transferred to Government account within the same financial year. As per the Reserve Bank of India's, instructions issued in 1995, interest at the rate of 11.30 per cent per annum is payable by banks on delayed remittances to government account.

##### **4.5.1 Non-realisation of revenue due to non-transfer of revenue into government account**

In the office of DTO, Patna and STC, Bihar, Patna, it was noticed that there was a closing balance of Rs 33.99 lakh as on 31 March 2002 in a nationalised



bank and Rs 2.86 crore as on 31 March 2003 in two nationalised banks which was not transferred to government account through SBI, Secretariat Branch, Patna during the same financial year.

On this being pointed out, it was stated in November 2002 by the DTO, Patna that a cheque for Rs 32.40 lakh was issued on 30 March 2002, though the same was not transferred to the government account by the bank till 31 March 2002. The reply was not tenable as the amount was remitted through a cheque on 5 April 2002. Further, the STC Bihar, Patna stated in May 2003 that action to transfer the balance amount of Rs 2.14 crore by cheque to government account was being taken. The reply of the Department is not acceptable as the amount collected during a financial year was required to be credited into government account during the same financial year.

#### **4.5.2 Loss of revenue in shape of interest**

In the office of DTO, Patna and STC, Bihar, Patna, it was noticed that the amount of tax collected during 2001-2002 and 2002-2003 by the Punjab National Bank, Patna and during 2002-2003 by three banks viz. the State Bank of Patiala, Indian Bank and Corporation Bank, Patna were not transferred to SBI Secretariat Branch, Patna within the prescribed time for remitting to government account during the same financial year. The delay ranged between one month and seven months. This resulted in loss of government revenue in the shape of interest amounting to Rs 38.91 lakh.

On this being pointed out, it was stated in November 2002 and May 2003 by the DTO Patna that the matter was noted for future guidance and by the STC Bihar, Patna that the concerned banks were being directed to deposit the amount of interest. Further reply has not been received (August 2004).

The matter was reported to the Government in September 2003; their reply has not been received (August 2004).

## LAND REVENUE

### 4.6 Non-fixation and non-realisation of land rent

Under the provisions of the Bihar Tenancy Act, 1885 amended with effect from 26 August 1993, a *raiyat* may, with previous permission of the Collector, use his land for purpose other than those specified in the original Act. The Collector, before giving such permission shall re-determine the rent of such land in the prescribed manner to the extent of five per cent but not less than three per cent of the market value of such land. If a *raiyat* has not taken prior permission for such use, the Collector may give *post-facto* permission on payment of double the amount of rent which he would have been liable to pay, had he applied in time for the period between the date of use and the date of application or detection as the case may be.

In 37 Revenue Anchals<sup>2</sup>, in 19 districts<sup>3</sup> 1,954 *raiyats* having tenancy for agricultural purposes, converted 286.19 acres of land for other purposes such as shops, petrol pumps, saw mills, cinema halls, hotels, etc. during the period 1983-1984 to 2001-2002. Action to regularise the occupancy by re-fixing rent under the laws had not been taken and the *raiyats* continued to hold their tenancy on agricultural rent. This resulted in non-realisation of revenue amounting to Rs.2.58 crore calculated for the period April 1997 to February 2003.

On these being pointed out, the Anchal Adhikaries (AA) stated between August 2001 and February 2003 that action for realisation was going on. Further replies have not been received (August 2004).

The cases were reported to the Government in June 2003; their reply has not been received (August 2004).

### 4.7 Non-removal/settlement of encroachment on public land

Under the Bihar Public Land Encroachment Act, 1956, if a person has encroached any public land, he may be served a notice requiring him to vacate the encroachment or to settle such public land on payment of rent and damages, as per rules laid down in the Bihar Government Estates (*Khas Mahal*) Manual, 1953. Accordingly, in case of impairment of the value of public land by using it for residential/ commercial purposes, *salami* at the prevailing market value of such land together with annual

<sup>2</sup> Babubarhi, Bagaha, Barauni, Barhiya, Barharia, Baniapur, Bettiah, Chandi, Dawath, Dinara, Forbesganj, Ghosi, Hasanpur, Kanti, Koilwar, Krityanand Nagar, Kurtha, Lakhisarai, Mainatand, Maner, Manjhi, Majhoulia, Mennapur, Nawada, Pandaul, Parsa, Rajauli, Rajgir, Sasaram, Shambhuganj, Singhia, Surajgarh, Taraiya, Udakishanganj, Ujiarpur, Baisi and Wazirganj.

<sup>3</sup> Araria, Banka, Begusarai, Bhojpur, Gaya, Jehanabad, Lakhisarai, Madhepura, Madhubani, Muzaffarpur, Nalanda, Nawada, Patna, Purnea, Rohtas, Samastipur, Saran, Siwan and West Champaran.



commercial/residential rent at one fiftieth /one twentieth of such *salami* is payable respectively.

In three Revenue Anchals<sup>4</sup> in three districts<sup>5</sup> it was noticed that 29 persons had encroached 4.19 acres of public land by constructing buildings for residential/commercial purposes. However, no action was taken either for eviction or regularisation in respect of encroachment of the said land. This resulted in non realisation of *salami* and residential/commercial rent of Rs 19.81 lakh.

On this being pointed out, the AAs stated between June and August 2002 that action to evict the encroachers was being taken. Further reply has not been received (August 2004).

The cases were reported to the Government in June 2003; their reply was not received (August 2004).

#### **4.8 Non-settlement of vested land**

The rights of intermediaries in Gair Mazarua (GM) *Khas*<sup>6</sup> land were abolished under the provisions of the Bihar Land Reforms Act, 1950 and all such lands were vested with the Government. Instructions were issued by the Government from time to time to Revenue Officers to examine all cases of unsettled GM *Khas* land and to settle such land with persons of eligible categories, such as scheduled castes, scheduled tribes, backward classes and the landless persons at fair and equitable rent.

In six Revenue Anchals<sup>7</sup> in five districts<sup>8</sup> 36,972.31 acres of GM *Khas* land were vested in the Government, out of which 25,838.49 acres of GM *Khas* land were fit for settlement. It was noticed in audit that only 11,039.01 acres of land was settled till January 2003 and the remaining 14,799.48 acres of land were yet to be settled by the Department. Non-settlement of these lands on fair and equitable rent since 1997-1998 to 2001-2002 had a revenue effect of Rs 6.77 lakh in the shape of land rent and cesses.

On these being pointed out AA, Nawada stated in August 2002 that survey was being done on the GM land and proposal for settlement of land had been put up to the Deputy Collector Land Reforms (DCLR), Nawada while AA, Sasaram stated in August 2002 that the land had been illegally encroached upon by some persons in some areas and hills and forests were covered in balance area. The other AAs stated between February 2002 and January 2003 that action was being taken for settlement of the balance land. The reply of AA, Sasaram was not tenable as details of land under forest and hills were not produced to audit. Further reply had not been received (August 2004).

<sup>4</sup> Kanti, Sasaram and Ujiarpur.

<sup>5</sup> Muzaffarpur, Rohtas and Samastipur.

<sup>6</sup> cultivable land retained by ex-intermediaries and not settled with raiyat.

<sup>7</sup> Khagaria, Nawada, Manjha, Rajauli, Rajgir and Sasaram.

<sup>8</sup> Gopalganj, Khagaria, Nalanda, Nawada and Rohtas.

The cases have been reported to the Government in June 2003; their reply was not received (August 2004).

**4.9 Irregular reduction in demand/ short levy of cesses on holdings exempted from payment of land rent**

Under the Bihar Land Rent (Exemption from Payment) Act, 1981, Government exempted with effect from 1 April 1978 small holdings upto two hectares in the state from levy of land rent. However, such holdings were not exempted from levy of various cesses like road cess, education cess, health cess and agricultural development cess leviable under the relevant Cess Act. In September 1982, Government while communicating the revised rates of different cesses had also instructed all the Revenue Officers in Bihar to levy and collect cesses in respect of all tenants (*raiyyats*) including those who were exempted from payment of land rent, as aforesaid.

**4.9.1** In two Revenue Anchals Krityanandnagar and Sahar of two districts (Bhojpur and Purnea) in course of scrutiny of records for the years 1994-1995 to 2000-2001, it was noticed that demands of cesses were raised at reduced rates without assigning any reasons. This resulted in an irregular reduction of demand by Rs 10.41 lakh.

On this being pointed out, the AAs stated between December 2001 and January 2002, that the result would be intimated to audit after verification. Further reply has not been received (August 2004).

The matter was reported to the Government in June 2003; their reply was not received (August 2004).

**4.9.2** In two Revenue Anchals, Gogri and Parbatta of Khagaria district, it was noticed that cesses were not levied in respect of holdings exempted from payment of land rent. This resulted in non-realisation of cesses of Rs 6.66 lakh for the years 1996-1997 to 2001-2002.

On this being pointed out, the AAs stated, between November and December 2002 that the amount would be raised after examination of the cases. Further reply has not been received (August 2004).

The case was reported to the Government in June 2003; their reply was not received (August 2004).



## STAMPS AND REGISTRATION FEES

### 4.10 Short levy of Stamp Duty and Registration fees due to under valuation of properties

Under the provisions of the Indian Stamp Act, 1899 and the Registration Act, 1908 read with rules contained in Bihar Stamp (Prevention of Under valuation of Instrument) Rules, 1995, an instrument of deed of conveyance is chargeable to duty on the consideration money, i.e. market value of land on the date of execution of the deed which should not be less than the value of land/property arrived at according to the approved rates in guidelines register of minimum estimated value of land/property.

In District Sub-Registrar (DSR) Office, Begusarai, it was noticed that a deed of conveyance for transfer of 1,679.14 acre of land was registered in January 2002 for a consideration of Rs 1.07 crore on the value prevailing during the years from 1959 and 1964 and stamp duty and registration fee of Rs 20.05 lakh was charged. As per the guidelines register, the value of land on the date of execution of the deed of conveyance was Rs 235.45 crore for which stamp duty and registration fee of Rs 24.49 crore was leviable. This resulted in short levy of stamp duty and registration fee of Rs 24.29 crore.

On this being pointed out, the DSR, Begusarai stated in September 2002, that the document registered was a lease deed and not conveyance deed, so the market value of land was not applicable. The reply is not tenable as the title of the document and recital thereof indicated that the instrument registered was a conveyance deed and not a lease deed.

The matter was reported to the department in March 2003. Their reply was awaited (August 2004).

The case was reported to the Government in September 2003; their reply has not been received (August 2004).

## CHAPTER -V: OTHER NON-TAX RECEIPTS

### 5.1 Results of Audit

Test check of the records of the following receipts conducted in audit during the year 2002-2003, revealed under assessments and losses of rent, royalty, fee, losses/non-recovery of revenue etc. as indicated below:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
<b>Mineral concession, fees and royalties</b>			
1.	Non-levy of penalty/fees	25	13.04
2.	Non-levy of stamp duty and registration fees	9	0.80
3.	Non-levy/short levy of auction money due to non-settlement/irregular settlement of sand ghats	8	0.92
4.	Non-levy of interest	8	0.03
5.	Non-initiation of certificate proceedings	8	1.42
6.	Other cases	55	5.01
<b>Total</b>		<b>113</b>	<b>21.22</b>
<b>Water Rates</b>			
1.	Loss of revenue due to non achievement of irrigation target	2	0.39
2.	Non fixation of Water rates in time	1	0.25
3.	Others	36	15.48
<b>Total</b>		<b>39</b>	<b>16.12</b>
<b>Forest</b>			
1.	Others irregularities	5	1.71
<b>Total</b>		<b>5</b>	<b>1.71</b>
<b>Grand Total</b>		<b>157</b>	<b>39.05</b>

A few illustrative cases involving tax effect of Rs 24.96 crore are discussed in the following paragraphs:



**MINERAL CONCESSION, FEES AND ROYALTIES****5.2 Non/short levy of royalty/interest on minor minerals consumed in works of Railway Department**

**5.2.1** Under the Bihar Minor Mineral Concession (BMMC) Rules, 1972, works contractors are required to purchase minor minerals from lessees/permit holders and authorised dealers only. They are also required to furnish to works department an affidavit in form 'M' with particulars in form 'N' indicating therein the source of purchase of mineral, price paid and quantity procured alongwith the bill. The works department in turn shall forward the photocopy of forms to the Mining Officer concerned for verification of details. If the details furnished by contractor are found to be false, it shall be presumed that the mineral was obtained by illegal mining and the defaulter shall be liable to pay the price of mineral and Government may also recover rent, royalty or tax as the case may be.

**Supply of stone ballast by illegal mining**

Records of Danapur and Sonapur Railway Divisions revealed that six contractors had supplied 1,11,479 cubic metre of stone ballast during the period 1998-1999 and 2001-2002 but they did not furnish forms 'M' and 'N' to the works divisions alongwith their bills. Thus, the supply of 1,11,479 cubic metre of stone ballast was made by illegal extraction/removal of minor minerals and hence, the contractors were liable to pay a sum of Rs 2.92 crore in the shape of price of mineral and royalty.

On this being pointed out in audit, the D.M.O. Munger stated in June 2003 that matter had been taken up with the Railway Department for further necessary action. Further reply was awaited (August 2004).

**Furnishing of incorrect particulars in declarations**

As per the records of District Mining officer (DMO) Munger, it was noticed that two contractors had purchased 584 cubic metre of stone ballast during 2000-2001 from three lessees/permit holders. On cross verification of records with Danapur Railway Division, it was noticed that these contractors had supplied 7,255 cubic metre of stone ballast as per forms 'M' and 'N' furnished by them alongwith their bills. Thus, the supply of 6,671 cubic metre of stone ballast was made by illegal mining and as such the contractors were liable to pay Rs 20.41 lakh by way of royalty and price of the mineral.

On this being pointed out in audit, the DMO, Munger stated in June 2003 that matter had been taken up with the Railway department for further necessary action. Further reply was awaited (August 2004).

**5.2.2** Under the BMMC Rules 1972, no person shall undertake any mining operation in an area except under and in accordance with the terms and conditions of a quarrying permit or as the case may be, a mining lease granted

under these rules. Whenever any person removes mineral without any valid lease/permit, he shall be presumed to be a party to the illegal removal of the minor mineral and shall be liable to pay the price thereof and the Government may also recover from such person rent, royalty or taxes as the case may be, for the period during which the land was occupied by such person without any lawful authority.

### **Unauthorised extraction/removal of mineral**

Cross verification of records of DMO, Munger with the records of Railway Divisions, Sonapur and Danapur revealed that six lessees had supplied 80,748 cubic metre of stone ballast during the period 1998-1999 and 2001-2002 to the Railways after the date of expiry of lease period of the mines. Thus, the supply of stone ballast was made by unauthorised extraction/ removal of minor mineral and as such the lessees were liable to pay Rs 1.87 crore as price of mineral and royalty.

On this being pointed out in audit, the DMO, Munger stated that matter had been taken up with the Railway Department for further necessary action. Further reply was awaited (August 2004).

The matter was reported to the Government in September 2003, the reply has not been received (August 2004).

### **Non-levy of royalty due to suppression of despatches of materials**

Cross verification of records of DMO, Munger with the records of works contractors of Sonapur and Danapur Divisions of East Central Railway revealed that five lessees had supplied 1,42,020 cubic metre of stone ballast during the period 1999-2000 and 2001-2002 to the Railway but had declared the supply of 3,922 cubic metre of stone ballast in their returns submitted to the DMO. Thus, the supply of 1,38,098 cubic metre of stone ballast was suppressed and hence, they were liable to pay royalty of Rs 34.52 lakhs.

On this being pointed out in audit, the DMO Munger stated in June 2003 that matter had been taken up with the Railway Department for further necessary action. Further reply was awaited (August 2004).

The matter was reported to the Government in September 2003, the reply has not been received (August 2004).



### 5.3 Non/ short levy of penalty for illegal mining of brick earth

Under the BMMC Rules, 1972 and notification issued there under in March 1992, every brick kiln owner/ brick earth remover shall pay amount of consolidated royalty in one instalment based on categories of brick kilns before issue of the permit. Further, if any person, removes minor mineral without valid lease/permit, he shall be liable to pay the price thereof and the Government may also recover from him rent, royalty or taxes, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

In 15 District Mining Offices<sup>1</sup>, it was noticed that 4,418 brick kilns during 1997-1998 and 2001-2002 had been operating without obtaining any valid permit and payment of prescribed consolidated royalty. In no case, demand for recovery of price of mineral was raised against the defaulters. Taking the minimum price of mineral equivalent to royalty, there was non/short levy of penalty amounting to Rs 14.33 crore.

On this being pointed out four AMOs<sup>2</sup> stated between May and September 2002 that there was no provision to impose penalty under Rule 26(A) of BMMC Rules, 1972. The reply is not tenable as Rule 26(A) provides for stopping the operation of brick kiln in case the consolidated royalty is not paid. However, in these cases, the minor mineral was removed without any royalty for which penalty under rule 40 (8) was leviable. No reply was furnished in other cases (August 2004).

The cases were reported to the Government in June 2003; their reply has not been received (August 2004).

### 5.4 Loss of revenue due to non-execution of deeds of settlement

Under the BMMC Rules, 1972 settlement of sand ghats is done for one calendar year by the Collector of the district through public auction to the highest bidder and a deed of settlement is to be executed on payment of stamp duty as prescribed in the Indian Stamp Act, 1899.

In nine District Mining Offices<sup>3</sup>, 143 sand bearing areas were settled at Rs 15.99 crore for the years between 2000 and 2002 without executing proper deeds of settlement as required under the Indian Stamp Act, 1899. Thus, there was a loss of stamp duty of Rs 1.06 crore.

On this being pointed out, six AMOs<sup>4</sup> stated between March and October 2002 that necessary action would be taken while AMOs Biharsharif, Hajipur and Rohtas stated in September 2002 that the registration was optional. The reply

<sup>1</sup> Begusarai, Bettiah, Bhagalpur, Biharsharif, Gaya, Gopalganj, Hajipur, Jamui, Motihari, Munger, Muzaffarpur, Patna, Rohtas, Sitamarhi and Siwan.

<sup>2</sup> Biharsharif, Jamui, Motihari and Muzaffarpur.

<sup>3</sup> Bettiah, Bhagalpur, Biharsharif, Gaya, Hajipur, Jamui, Munger, Patna and Rohtas.

<sup>4</sup> Munger, Bhagalpur, Gaya, Bettiah, Jamui and Patna.

is not tenable as only registration is optional but the levy of stamp duty on execution of deed in all such cases was mandatory. Further replies were not received (August 2004).

The cases were reported to the Government in June 2003; their reply has not been received (August 2004).

#### **5.5 Short levy of royalty**

Under Mines and Minerals (Regulation and Development) Act, 1957 the holder of a mining lease is liable to pay royalty in respect of any mineral removed or consumed from the leased area at the rates prescribed by the Government from time to time. By a notification issued in September 2000, the Government have revised the rate of royalty of lime stone from Rs 32 per MT to Rs 40 per MT.

In District Mining Office, Rohtas it was noticed that a lessee of limestone dispatched between September 2000 to June 2001 4,63,827.922 MT of lime stone from their three leased mines. The amount of royalty, though recoverable at the rate of Rs 40 per MT, was recovered at the rate of Rs 32 per MT, which resulted in short levy of royalty of Rs 37.11 lakh.

On this being pointed out, the AMO, Rohtas stated in May 2002 that the matter would be examined. Further reply has not been received (August 2004).

The case was reported to the Government in October 2003; their reply has not been received (August 2004).

#### **5.6 Non-levy of penalty for belated submission of monthly returns**

Under the BMMC Rules, 1972, every lessee or permit holder is required to submit every month a return in the prescribed form for extraction and removal of minor minerals by the fifteenth day of the following month to which it relates. In case a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay as penalty a sum of Rs 20 for each day after the expiry of the prescribed date subject to maximum of Rs 2,500.

In District Mining Office Bhagalpur, it was noticed that four lessees in 240 cases did not furnish the return. Though the delay in submission of returns for various months falling between April 1996 and March 2002 ranged from 471 to 2,146 days, the Assessing Officer failed to levy penalty. This resulted in non-levy of penalty of Rs 6.00 lakh.

On this being pointed out the AMO stated in July 2002 that fresh certificate cases incorporating this amount would be instituted for realisation of dues. Further reply has not been received (August 2004)



The cases were reported to Government in June 2003; their reply has not been received (August 2004).

### WATER RATES

#### 5.7 Non-raising of demand due to non-preparation of *Khatiani*

Under the Bengal Irrigation Act, 1876 and Rules framed thereunder, as applicable to Bihar, various formalities such as preparation of statement of land irrigated (*sudkar*), preparation of detailed measurement cultivator-wise (*khesra*) and preparation of demand statements (*khatiani*) are required to be completed by 30 November in respect of *kharif* and 25 May for *rabi* crops by the Irrigation Department for the purpose of recovery of water rates from the beneficiaries to whom the water is supplied for irrigation purposes.

In two Irrigation Divisions viz. Dehri-on-Sone and Jamui and Canal Division Aurangabad, it was noticed that *khatianis* in respect of 5.56 lakh acres of land irrigated during the years 2000-2001 and 2001-2002 were not prepared and sent to revenue division for raising demands against beneficiaries for collection of revenue. This resulted in non-raising of demand of water rates amounting to Rs 3.75 crore.

On this being pointed out, the Department stated between August and November 2002 that the delay in preparation of *khatiani* was due to shortage of staff. The reply is not tenable as priority should have been given for preparation of *khatiani* in the interest of government revenue. Further reply has not been received (August 2004).

The case was reported to the Government in June 2003, their reply has not been received (August 2004).

### FOREST RECEIPTS

#### 5.8 Non-eviction of encroached forest land

Under Section 66 A of the Bihar Forest (Amendment) Act, 1990, encroachment of forest land shall be cognizable and non-bailable offence. If any forest officer, not below the rank of Divisional Forest Officer has reason to believe that encroachment of government forest land has been done, he may evict the encroachers and may use all the powers conferred on a Magistrate under the Bihar Public Land Encroachment Act, 1956. Royalty for damage of forest produce and compensation is also to be recovered from the encroachers.

In Forest Division, Munger it was noticed that in 13 cases 67.69 acres of forest land under the jurisdiction of Kharagpur and Malaypur ranges were encroached during the year 2001-2002. No action was taken to evict the encroachers and to recover royalty and compensation amounting to Rs 5.27 lakh from them.

On this being pointed out, the Divisional Forest Officer, Munger stated in October 2003 that eviction had been made from 30.20 acres of encroached forest land and action was being taken to evict encroachers from remaining areas. The position of recovery of royalty and compensation had not been intimated. Further reply was awaited (August 2004).

The case was reported to the Government in June 2003; their reply has not been received (August 2004).



Patna  
The

(VIKRAM CHANDRA)  
Pr. Accountant General (Audit)  
Bihar

Countersigned



New Delhi  
The

(VIJAYENDRA N. KAUL)  
Comptroller and Auditor General of India