



सत्यमेव जयते

Report of the Comptroller and Auditor General of India

for the year ended March 2002

Revenue Receipts

Government of West Bengal

IX 53-8-2

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PREFATORY REMARKS

This Report for the year ended 31 March 2002 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, land revenue, state excise, motor vehicles tax, other tax receipts, mines and minerals, forest 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 2001-2002 as well as those noticed in earlier years but could not be covered in previous years' Reports.

Overview

1. General

This Report contains 55 paragraphs including 2 reviews relating to underassessment/short levy/loss of revenue etc. involving Rs.133.89 crore. Some of the major findings are mentioned below:

The Government's total revenue receipts for the year 2001-2002 amounted to Rs.14538.42 crore against Rs.14522.18 crore for the previous year. Fifty per cent of this was raised by the State (Rs.6534.48 crore through tax revenue and Rs.775.88 crore through non-tax revenue) and fifty per cent was received from the Government of India (Rs.4289.37 crore in the form of State's share of divisible Union taxes and Rs.2938.69 crore as grants-in-aid).

[Paragraph 1.01]

Test check of records of Sales Tax, Land Revenue, State Excise, Motor Vehicles Tax, Taxes on Agricultural Income, Forest and other departmental offices conducted during the year 2001-2002 revealed underassessment/short levy/loss of revenue etc. amounting to Rs.456.59 crore in 991 cases. During the course of the year 2001-2002, the concerned departments accepted underassessment etc. of Rs.411.76 crore involved in 571 cases of which 432 cases involving Rs.389.24 crore were pointed out in audit during 2001-2002 and the rest in earlier years. A sum of Rs.1.17 crore was recovered at the instance of audit during the year 2001-2002.

[Paragraph 1.06]

As on 30 June 2002, 1243 inspection reports, issued up to December 2001 containing 3854 audit observations involving Rs.1022.59 crore, were outstanding for want of response or final action by the concerned departments.

[Paragraph 1.07]

2. Sales Tax

- (i) A review on "Working of appeal mechanism under the Sales Tax Laws" revealed the following :

Delay in disposal of appeals, revision and review cases led to huge accumulation of arrears. The cases pending in appeal/revision/review in circles and in West Bengal Commercial Tax Appellate and Revisional Board at the end of 2000-2001 stood at 26,582 and 11,343 respectively. Of the total cases of 66496 targeted only 43 per cent i.e. 28571 cases were disposed of during 2000-2001 which led to blockage of huge revenue of Rs.808.82 crore at different stages.

[Paragraph 2.02.05(a) & (b)]

Failure of the department to make fresh assessment in 9 set aside/remanded cases in 6 charge offices till October 2001 resulted the cases barred by limitation of time and consequent loss of revenue of Rs.50.71 lakh.

[Paragraph 2.02.06]

Certificate proceedings were not instituted by 53 charge offices even after a lapse of 1 and 65 months in 661 confirmed and modified cases led to blockage of revenue of Rs.44.95 crore.

[Paragraph 2.02.07(a)]

Delay ranging between 1 month and 28 months to revive 179 rejected SOD cases by the department resulted in blockage of revenue of Rs.8.03 crore.

[Paragraph 2.02.09]

- (ii) Allowances of excess deduction of Rs.21.52 crore in 69 cases of 61 dealers in 24 charge offices resulted in subsequent short levy of tax of Rs.2.48 crore.

[Paragraph 2.04(a)]

- (iii) Incorrect levy of tax at concessional rate in 14 charge offices of 23 dealers resulted in short levy of tax, surcharge and additional surcharge of Rs.1.98 crore.

[Paragraph 2.06]

- (iv) Non-imposition of minimum penalty on the concealed sales/purchases in the case of 37 dealers in Kolkata led to short levy of penalty of Rs.4.87 crore.

[Paragraph 2.07]

3. Land Revenue

- (i) Failure of the department to settle 344.38 acres of land on long-term lease or to evict the unauthorised occupiers resulted in non-realisation of revenue of Rs.1.45 crore.

[Paragraph 3.03]

- (ii) Advance possession of 23.545 acres of land was given to 7 organisations without entering into any lease agreement resulting in non-realisation of rent of Rs.1.30 crore and salami of Rs.1.15 crore.

[Paragraph 3.04]

- (iii) Non/short inclusion of establishment charges and contingent charges in the compensation award in 17 cases resulted in non/short levy of incidental charges of Rs.3.17 crore.

[Paragraph 3.10]

4. State Excise

25,41,564 quart bottles of beer were stored in a private warehouse in Nadia district by a licensee for export without payment of privilege fee resulting in evasion of revenue of Rs.15.25 lakh.

[Paragraph 4.02]

5. Motor Vehicles Tax

- (i) A review on "Assessment, levy and collection of fees and fines on motor vehicles including those on National Permits" revealed the following :

Failure of the enforcement wing in 14 regional offices to detect illegal plying of 11,425 goods carriages on road without certificate of fitness resulted in loss of revenue of Rs.3.44 crore.

[Paragraph 5.02.05]

Failure to levy fine on 2100 vehicles presented to the registering authorities for registration in 8 regional offices with lapsed Trade Certificate resulted in non-realisation of revenue of Rs.45.92 lakh.

[Paragraph 5.02.08]

Defective system of maintenance of records and absence of monitoring of bank drafts led to short account of Rs.1.03 crore, remittances

untraced for Rs.63.61 lakh, blockage of revenue due to non-remittance of Rs.98.12 lakh and less acknowledgement of remittance of Rs.21.41 lakh.

[Paragraph 5.02.14(a), (b), (c) & (d)]

Failure of the State Transport Authority (STA), West Bengal to deposit 36,016 lapsed bank drafts within stipulated period led to loss of interest of Rs.42.08 lakh.

[Paragraph 5.02.15]

- (ii) Additional tax and penalty were not realised in respect of 113 contract carriages in 10 Regional Transport Offices resulted in non-realisation of revenue of Rs.72.11 lakh.

[Paragraph 5.03]

6. Professions Tax

Failure to raise demand by 18 Range/Unit offices for payment of arrear tax against 876 persons enrolled between 1995-1996 and 1998-1999 resulted in non-realisation of professions tax of Rs.28.70 lakh.

[Paragraph 6.03]

7. Electricity Duty

Lack of initiation to get the data for assessment of electricity duty or to assess the duty to the best of judgement in respect of 4 consumers of Damodar Valley Corporation for different consumption periods between August 1999 and March 2001 resulted in non-assessment and non-realisation of electricity duty of Rs.3.16 crore.

[Paragraph 7.02]

8. Other Tax Receipts

1154 and 526 deeds were lying pending in 23 registration offices and 9 collectors' offices respectively for a long period ranging between 1 and 5 years due to non-realisation of deficit stamp duty and registration fees or non-determination of fresh market value of the instruments resulting in blockage of revenue of Rs.4.10 crore.

[Paragraph 8.02(a) & 8.02(b)]

9. Forest Receipts

- (i) Failure on the part of the Divisional Forest Officer, Kurseong Division to adopt cash and carry system resulted in non-realisation of revenue of Rs.1.37 crore.

[Paragraph 9.02]

- (ii) Incorrect deduction of service charges at the rate of 10 per cent without rendering any service by West Bengal Forest Development Corporation for harvesting operations in 3 Divisional Forest Offices resulted in short realisation of revenue of Rs.72.80 lakh.

[Paragraph 9.03]

10. Mines and Minerals

- (i) Revenue amounting to Rs.36.65 lakh on account of price of minor minerals extracted unauthorisedly in 278 cases in 6 districts was not realised/realised short between 1995-1996 and 2000-2001.

[Paragraph 10.02(a)]

- (ii) Cess of Rs.30.97 lakh on extraction and despatch of brickearth and stone was not assessed/assessed short and subsequently not realised/realised short from 1859 permit holders in 7 districts.

[Paragraph 10.03]

11. Other Non-Tax Receipts

- (i) Failure of the department to allot 275 Government flats in Kolkata from September 1997 to March 2001, although 1042 applicants awaiting allotment resulted in loss of revenue of Rs.54.01 lakh.

[Paragraph 11.03]

- (ii) Non-assessment of water rate in respect of 5,63,894.60 acres of land in 3 revenue divisions irrigated during kharif, rabi and boro seasons resulted in non-realisation of revenue of Rs.1.81 crore.

[Paragraph 11.05]

- (iii) Due to non-implementation of enhanced rate of toll tax from vehicles plying through three bridges in three districts resulted in loss of revenue of Rs.96.40 lakh.

[Paragraph 11.07]

CHAPTER 1

GENERAL

1.01 Trend of Revenue Receipts

The tax and non-tax revenue raised by the Government of West Bengal during the year 2001-2002, 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 2 years are given below:

(Rupees in crore)

Receipts		1999-2000	2000-2001	2001-2002
I.	Revenue raised by the State Government			
(a)	Tax Revenue	5100.83	5944.72	6534.48
(b)	Non-tax Revenue	587.22	1214.53	775.88
	Total	5688.05	7159.25	7310.36
II.	Receipts from the Government of India			
(a)	State's share of divisible Union taxes	2984.41	4208.44	4289.37 ¹
(b)	Grants-in-aid	1538.64	3154.49	2938.69
	Total	4523.05	7362.93	7228.06
III.	Total Receipts of the State Government (I+II)	10211.10	14522.18	14538.42²
IV.	Percentage of I to III	56	49	50

(i) The details of the tax revenue raised under major heads of revenue during the year 2001-2002, along with corresponding figures for the preceding 2 years are given below :

(Rupees in crore)

Sl. No.	Head of revenue	1999-2000	2000-2001	2001-2002	Percentage of increase(+)/decrease (-) in 2001-2002 over 2000-2001
1.	Sales Tax	3428.79	3671.42	3802.46	(+) 03.57
2.	State Excise	442.85	461.61	512.43	(+) 11.01
3.	Land Revenue	148.44	510.80	711.22	(+) 39.24
4.	Stamps and Registration Fees	411.72	474.01	555.39	(+) 17.17
5.	Other Taxes	669.03	826.88	952.98	(+) 15.25
	Total	5100.83	5944.72	6534.48	(+) 9.92

¹ For details, please see statement No.11 'detailed account of revenue by Minor Heads' in the Finance Accounts of the Government of West Bengal for the year 2001-2002.

² Figures under the heads 0020-Corporation Tax, 0021-Taxes on Income other than Corporation Tax, 0032-Taxes on Wealth, 0037-Customs, 0038-Union Excise Duties, 0044-Service Tax-'Share of net proceeds assign to States' booked in the Finance Accounts under A-Tax Revenue have been excluded from revenue raised by the State and included in State's share of divisible union taxes in this statement.

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(ii) The details of major non-tax revenue receipts during the year 2001-2002, along with corresponding figures for the preceding 2 years are given below:

(Rupees in crore)

Sl. No.	Head of revenue	1999-2000	2000-2001	2001-2002	Percentage of increase (+) / decrease (-) in 2001-2002 over 2000-2001
1	Interest	110.08	673.60	122.90	(-) 81.75
2.	Medical and Public Health	60.41	45.91	45.63	(-) 0.61
3.	Dairy Development	59.47	53.41	56.62	(+) 6.01
4.	Forestry and Wildlife	24.01	22.26	26.72	(+) 20.03
5.	Others	333.25	419.35	524.01	(+) 24.96
Total		587.22	1214.53	775.88	(-) 36.12

The reasons for variations in receipts during the year 2001-2002 as appeared in the Finance Accounts compared to those of the year 2000-2001 are mainly as under :

- (a) Land Revenue : The increase (39.24 per cent) was due to larger collection of Land Revenue.
- (b) State Excise : The increase (11.01 per cent) was due to larger collection of excise revenue from the sale of Country Liquor, Malt Liquor and Foreign Liquors.
- (c) Stamps and Registration Fees : The increase (17.17 per cent) was due to escalation of duties on judicial and non-judicial stamps.
- (d) Interest: The decrease (81.75 per cent) was due to less interest receipts from Public Sector and other undertakings.

1.02 *Variations between Budget Estimates and Actuals

The variations between Budget Estimates and Actuals for the last 5 years are given below:

(Rupees in crore)

Year	Tax Revenue		Non-tax Revenue	
	Budget Estimates	Actual	Budget Estimates	Actual
1997-1998	5481	4517	458	449
1998-1999	5046	4774	574	385
1999-2000	5658	5101	532	587
2000-2001	6513	5945	1331	1215
2001-2002	7341	6534	1445	776

The variations between Budget estimates and Actual receipts for the year 2001-2002 under the principal heads of revenue are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget estimates	Actual receipts	Variations increase(+)/ shortfall(-)	Percentage of variation increase (+)/ shortfall (-)
(A) Tax Revenue					
1.	Sales Tax	4100.00	3802.46	(-)297.54	(-)7.26
2.	State Excise	530.00	512.43	(-)17.57	(-)3.32
3.	Land Revenue	1084.96	711.22	(-)373.74	(-)34.45
4.	Stamps and Registration Fees	570.00	555.39	(-)14.61	(-)2.56
5.	Other Taxes on Income and Expenditure ³	260.50	223.04	(-)37.46	(-)14.38
6.	Taxes on Vehicles	222.00	208.65	(-)13.35	(-)6.01
7.	Taxes on Goods and Passengers	5.00	1.06	(-)3.94	(-)78.80
8.	Taxes and Duties on Electricity	377.35	354.76	(-)22.59	(-)5.99
9.	Other Taxes and Duties on Commodities and Services ⁴	183.75	163.68	(-)20.07	(-)10.92
10.	Taxes on Agricultural Income	6.50	0.85	(-)5.65	(-)86.92
11.	Taxes on Immovable Property ⁵	0.60	0.94	(+)0.34	(+)56.67
Total		7340.66	6534.48	(-)806.18	(-)10.98
(B) Non-tax Revenue					
1.	Interest	630.94	122.90	(-)508.04	(-)80.52
2.	Medical and Public Health	98.96	45.63	(-)53.33	(-)53.89
3.	Dairy Development	73.25	56.62	(-)16.63	(-)22.70
4.	Forestry and Wildlife	40.00	26.72	(-)13.28	(-)33.20
5.	Police	58.00	60.99	(+)2.99	(+)5.16
6.	Non-ferrous Mining and Metallurgical Industries	16.15	7.95	(-)8.20	(-)50.77
7.	Roads and Bridges	28.40	20.41	(-)7.99	(-)28.13
8.	Industries	10.50	3.13	(-)7.37	(-)70.19
9.	Education, Sports, Arts and Culture	32.35	39.61	(+)7.26	(+)22.44
10.	Minor Irrigation	15.00	7.37	(-)7.63	(-)50.86
11.	Social Security and Welfare	4.50	4.94	(+)0.44	(+)9.78
12.	Other cases	436.49	379.61	(-)56.88	(-)13.03
Total		1444.54	775.88	(-)668.66	(-)46.29

The reasons for variation though called for in March 2002 followed by reminders issued in June 2002, August 2002 and October 2002 have not been received (November 2002).

³ This head includes receipts under Taxes on Professions, Trades, Callings and Employments.

⁴ This head includes taxes under Entertainment, Betting, Luxury and receipts under the Jute Taxation Act.

⁵ This head includes receipts under the West Bengal Multi-storeyed Building Tax Act, 1975.

1.03 Cost of collection

Expenditure incurred on collection of revenue under some principal heads of revenue during the year 2001-2002 and preceding 2 years is given below:

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection	Cost of collection	Percentage of cost of collection to collection	
					West Bengal	All India average
1.	Sales Tax	1999-2000	3428.79	69.11	2.02	1.56
		2000-2001	3671.42	69.56	1.89	1.31
		2001-2002	3802.46	69.50	1.83	--
2.	State Excise	1999-2000	442.85	30.39	6.86	3.31
		2000-2001	461.61	36.02	7.80	3.10
		2001-2002	512.43	38.32	7.48	--
3	Stamps & Registration Fees	1999-2000	411.72	35.83	8.70	4.62
		2000-2001	474.01	37.65	7.94	4.39
		2001-2002	555.39	37.51	6.75	--
4	Taxes on Vehicles	1999-2000	185.56	7.80	4.20	3.56
		2000-2001	282.53*	8.26	2.92	3.48
		2001-2002	208.65	8.52	4.08	--

*As per Budget Publication for the year 2002-2003 an amount of Rs.94.02 crore was wrongly booked under 0041-Taxes on vehicles

It would be seen from the above that the expenditure on collection under the respective heads is higher as compared to the national average.

1.04 Arrears in assessments

Timely and proper assessment of Government dues is a pre-requisite to ensure a steady inflow of revenue to the state.

The details of information regarding arrears in assessment from the Forest, Land and Land Reforms, Transport, Home, Public Works and Housing Departments though called for in March 2002 were not received (November 2002). The trend of arrears of assessment in respect of other departments are as under:

Year	Opening Balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Arrears in percentage (against total cases)
Sales Tax						
1999-2000	290887	208990	499877	312836	187041	37
2000-2001	187041	111645	298686	160965*	137721	46
2001-2002	137721	112541	250262	85326*	164936	66
Professions Tax						
1999-2000	176484	93713	270197	71468	198729	74
2000-2001	198729	86661	285390	78790	206600	72
2001-2002	206600	41151	247751	67519	180232	73
Electricity Duty						
1999-2000	567	19	586	337	249	42
2000-2001	249	96	345	43*	302	88
2001-2002	302	342	644	118*	526	82
Amusements Tax						
2000-2001	3344	839	4183	979	3204	77
2001-2002	3204	1423	4627	753	3874	84
Agricultural Income Tax						
2000-2001	2355	306	2661	398	2263	85
2001-2002	2263	441	2704	607	2097	78

* The Department concerned, however, did not give any reason for sudden fall in the number of assessments during 2000-2001 and 2001-2002.

The increasing arrears in assessments call for revision of norms of assessment by the Finance Department.

1.05 Arrears in collection of revenue

Arrears under principal heads of revenue as furnished by two of the departments are indicated below:

<i>(Rupees in crore)</i>				
Department	Revenue Head	1999-2000	2000-2001	2001-2002
Finance	Sales Tax	1165.81	1609.54	1596.42
	Electricity Duty	NA	NA	100.13
	Amusements Tax	NA	NA	26.90
	Agricultural Income Tax	NA	NA	30.19
Excise	Excise Duty	9.62	9.58	8.93

The Forest, Land and Land Reforms, Transport, Commerce and Industries, Home, Public works, Irrigation and Waterways, Finance (Professions Tax) Departments did not furnish the figures of arrears of collection at the end of March 2002 although called for in March 2002 and the matter was subsequently taken up at the level of Secretaries/Principal Secretaries of the

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concerned departments and Chief Secretary to the Government of West Bengal.

1.06 Results of audit

Test check of records of Sales Tax, Land Revenue, State Excise, Motor Vehicles Tax, Taxes on Agricultural Income, Forest and other departmental offices conducted during the year 2001-2002 revealed underassessment/short levy/loss of revenue etc., amounting to Rs.456.59 crore in 991 cases. During the course of the year 2001-2002, the concerned departments accepted underassessment etc., of Rs.411.76 crore involved in 571 cases of which 432 cases involving Rs.389.24 crore were pointed out in audit during 2001-2002 and the rest in earlier years. A sum of Rs.1.17 crore was recovered at the instance of audit during the year 2001-2002.

This Report contains 55 paragraphs including 2 reviews relating to under assessment/short levy/loss of revenue etc., involving Rs.133.89 crore. The department/Government have accepted audit observations involving Rs.125.27crore out of which Rs.0.21 crore has been realised at the instance of audit.

1.07 Replies to the Inspection Reports

Accountant General (Local Bodies Audit) arranges to conduct periodical inspection of Government departments to test check the transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up with Inspections Reports (IRs). When important irregularities etc detected during inspection are not settled on the spot, these IRs are issued to the heads of offices inspected with copies to next higher authorities for taking prompt corrective action. Government have provided that first replies to the IRs may be furnished within three weeks of receipt thereof by the heads of offices. The heads of offices/ Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the AG within two months from the dates of issue of the IRs. Serious irregularities are also brought to the notice of the Heads of the Departments by the office of the AG.

Inspection Reports issued up to December 2001 disclosed that 3854 paragraphs involving money value of Rs.1022.59 crore relating to 1243 IRs remained outstanding at the end of June 2002. Of these, 261 IRs containing 664 paragraphs involving money value of Rs.101.29 crore had not been settled for more than ten years by the Finance Department (in respect of Sales Tax, Amusements Tax, Agricultural Income Tax, Professions Tax, Electricity Duty and Stamp Duty and Registrations Fees), the Forest (in respect of Forest Receipts), the Commerce and Industries (in respect of Mines and Minerals), the Transport (in respect of Motor Vehicles), the Land and Land Reforms (in respect of Land Revenue) and the other (in respect of Departmental Receipts) departments. Even the first replies, required to be received from the heads of offices within three weeks from the date of issue of the IRs, were not received in respect of 1010 paragraphs of 348 IRs issued between March, 1984 and December 2001. As a result, the serious irregularities commented upon in these IRs had not been settled as of 30 June 2002.

Department-wise break-up of IRs and audit observations outstanding as on 30 June 2002 is given below:

Audit Report (Revenue Receipts) for the year ended 31 March 2002

(Rupees in crore)

Sl. No.	Department	Position of Inspection Reports issued up to December 2001 but not settled at the end of June 2002			Position of Inspection Reports and paragraphs not settled for more than 10 years			Position of Inspection Reports in respect of which first reply not received		
		No. of IRs	No. of Paragraphs	Money value	No. of IRs	No. of Paragraphs	Money value	No. of IRs	No. of Paragraphs	Earliest year to which IR relates
1	Finance									
	(a) Sales Tax	358	1442	92.73	94	340	12.61	15	136	1998-2000
	(b) Professions Tax	77	197	12.03	23	33	3.98	20	46	1997-1998
	(c) Stamp Duty and Registration Fees	155	237	100.89	13	29	47.32	103	151	1993-1994
	(d) Electricity Duty	41	68	14.52	9	15	1.80	18	24	1997-1998
	(e) Agricultural Income Tax	14	29	2.01	2	6	0.03	6	13	1991-1992
	(f) Amusements Tax	82	137	4.93	13	15	0.13	51	126	1982-1983
	(g) Luxury Tax	7	14	0.11	--	--	--	6	13	1997-1998
2.	Forest									
	Forest Receipts	77	185	20.84	6	10	0.30	41	147	1994-1995
3.	Commerce and Industries									
	Mines and Minerals	110	380	20.88	17	43	1.69	19	74	1989-1990
4.	Land and Land Reforms									
	Land Revenue	108	629	309.69	37	96	5.00	16	107	1984-1985
5.	Excise									
	State Excise	32	95	381.03	--	--	--	9	28	1991-1992
6.	Transport									
	Motor Vehicles	124	323	18.87	30	31	0.17	23	69	1998-1999
7.	Other									
	Departmental Receipts	58	118	44.06	17	46	28.26	21	76	1994-1995
	Total	1243	3854	1022.59	261	664	101.29	348	1010	

A review of the IRs which were pending due to non-receipt of replies, in respect of the above departments revealed that the Heads of the Offices, whose records were inspected by AG, and the Heads of the Departments failed to discharge responsibility as they did not send any reply to a large number of IRs/Paragraphs indicating their failure to initiate action in regard to the defects, omissions and irregularities pointed out in the IRs of the AG. The

Principal Secretaries/Secretaries of the Departments, who were informed of the position through half-yearly reports, also failed to ensure that the concerned officers of the Departments take prompt and timely action.

1.08 Follow-up on Audit Reports

As per the Rules of Procedure of the Committee on Public Accounts of the West Bengal Legislative Assembly (Internal Working) framed in 1997, the concerned department shall take necessary steps to send its Action Taken Notes (ATN) on the recommendations contained in the Report of the Public Accounts Committee (PAC) on the Audit Report within six months from the date of presentation to the House. The position of outstanding ATNs due from the departments is shown below:

Particulars of the PAC Report	Date of presentation in the Assembly	Name of the department	Year of Audit Report	No. of ATNs due
Sixth Report of 1987-88	20 April 1988	Excise	1978-1979 1980-1981	3 3
Seventeenth Report of 1988-89	5 May 1989	Irrigation and Waterways	1978-1979 1983-1984	3 1
Twentysecond Report of 1990-91	26 March 1991	Transport	1979-1980 1980-1981	1 1
Second Report of 1991-92	9 April 1992	Board of Revenue	1980-1981 1982-1983 1983-1984 1984-1985	4 1 1 1
Seventh Report of 1991-93	23 March 1993	Finance	1981-1982 1982-1983 1983-1984	2 3 4
Seventeenth Report 1993-94	31 March 1994	Land and Land Reforms	1981-1982 1985-1986 1986-1987	1 2 2
Twentysecond Report of 1994-95	17 April 1995	Excise	1984-1985	2
Twentythird Report of 1994-96	1 August 1995	Finance	1981-1982	1
Twentyfifth Report of 1994-96	1 August 1995	Transport	1983-1984	1
		Home (Police)	1988-1989	1
Seventh Report of 1998-99	28 June 1999	Land and land Reforms	1988-1989 1990-1991 1992-1993	1 1 1
Twentyfourth Report of 1998-99	16 July 1999	Forest	1992-1993	1
Twentyninth Report of 1999-2000	2 December 1999	Irrigation and Waterways	1990-1991	1
Eighth Report of 2001-2002	8 July 2002	Forest	1996-1997	6
Total				49

In respect of the Audit Reports from 1992-1993 to 2000-2001 departmental replies to 31 selected and 81 unselected paragraphs out of total 61 selected and 548 unselected paragraphs have been received (November 2002).

CHAPTER 2 SALES TAX

2.01 Results of audit

Test check of records of the offices of the Commercial Taxes Directorate, conducted in audit during the year 2001-2002, revealed underassessments of tax and other irregularities involving Rs.348.12 crore in 378 cases, which broadly fall under the following categories :

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of interest/penalty	154	10.45
2	Irregular deduction/exemption	93	5.21
3	Non/short levy of turnover tax, additional sales tax and surcharge	29	0.51
4	Incorrect determination of gross turnover/taxable turnover	34	5.25
5	Application of incorrect rate and mistake in computation	17	0.29
6	Other cases	51	326.41
Total		378	348.12

During the course of the year 2001-2002, the Commercial Taxes Directorate accepted underassessments etc. of Rs.335.72 crore involved in 255 cases of which 194 cases involving Rs.319.46 crore had been pointed out in audit during the year 2001-2002 and the rest in earlier years. An amount of Rs.39.49 lakh was realised at the instance of audit.

The results of a review on "Working of appeal mechanism under the Sales Tax Laws" and a few illustrative cases involving Rs.82.98 crore highlighting important observations are given in the following paragraphs:

2.02 Review on “working of appeal mechanism under the Sales Tax Laws”

The findings of a study on the “Working of Appeal Mechanism under the Sales Tax Laws” and its effectiveness and deficiencies are described hereunder:

Highlights

*Disposal and pendency of appeals, revision and review cases - delay in disposal led to blockage of revenue at different stages – at circle Rs.679.52 crore and in Appellate and Revisional Board Rs.129.30 crore
(Paragraph 2.02.05)*

*Set-aside/remanded cases became barred by limitation of time for re-assessment/fresh assessment involving revenue of Rs.50.71 lakh in 9 cases.
(Paragraph 2.02.06)*

*Non-realisation of revenue of Rs.44.95 crore in 661 confirmed and modified cases due to failure to initiate follow up action for recovery of arrears and delay in initiating certificate proceedings led to blockage of revenue of Rs.3.59 crore in 61 cases.
(Paragraph 2.02.07)*

*Rejected SOD cases were not revived at the circle level resulting in blockage of revenue of Rs.8.03 crore
(Paragraph 2.02.09)*

2.02.01. Introduction

Under the provisions of the Sales Tax Laws, if any dealer is aggrieved against an order of assessment made by the Assessing Officer, he may prefer appeal before the Appellate Authority against the assessment of tax, penalty or interest, if any, within the prescribed time limit from the date of receipt of demand notice issued to him as per the provisions laid down under different Acts/Rules. The Appellate Authority may confirm/modify/set-aside (for re-assessment) the assessment order or reject the appeal petition filed by the dealer. After the disposal of appeal cases, the appellate order as well as the connected case records are to be sent back to the charge offices for taking follow up action as per the direction of the Appellate Authority.

With the constitution of West Bengal Commercial Taxes Tribunal from April 1974, if any dealer is dissatisfied on an order passed by the Appellate Authority in the circle, he may file appeal/revision petition before the Tribunal

(re-named as West Bengal Commercial Taxes Appellate and Revisional Board with effect from May 1995). Further, with the introduction of the West Bengal Sales Tax (Settlement of Dispute) Act, 1999 (effective from July 1999), any dealer whose appeal petition was pending before the Appellate Authority as on 31 December 1998 could file application for settlement under the said Act before the designated Additional Commissioner before November 1999. The Additional Commissioner may, by an order in writing, determine the amount of tax etc. payable for the purpose of settlement of tax, penalty or interest in dispute at the rate as specified in the said Act.

2.02.02. ~~xxx~~ Organisational set-up

The Commissioner of Commercial Taxes is the head of the Directorate of Commercial Taxes, West Bengal who is assisted by the Additional Commissioners of Commercial Taxes (Addl.CCTs), Deputy Commissioners of Commercial Taxes (DCCTs), Assistant Commissioners of Commercial Taxes (ACCTs) and Commercial Tax Officers (CTOs). The ACCTs and CTOs in the charge offices are entrusted with the work of assessment and taking follow up action for disposal of appeal cases.

Whereas an appeal arises from an assessment order passed by the CTO, such appeal shall lie before the ACCT attached to the circle and whereas an appeal arises from an assessment order passed by an ACCT, such appeal shall lie before the DCCT of the circle.

Further an application for revision of an order shall lie before the Appellate and Divisional Board if such order is a final order passed by an Assistant Commissioner or a Deputy Commissioner.

2.02.03. Scope of audit

With a view to analysing the procedural efficiency and lacuna in the system of appeal as well as monitoring and controlling of appeal mechanism under the Sales Tax Laws, a review for the period from 1996-1997 to 2000-2001 was conducted between June 2001 and March 2002 in 6 circles out of 18 circles along with charge offices.

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2.02.04. Arrears of revenue

The total amount of revenues remained uncollected, as stated by the Directorate, was as under:

<i>(Rupees in crore)</i>	
Year	Amount
1996-1997	309.00
1997-1998	343.21
1998-1999	350.30
1999-2000	1330.67
2000-2001	1746.87

The year-wise figures shown above reflect the progressive total and also include arrears of revenue locked up in pending appeal cases, of this revenue locked up in appeal cases alone as on 31 March 2001 was Rs.1540.61 crore as stated by the Directorate. However, the Directorate could not furnish the year-wise break-up of those cases.

2.02.05. Disposal and pendency of appeal, revision and review cases

The position of disposal vis-à-vis pendency of appeal, revision and review cases under the Sales Tax Act in the circles, Appellate and Revisional Board and High Court/Supreme Court for the last 5 years as furnished by the Directorate is shown below. The concerned offices, however, could not furnish the amount of tax involved therein, though it was called for.

(a) Position of cases with the Appellate Authority:

Year	Opening balance	No. of cases received	Total no. of cases (2+3)	No. of cases disposed of	No. of cases pending	Percentage of pending to the total no. of cases (Col.6 to Col.4)
1	2	3	4	5	6	7
	Appeal Revision	Appeal Revision	Appeal Revision	Appeal Revision	Appeal Revision	Appeal Revision
1996-1997	17752 758	22195 587	39947 1345	21590 529	18357 816	46 61
1997-1998	18357 816	27353 616	45710 1432	21565 553	24145 879	53 61
1998-1999	24145 879	35805 850	59950 1729	20973 910	38977 819	65 47
1999-2000	38977 819	25064 1051	64041 1870	24325 1006	39716 864	62 46
2000-2001	39716 864	10981 2005	50697 2869	25093 1891	25604 978	51 34

It would be seen from the above, that the number of cases (26582) pending as on 31 March 2001, registered an increase of 44 per cent as compared to the number of cases (18510) pending as on 01 April 1996.

The year-wise details of the cases pending along with revenue involved in respect of all the circles though called for was not made available. However, scrutiny of records in six circles revealed that 3656 appeal petitions which were accepted between 1996-1997 and 2000-2001, were yet to be disposed of involving blockage of revenue of Rs.679.52 crore as of March 2001, the year-wise details of which are shown below:

Year of receipt of appeal petition	Total No. of cases	(Rupees in crore)
		Amount involved
1996-1997	464	49.51
1997-1998	462	74.30
1998-1999	749	123.91
1999-2000	1025	252.49
2000-2001	956	179.31
Total	3656	679.52

No norms have been prescribed for disposal of appeal/revision cases in the Act. However, the Commissioner of Commercial Taxes has fixed a norm of 30 cases per month for each appellate authority. This was also stated to be not in operation. As a result, the number of appeal/revision cases pending disposal is very high.

(b) Position of appeal and revision cases in the WBCT Appellate and Revisional Board

Year	Opening balance	No. of cases received	Total No. of cases (2 + 3)	No. of cases disposed of	No. of cases pending	Percentage of pending to the total no. of cases (Col. 6 to Col. 4)
1	2	3	4	5	6	7
1996-1997	10277	2283	12560	1337	11223	89
1997-1998	11223	1612	12835	1467	11368	89
1998-1999	11368	1825	13193	1872	11321	86
1999-2000	11321	2130	13451	3706	9745	72
2000-2001	9745	3185	12930	1587	11343	88

The year-wise details of cases pending in the WBCT Appellate and Revisional Board in respect of all the circles along with revenue involved though called for was not made available. However, scrutiny of relevant register revealed that 1539 cases relating to 6 circles which were filed before the Appellate and Revisional Board between 1996-1997 and 2000-2001 were lying undisposed

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of involving blockage of revenue of Rs.129.30 crore as of March 2001, the year-wise details of which are shown below:

Year of receipt of appeal petition	Total No. of cases	(Rupees in crore)
		Amount involved
1996-1997	381	56.49
1997-1998	261	13.17
1998-1999	266	19.72
1999-2000	161	10.71
2000-2001	470	29.21
Total	1539	129.30

(c) *Position of appeal cases in Honourable High Court and Supreme Court*

Period	No. of cases received <u>High Court</u> <u>Supreme Court</u>	No. of cases disposed of <u>High Court</u> <u>Supreme Court</u>	No. of cases pending <u>High Court</u> <u>Supreme Court</u>
1999	<u>101</u> 53	<u>50</u> 5	<u>51</u> 48
2000	<u>108</u> 57	<u>43</u> 4	<u>65</u> 53
2001	<u>124</u> 60	<u>48</u> 4	<u>76</u> 56

However, the Directorate could not furnish the pending cases relating to the year 1997 and 1998 and also the amount involved in those cases.

2.02.06 *Set-aside/remanded cases becoming barred by limitation of time for re-assessment/fresh assessment*

Under section 11(2a) of the BF (ST) Act 1941 and section 48(4) of the WBST Act, 1994, any re-assessment/fresh assessment in pursuance of an order of the Appellate Authority shall unless otherwise specified, be completed within 4 years and 2 years respectively from the date of appellate order.

Scrutiny of records in the following 6 charge offices revealed that in 9 cases fresh assessment/re-assessment were not made till October 2001 even after expiry of the prescribed period from the date of appellate order. This resulted in loss of revenue of Rs.50.71 lakh based on original assessment as shown below:

(Rupees in lakh)

Name of the charge	No. of cases	Period of assessment	Period of appellate order ranging between	Period of re-assessments due but not done	Amount involved
Asansol	3	March/1993 and March/1995	February/1996 and June/1997	February/2000 and June/2001	9.12
Postabazar	1	March/1995	September/1997	September/2001	2.97
Chinabazar	2	May/1995 and March/1996	December/1998	December/2000	30.67
Burtola	1	March/1993	December/1995	December/1999	5.31
Amratola	1	March/1993	November/1996	November/2000	2.14
Ezra Street	1	April/1984	April/1993	April/1997	0.50
Total	9				50.71

This was pointed out between September 2000 and March 2002. However, final reply has not been received (November 2002).

2.02.07 (a) Failure to initiate follow-up action for recovery of arrears following appellate order

Under the Sales Tax Laws in West Bengal, for default in payment of assessed dues, assessing officer is required to send the requisition to certificate officer for realisation of the dues under the Public Demand Recovery (PDR) Act. The Certificate Officer on receipt of the cases initiates proceeding for realisation of certificate dues.

Scrutiny of records in 53 charge offices under 6¹ circles revealed that assessed dues in 661 cases out of 4575 appeal cases disposed of as confirmed and modified involving revenue of Rs.44.95 crore including tax, penalty, interest up to March 2001, were yet to be realised, even after lapse of period ranging from one month to 65 months from the date of appellate order as shown below:

(Rupees in crore)

Mode of decision	No. of cases	Date of disposal of appellate order between	Delay in non-payment ranging between	Amount
Confirmed	422	September 1996 and December 2001	1 month and 58 months	35.54
Modified	239	June 1996 and November 2001	2 months and 65 months	9.41
Total	661	June 1996 and December 2001	1 month and 65 months	44.95

No certificate proceedings were initiated to realise the outstanding dues from the defaulting dealers resulting in blockage of revenue of Rs.44.95 crore.

¹ Asansol, Burrabazar, Corporate Division, Durgapur, Kolkata (North) and Midnapore.

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On this being pointed out (between June 2001 and March 2002), the department stated that the dealers were being further pursued to realise the dues.

(b) Delay in initiating certificate proceedings

Under the Sales Tax Laws in West Bengal, no time limit has been prescribed within which the assessing officer should initiate the certificate proceedings against a defaulter.

A test check of records of the following 5 charge offices under the Kolkata (North) circle revealed that in 61 cases there was delay varying from 1 month to 51 months in initiating certificate proceedings from the dates of notice issued for payment of due tax following the appellate order. Inordinate delay in initiating certificate proceedings resulted in blockage of revenue of Rs.3.59 crore as detailed below:

<i>(Rupees in crore)</i>						
Name of the charge	No. of cases	Appellate order issued between	Date of issuing demand notice period ranging between.	Certificate proceeding initiated between	Delay in initiation of certificate proceeding	Amount involved
Jorabagan charge	25	October 1996 & February 2001	April 1997 & February 2001	October 1997 & October 2001	1 month & 51 months	0.48
Jorasanko charge	16	July 1998 & May 2001	July 1998 & May 2001	May 1999 & September 2001	1 month & 23 months	2.75
Belgachia charge	7	September 1996 & July 2001	August 2000 & July 2001	December 2000 & January 2002	1 month & 16 months	0.12
Beadon Street charge	5	August 1998 & August 2001	March 2000 & October 2001	November 2001 & February 2002	2 months & 18 months	0.02
Postabazar charge	8	May 1997 & August 2000	October 1997 & September 2000	January 1999 & April 2001	3 months & 25 months	0.22
Total	61	September 1996 & August 2001	April 1997 & October 2001	October 1997 & February 2002	1 month & 51 months	3.59

This was pointed out between June 2001 and March 2002. Final reply has not been received (November 2002).

2.02.08 (a) Non-inclusion of interest in certificate demand

Under the Sales Tax Laws, while referring the cases to the Certificate Officer, the assessing officer is required to include upto date interest in his demand of tax, penalty, interest etc.

Scrutiny of appeal cases in the following 3 circles, revealed that in 27 cases the dealers failed to make payment of the assessed/re-assessed dues following the appellate order within the date specified in the demand notice, but certificate cases were initiated without inclusion of upto date interest. This

resulted in non/short levy of interest to the extent of Rs.82.50 lakh as shown below:

(Rupees in lakh)

Name of the circle	No. of cases	Date of appellate order ranging between	Date of initiation of certificate proceeding ranging between	Accrued interest leviable but not levied
Burrabazar	2	July 2000 and January 2001	September 2000 and July 2001	1.01
Kolkata (N)	23	April 1997 and March 2001	November 1999 and Sept 2001	61.35
Corporate Divn.	2	March 2001 and August 2001	July 1999 and January 2002	20.14
Total	27			82.50

On this being pointed out (between June 2001 and March 2002), the department did not furnish any reply.

(b) Non-levy of interest

Under Sales Tax Laws, if as a result of an appellate order, the amount of tax payable is modified, the dealer is liable to pay interest on the modified amount of tax at the prescribed rate from the first day of the next month following the due date specified in the demand notice of the assessment up to the month preceding the month of full payment of tax.

Scrutiny of records in 3² charge offices revealed (between June 2001 and March 2002) that interest of Rs.16.44 lakh was not levied though the amounts in the appeals were modified or confirmed in three cases by the appellate authority.

2.02.09 Rejected SOD cases not yet revived resulting in blockage of revenue

Under section 6 of the WBST (Settlement of Dispute) Act, 1999, the designated authority, on being satisfied about the correctness of particulars furnished by a dealer in his application with reference to the records available with the assessing/appellate authority, shall determine, by an order in writing, the amount of tax etc. payable by the applicant for the purpose of settlement of arrear tax in dispute etc. at the rate specified in the said Act.

Accordingly, it is obvious that the designated authority may reject the application, being dissatisfied with the correctness of the particulars furnished by the applicant. In the event of rejection, the said case is to be revived in the

² Corporate Division - I, Corporate Division - III and Manicktola.

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past form and dealt with by the appellate authority from which it was originated.

Scrutiny of records in the following 2 circles revealed that 179 applications for settlement under the SOD Act, 1999 were rejected by the designated authorities between September 1999 and December 2001 and the said cases were yet to be revived by the appellate authorities of the concerned circle even after a period of delay ranging between 1 month and 28 months as of December 2001, thus resulting in blockage of revenue of Rs.8.03 crore as shown below:

(Rupees in crore)

Name of the circles	No. of cases	Filing of appeal petition ranging between	Date of rejection of application ranging between	Period of delay in reviving appeal cases, ranging between	Money value involved
Kolkata(N)	142	July 1999 and November 1999	September 1999 and September 2001	4 months and 28 months	7.69
Burrahazur	37	July 1999 and November 1999	July 2000 and December 2001	1 month and 18 months	0.34
Total	179				8.03

On this being pointed out (between June 2001 and March 2002), the department agreed in the case of one circle to revive the rejected SOD cases but did not furnish reply in the case of other circle.

All the points mentioned in the foregoing paragraphs were reported to Government in June 2002, followed by reminders issued upto August 2002; their reply has not been received (November 2002).

2.03³ Incorrect determination of gross turnover

Under the Sales Tax Laws, a dealer is liable to pay tax at the prescribed rate(s) on the amount of turnover after allowing the permissible deductions.

Scrutiny of records of 16 charge offices in 7³ districts revealed (between September 1997 and October 2001) that gross turnover of 29 dealers in 30 cases was incorrectly determined (between June 1996 and February 2001) at Rs.820.81 crore instead of Rs.842.93 crore for the various periods between March 1994 and December 1998 due to short/non-inclusion of sale value, sales tax element of the goods sold, central excise duty, other income,

³ Burdwan, Birbhum, Darjeeling, Hooghly, Kolkata, Malda and Murshidabad.

miscellaneous income, sale of inadmissible stock transfer etc. in the gross turnover resulting in short determination of gross turnover of Rs.22.12 crore with consequent short levy of tax including turnover tax, additional sales tax, surcharge and additional surcharge of Rs.1.38 crore.

On this being pointed out (between September 1997 and October 2001), the department accepted the audit observation in 22 cases; of these in 14 cases proceedings for *suo motu* revision/recovery have been started, while 8 cases are in appeal. Final reply in respect of the remaining cases has not been received (November 2002).

Government to whom the cases were reported between December 1997 and November 2001, endorsed (May 2002) the views of the department in 4 cases; their reply in the remaining cases has not been received (November 2002).

2.04 Underassessment of tax due to incorrect deduction

(a) Under the State Act

Under the State Sales Tax Laws, in determining the taxable turnover of a dealer, a deduction on account of tax collected by him is allowable from the aggregate of sale prices in accordance with the prescribed formula. The Commissioner, Commercial Taxes, West Bengal, in a circular of December 1998 instructed all the assessing officers to restrict the deduction to the amount of sales tax collected by the dealers and included in their turnover.

Scrutiny of records of 24⁴ charge offices in the districts of Kolkata, Burdwan, South 24 Parganas and Howrah revealed (between August 2000 and November 2001) that 61 dealers in 69 cases in respect of assessment/re-assessment made between March 1997 and February 2001 for the years ending between March 1990 and March 2000, were allowed excess deduction of Rs.21.52 crore resulting in short levy of tax of Rs.2.48 crore including surcharge and additional surcharge.

On this being pointed out (between August 2000 and October 2001), the department accepted (between August 2000 and June 2002) audit observations

⁴ Alipore, Amratala, Asansol, Ballygunge, Baruipur, Bhowanipore, Beliaghata, Bowbazar, Burdwan, Chandney Chowk, Corporate Division-I, Corporate Division-II, Ezra Street, Fairlie Place, Jorabagan, Lyons Range, Manoharkatra, Park Street, Posta Bazar, Radhabazar, Salkia, Shibpur, Strand Road and Taltala.

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in 38 cases of which in 5 cases demands of Rs.11.53 lakh has been raised, in 33 cases proposals for revision of the assessments have been sent to the higher/appellate authority. Final report on recovery and reply of the remaining observations have not been received (November 2002).

Government to whom the cases were reported between October and November 2001, endorsed (May 2002) the views of the department in 3 cases; their reply in the remaining cases has not been received (November 2002).

(b) Under the Central Sales Tax Act, 1956

Under the Central Sales Tax Act, 1956, in determining the taxable turnover of a dealer, a deduction on account of tax collected by him is allowed from the aggregate of sale prices in accordance with the prescribed formula provided that the tax collected has not otherwise been deducted. However, the deduction is restricted to the amount of tax collected and included in the gross turnover of the dealer.

Scrutiny of records of 7 charge offices in 4⁵ districts revealed (between August 1997 and July 2001) that while assessing (between June 1995 and June 2000) 16 cases of 15 dealers for the years ending between March 1993 and March 1998, the assessing authorities allowed excess deduction of Rs.3.17 crore resulting in short levy of tax of Rs.25.62 lakh as detailed below:

(Rupees in lakh)

Name of the Charge	Period of assessment month of assessment/re-assessment	No. of dealers/ cases	Tax collected by the dealer	Deduction allowed by Department	Excess deduction allowed	Under- assessment of tax
Durgapur	Between March 1993 and March 1997 Between June 1995 and June 1999	3/3	129.81	224.78	94.97	7.25
Corporate Division-II	Between March 1996 and March 1998 Between June 1998 and June 2000	3/3	1308.00	1383.41	75.41	5.67
Siliguri	March 1996 Between April and June 1998	5/5	6.75	62.05	55.30	5.56
Bhowanipore	Between March 1995 and March 1996 Between January and May 1997	1/2	1.96	39.92	37.96	2.91
Strand Road	March 1996 September 1998	1/1	12.71	40.30	27.59	2.21
Ballygunge	March 1997 May 1999	1/1	Nil	18.06	18.06	1.44
Bankura	March 1997 June 1999	1/1	Nil	7.24	7.24	0.58
Total		15/16	1459.23	1775.76	316.53	25.62

⁵ Bankura, Burdwan., Darjeeling and Kolkata.

On the cases being pointed out (between August 1997 and July 2001), the department stated (between September 1997 and June 2002) that in 3 cases (Rs.7.31 lakh) proposal for re-opening/revision had been sent to the appellate authority, in one case (Rs.0.65 lakh) the matter had been referred to the appellate authority for consideration while in the remaining 12 cases (Rs.17.66 lakh) no specific reply was furnished.

The cases were reported to Government between December 1997 and October 2001 followed by reminders issued upto August 2002; their reply has not been received (November 2002).

2.05 Incorrect exemption on account of stock transfer

Under the Central Sales Tax Act, 1956 and the Rules made thereunder, a dealer claiming exemption from his turnover on account of transfer of goods outside the State otherwise than by way of sale, is liable to furnish declarations in form 'F' duly filled in and signed by the principal officer or his agent of the other place of business as a proof of transfer along with evidence of despatch. A single such declaration is required to cover transfer of goods effected during the period of one calendar month. Otherwise such transfer of goods is liable to be taxed at the normal rate.

Scrutiny of records in 3⁶ charge offices in Kolkata revealed (between October 2000 and March 2001) that while assessing (between March 1998 and June 2000) 15 dealers in 15 cases for the years ending between March 1996 and March 1998, the dealers' claims of stock transfer of goods to their branches outside the State were allowed for Rs.262.68 crore on the basis of declarations in form 'F'. An examination of the declarations, however, disclosed that out of the total allowed claim of Rs.262.68 crore, an amount of Rs.25.17 crore was not admissible which resulted in short levy of tax of Rs.1.15 crore inclusive of surcharge and additional surcharge as detailed below:

⁶ Bhowanipore, Corporate Division I and Corporate Division II

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(Rupees in crore)

Name of the Charge	Period of assessment/month of assessment	No. of dealers/cases	Value of stock transfer	Nature of observations	Amount Involved	Short levy of tax
Corporate Division-I	<u>March 1998</u> Between March and June 2000	12/12	249.66	(i) 115 transactions made to 41 fake/non existent dealers involving Rs.12.60 crore (ii) Rs.2.69 crore allowed in excess due to mistake (iii) An amount of Rs.0.04 crore relates to post-assessment period	15.33	0.71
Bhowanipore	Between March 1996 <u>and March 1997</u> Between March 1998 and March 1999	2/2	9.71	The entire amount not supported by "F" Forms	9.71	0.43
Corporate Division-II	<u>March 1998</u> June 2000	1/1	3.31	An amount of Rs.0.13 crore covered transactions relating to more than one calendar month	0.13	0.01
Total		15/15	262.68		25.17	1.15

On this being pointed out (between October 2000 and March 2001), the department accepted audit observation (between October 2000 and October 2001) in 12 cases and proposed for revision/*suo motu* revision of these cases to the higher/appellate authority, in one case the department stated that claim for exemption was as per 'F' forms. The reply is not tenable as individual 'F' forms covered transfer of goods relating to more than one calendar month which is not admissible under the Act. In the remaining two cases final reply has not been received (November 2002).

The cases were reported to Government between April and October 2001 followed by reminders issued upto August 2002; their reply has not been received (November 2002).

2.06 Incorrect allowance of concessional rate of tax

Under the Sales Tax Laws, a dealer is eligible for concessional rate of tax for sales of goods to registered reseller and manufacturer dealers if such sales are supported by prescribed declaration forms obtainable from the purchasing dealers. Further, intra-state as well as inter-state sales of goods to Government departments are also exigible to tax at the concessional rate subject to

production of prescribed certificate obtainable from the purchasing Government departments.

Scrutiny of records of 14⁷ charge offices in 8⁸ districts revealed (between September 1997 and July 2001) that in assessing (between June 1996 and March 2001) 25 cases of 23 dealers the assessing authority incorrectly levied tax at concessional rate instead of prescribed rate as the sales were either not supported by the requisite forms or were made to non-Government organisations resulting in short levy of tax including surcharge and additional surcharge of Rs.1.98 crore as detailed below:

(Rupees in crore)				
Period of assessment/date of assessment	No. of dealers/cases	Nature of observations	Excess allowance	Tax effect
Between March 1994 and March 1998 Between June 1996 and June 2000	15/17	Sales valued at Rs.105.48 crore were made to registered dealers out of which an amount of Rs.27.70 crore was not supported by form 11, 12 and C	27.70	1.20
Between March 1994 and March 1998 Between June 1996 and March 2001	8/8	Sales valued at Rs.19.64 crore were made to 12 Government departments but an amount of Rs. 11.32 crore was not covered by requisite certificate/declaration form 'D'	11.32	0.78
Total	23/25		39.02	1.98

On this being pointed out (between September 1997 and July 2001), the department accepted the audit observation (between September 1997 and June 2002) in 6 cases out of which demand notices in respect of 2 cases have been issued while other 4 cases have been proposed for revision to the higher/appellate authorities. Final reply in the remaining cases has not been received (November 2002).

All the cases were reported to Government between December 1997 and October 2001 followed by reminders issued upto August 2002; their reply has not been received (November 2002).

⁷ Alipore, Asansol, Behala, Budge Budge, Corporate Division-I, Corporate Division-II, Jalpaiguri, Kadamtola, Krishnagar, Naren Dutta Sarani, Postabazar, Serampore, Siliguri and Suri.

⁸ Birbhum, Burdwan, Darjeeling, Hooghly, Jalpaiguri, Kolkata, Nadia and South 24 Parganas.

2.07 Non/short levy of penalty

Under the Sales Tax Laws of West Bengal, if a dealer has concealed any turnover or furnished incorrect particulars thereof with an intention to reduce the amount of tax payable by him, the Commissioner may impose by way of penalty a sum which shall not be less than one and a half times and not more than thrice the amount of tax that would have been avoided by him. According to the instructions (June 1991) of the Commissioner of Commercial Taxes, West Bengal where the assessing officer did not initiate penal proceedings in a case, he should record the reasons for not doing so.

Scrutiny of records of 12⁹ charge offices in Kolkata revealed (between September 2000 and June 2001) that 37 dealers in 40 cases had either concealed sales/purchases or made claim of exemption on fake stock transfer aggregating Rs.64.72 crore. Though the department levied tax, penalty of Rs.4.87 crore was not levied or levied short.

On this being pointed out (between September 2000 and June 2001), the department accepted audit observations (between December 2000 and June 2002) in 3 cases, of these penal proceedings in 2 cases were initiated, while in other case the proposal for *suo-motu* revision was sent to the higher authorities. Audit observation in one case was not accepted on the grounds that while remanding the case there was no mention for levy of penalty. The contention of the department is not tenable as the dealer had filed a nil return to avoid payment of tax and was later liable to pay tax as such penalty proposal should have been discussed in the assessment order. Final reply in the remaining case has not been received (November 2002).

The cases were reported to Government between January and August 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

2.08 Application of incorrect rate of tax

Under the Sales Tax Laws in West Bengal, rate of tax depends on status of sales, sales to registered or unregistered dealers and also on the nature of goods/commodities sold.

⁹ Amratala, Armenian Street, Bhowanipore, Bowbazar, Corporate Division-I, Ezra Street, Jorabagan, New Market, Park Street, Posta Bazar, Princep Street and Rajakatra.

Scrutiny of records of 11 charge offices in 6¹⁰ districts revealed (between September 1998 and July 2001) that in 26 cases of 26 dealers in respect of assessments made between May 1997 and August 2000 for various periods ending between March 1995 and March 1998, there was short levy of tax of Rs.80.66 lakh inclusive of surcharge and additional surcharge due to application of incorrect rate of tax.

On the cases being pointed out (between September 1998 and July 2001), the department stated (between October 1998 and June 2002) that in 2 cases (Rs.2.52 lakh) proposal for revision had been sent to the appellate/higher authority, in 2 cases (Rs.9 lakh) revised demand notices had been issued, in 15 cases (Rs.42.36 lakh) no specific reply was furnished while in the remaining case (Rs.6.78 lakh) the tax was charged at general rate due to absence of categorical specification. The reply is not tenable as the goods in consideration was a schedule IV goods viz. dressed meat in sealed container attracting tax at the rate of 20 per cent. Reports on realisation and final action taken have not been received (November 2002).

The cases were reported to Government between February 1999 and September 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

2.02 Mistake in computation of tax

Scrutiny of records of 4 charge offices in the districts of Kolkata and Burdwan revealed (between May 2000 and March 2001) short realisation of tax including surcharge and additional surcharge of Rs.45.37 lakh due to mistake in computation in 8 cases of 8 dealers.

On this being pointed out (between May 2000 and March 2001), the department stated (between June 2000 and June 2002) that in 2 cases (Rs.21.52 lakh) revised demand notices had been issued, in 5 cases (Rs.22.85 lakh) proposal for revision/review had been sent to the higher/appellate authority while in the remaining case (Rs.1 lakh) the observation had been communicated to the appellate authority for consideration.

¹⁰ Birbhum, Burdwan, Darjeeling, Kolkata, North 24 Parganas and South 24 Parganas.

Government to whom the cases were reported between July 2000 and May 2001 endorsed (May 2002) the views of the department in 6 cases; their reply in the remaining cases has not been received (November 2002).

2.10 Short realisation due to incorrect credit

Under the Sales Tax Laws in West Bengal, a dealer is required to pay tax on the basis of self-assessment before furnishing return of his sales. The amount of tax so paid is adjusted against the tax assessed at the time of regular assessment.

Scrutiny of assessment records in respect of 2¹¹ charge offices in Kolkata revealed (between October 2000 and March 2001) that in assessing (June 2000) 3 cases of 3 dealers, the assessing officers accorded credit of tax of Rs.14.29 crore instead of actual amount of tax of Rs.13.98 crore paid by the dealers for the year ending March 1998. This resulted in allowance of excess credit of Rs.30.50 lakh with consequent short realisation of tax by identical amount.

On this being pointed out (between October 2000 and March 2001), the department stated (between December 2000 and June 2002) that in one case (Rs.5 lakh) revised demand notice had been issued while in the remaining 2 cases (Rs.25.50 lakh) proposal for *suo motu* revision had been sent to the appellate/higher authority.

Government to whom the cases were reported between April and October 2001, endorsed (May 2002) the views of the department in 2 cases; their reply in the remaining case has not been received (November 2002).

2.11 Non/short levy of surcharge/additional surcharge

Under the West Bengal Sales Tax Act, 1994, every dealer liable to pay sales tax is also liable to pay a surcharge at the rate of ten per cent on the total amount of sales tax payable by him with effect from 1 May 1995 and a dealer, liable to pay surcharge, is also liable to pay an additional surcharge at the rate

¹¹ Corporate Division – I and Corporate Division – II.

of five per cent on the total amount of tax payable by him with effect from 1 May 1997. These stand abolished with effect from April 2000.

Scrutiny of records of 10¹² charge offices in the districts of Kolkata, Burdwan, South 24 parganas and Hooghly revealed (between March 2000 and June 2001) that in assessing (between June 1998 and January 2001) 18 dealers in 20 cases for the years ending between March 1996 and March 1999, though a tax of Rs.2.60 crore was levied, but surcharge and additional surcharge were either not levied or levied short. This resulted in non/short levy of surcharge/additional surcharge of Rs.16.89 lakh.

On this being pointed out (between March 2000 and June 2001), the department stated (between March 2000 and June 2002) that 5 cases (Rs.3.89 lakh) had been referred to Tax Recovery Officer for realisation, in 3 cases (Rs.3 lakh) proposal for reopening/*suo motu* revision had been sent to the appellate authority. In 4 cases (Rs.5.06 lakh) the matter of non/short levy of surcharge/additional surcharge had been informed to the appellate authority for consideration, in 8 cases (Rs.4.94 lakh) no specific reply was furnished.

Government to whom the cases were reported between June 2000 and September 2001, endorsed (May 2002) the views of the department in 2 cases; their reply in the remaining cases has not been received (November 2002).

2.12. Misclassification of goods resulted in short levy of tax

Under the West Bengal Sales Tax Act, 1994, sale of cotton waste, being general goods, is taxable at the rate of 12 per cent with effect from 1 May 1995 and sale of chemicals to unregistered dealer attracts levy of tax at the rate of 12 per cent. From 15 July 1996 such chemicals were continued to be taxed at the rate of 5 per cent.

Scrutiny of records of the Assistant Commissioner, Commercial Taxes, Bowbazar and Ballygunge charges in Kolkata, revealed (between March 2000 and May 2001) that while assessing (between June 1998 and June 2000) 4 cases of 2 dealers for the years ending between March 1996 and March 1998,

¹² Alipore, Armenian Street, Asansol, Ballygunge, Behala, Bowbazar, Lalbazar, Park Street, Serampore and Taltala

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exemptions were allowed in 3 cases of a dealer on sale of cotton waste valued at Rs.1.30 crore treating the commodity as exempted goods and in one case sale of leather chemicals valued at Rs.80 lakh was taxed at 4 per cent treating them incorrectly as finished leather goods. This misclassification resulted in short levy of tax of Rs.20.06 lakh inclusive of surcharge and additional surcharge.

On this being pointed out (between March 2000 and May 2001), the department stated (between March 2000 and June 2002) that 3 cases involving Rs.17.36 lakh had been sent to the higher authority for revision and in the remaining case no specific reply was furnished. Report on final action taken has not been received (November 2002).

All the cases were reported to Government between April 2000 and July 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

2.13¹³ Non/short raising of demand

Under Rule 181 of the WBST Rules, 1995, the assessing authority shall serve a notice of demand in the prescribed form to the dealer after final assessment showing the amount of demand for tax, interest, penalty etc. specifying the date of payment therein.

Scrutiny of records of 4¹³ charge offices in Kolkata revealed (between September 2000 and May 2001) that in assessing (between September 1996 and June 2000) 4 dealers for the periods ending between September 1987 and March 1998, tax including interest were assessed for Rs.53.58 lakh whereas demand notices were issued for Rs.5.50 lakh. This resulted in non/short raising of demand of Rs.48.08 lakh.

On this being pointed out (between September 2000 and May 2001), the department stated (between September 2000 and June 2002) that in one case (Rs.1.06 lakh) revision proposal had been sent to the appellate authority, in 2

¹³ College Street, Corporate Division-II, Esplanade and Posta Bazar.

cases (Rs.45.94 lakh) fresh demand notice had been/was being issued while in the remaining case (Rs.1.08 lakh) no specific reply was furnished.

The cases were reported to Government between November 2000 and October 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

2.14 Non/short levy of purchase tax

Under the Sales Tax laws, a manufacturer dealer is liable to pay purchase tax at the rate of four per cent on all his purchases of goods from unregistered dealers, intended for direct use in manufacture of goods for sale in the State of West Bengal. Similarly, a dealer who is an occupier of a jute mill or a shipper of jute is liable to pay tax at the rate of four per cent on all his purchases of raw jute effected in West Bengal.

Scrutiny of records of 7¹⁴ charges in Kolkata and Murshidabad revealed (between September 2000 and May 2001) that 7 dealers purchased goods valued at Rs.15.29 crore for direct use in the manufacture of goods for sale in the State. However, of this, the purchases valued at Rs.0.81 crore were only accounted for and taxed (between April 1997 and March 2000) by assessing authority. This resulted in short determination of purchase turnover of Rs.14.48 crore. In addition, one dealer purchased raw jute valued at Rs.0.26 crore in the State without paying any tax.

This resulted in non/short levy of tax of Rs.59 lakh on escaped turnover of Rs.14.74 crore.

All the cases were reported to Government between November 2000 and August 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

2.15 Non/short levy of interest

Under the Sales Tax Laws, a dealer (i) who furnishes return in respect of any period by the prescribed date or thereafter but fails to make full payment of tax payable in respect of such period by such prescribed date or (ii) fails to furnish return in respect of any period by the prescribed date or thereafter before

¹⁴ Ballygunge, Beliaghata, Burtola, Berhampore, Bhowanipore, Corporate Division-I and Fairlie Place.

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assessment in respect of such period and on such assessment full amount of tax payable for such period is found not to have been paid by him by such prescribed date or (iii) fails to make payment of any tax demanded after assessment by the date specified in the demand notice, is liable to pay simple interest at the prescribed rate for each calendar month of default.

Scrutiny of records of 26 charge offices in 8¹⁵ districts revealed (between July 1997 and July 2001) that while assessing (between May 1994 and March 2001) 102 dealers in 135 cases for various periods ending between March 1990 and May 1999, interest of Rs.9.76 crore though leviable for non-payment/delayed payment of assessed/advance tax of Rs.22.80 crore was either not levied or levied short.

On this being pointed out (between July 1997 and July 2001), the department accepted (between July 1997 and June 2002) the audit observations in 70 cases, of these, 36 cases were referred to the Tax Recovery Officer for realisation of the amount, while in 34 cases proposal for *suo motu* revision has been sent to higher authority.

Final reply in the remaining cases has not been received (November 2002).

Government to whom the cases were reported between August 1997 and September 2001, endorsed (May 2002) the views of the department in 26 cases; their reply in the remaining cases has not been received (November 2002).

¹⁵ Birbhum, Burdwan, Darjeeling, Hooghly, Howrah, Kolkata, Midnapore and South 24 Parganas.

CHAPTER 3 LAND REVENUE

3.01 Results of audit

Test check of records of land revenue in District Land and Land Reforms Offices conducted in audit during the year 2001-2002, revealed non/short realisation of revenue amounting to Rs.33.53 crore in 118 cases, which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1	Non-levy/non-realisation of damage fee due to unauthorised occupation of Government land	14	0.82
2	Non-settlement of land	3	0.04
3	Non-levy and non-realisation of rent, salami and cess	26	2.28
4	Irregular transfer of land	4	0.56
5	Loss of revenue due to non-leasing of sairati interest	28	3.13
6	Other cases	43	26.70
Total		118	33.53

During the course of the year 2001-2002, the concerned department accepted underassessments etc. of Rs.27.12 crore involved in 87 cases of which 71 cases involving Rs.26.86 crore had been pointed out in audit during the year 2001-2002 and the rest in earlier years. An amount of Rs.48.09 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.21.36 crore highlighting important observations are given in the following paragraphs:

3.02 Loss of revenue due to non-execution of long term lease

Under the provisions of the West Bengal Land and Land Reforms Manual, 1991, the process of settlement of long term lease is to be completed ordinarily within 5 months from the date of application.

Scrutiny of records of the District Land and Land Reforms Officer, Darjeeling and South 24 Parganas revealed (between December 2000 and June 2001) that

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two organisations viz. Siliguri-Jalpaiguri Development Authority (SJDA) and Ganapati Greenfield Private Ltd. had applied (between February 1994 and January 1997) for long term lease settlement of 109.52 acres of non-agricultural land for three separate purposes. The process of settlement of long term leases were not completed. This resulted in non-realisation of Rs.11.33 crore as annual rent for the period between August 1994 and March 2002 including *salami* of Rs.7.64 crore.

On these being pointed out (between December 2000 and June 2001) the DL & LRO, Darjeeling stated (July 2002) that in one case transfer proposal for 6.02 acres of land had been sent to Government in March 2002 for approval; the other case was under process, while DL & LRO, South 24 Parganas stated (July 2002) that the long term settlement proposal was pending with the Government. Report on final disposal has not been received (November 2002).

The cases were reported to Government between July and August 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

3.03 Non-realisation of rent and salami

Under the provisions of the West Bengal Land and Land Reforms Manual, 1991, if the Government lands remained in possession of person/persons for less than a period of twelve years without any lease, such persons, may be offered long term settlement on realisation of rent and *salami* as per rule. In case of refusal by the occupiers for regularisation of their unauthorised possession of Government land through lease agreement they are to be evicted as per laws.

Scrutiny of records of the District Land and Land Reforms Officer, Darjeeling revealed (December 2000) that in 13 cases 344.38 acres of Government land had been under unauthorised occupation on different periods from 1994-1995 to 1999-2000 involving market value of Rs.2.40 crore. But the department neither settled the land on long term lease nor evicted the unauthorised occupiers though in two cases long term proposals were received in May and

June 1999. This led to non-realisation of Government revenue of Rs.1.45 crore (rent Rs.48.70 lakh and *salami* Rs.96.17 lakh).

On this being pointed out in December 2000 the district authority stated (July 2002) that initiative would be taken to settle the cases on long term lease basis.

The cases were reported to the Government in July 2001 followed by reminder issued up to August 2002; their reply has not been received.

3.04 Non-realisation of rent and *salami* in giving advance possession of land

Under the provisions of the West Bengal Land and Land Reforms Manual, 1991, vested non-agricultural lands may be settled on long term lease basis for thirty years on realisation of annual rent to be fixed by the Collector at four per cent of the market value of land and *salami*, in lump, at ten times the annual rent. There is, however, no specific provision in the manual for giving advance possession of Government land without realising prescribed rent and *salami* in advance.

Scrutiny of records of 3¹ District Land and Land Reforms Offices revealed (between November 2000 and August 2001) that 23.545 acres of land had been handed over (between July 1987 and October 1999) to 5 Non-Government Organisations and one voluntary organisation without entering into any lease agreement. This resulted in non-realisation of rent of Rs.1.30 crore and *salami* of Rs.1.15 crore.

On these being pointed out the DL & LRO, Darjeeling stated (July 2002) that the lease case of North Bengal State Transport Corporation, Coochbehar had been sent to Government and in other case the Chief Executive Officer, Siliguri-Jalpaiguri Development Authority (SDJA) had been asked to pay the amount, while in the remaining cases all the other DL & LROs did not furnish any specific reply. Report on action taken has not been received (November 2002).

The cases were reported to Government between July and November 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

3.05 Non-realisation of revenue due to irregular transfer of Government land

Under the provisions of the West Bengal Land Reforms Manual, 1991, proposals for transfer of Government lands to local authorities, statutory bodies and public undertakings may be considered by the Board of Revenue. In case the land is possessed by other departments of the State Government, the Board of Revenue will ask that department through the Land and Land Reforms Department to relinquish the land to the latter, if they have no objection to the proposal. The land will then be leased out by the Board on realisation of rent and *salami* as per rules.

Scrutiny of records of the District Land and Land Reforms Office, Darjeeling revealed (December 2000) that 5.14 acres of khas land (non-agricultural) had been handed over to the National Dairy Development Board (NDDB), a statutory body, by the Animal Husbandry and Veterinary Services department direct in August 1982 for the purpose of establishment of Eastern Regional Demonstration and Training Centre without relinquishing the same in favour of the Board of Revenue for onward leasing out of the land on realisation of rent and *salami*. In November 1999, the NDDB requested for recording the land in their favour. The proposal for long term lease was, however, not initiated till December 2000.

As the land had already been handed over irregularly to NDDB in August 1982, an amount of Rs.39.43 lakh (rent : Rs.25.35 lakh and *salami*: Rs.14.08 lakh) remained unrealised from the body for the period from 1982-2000.

On this being pointed out (December 2000) the district authority did not furnish any specific reply.

The matter was reported to Government in July 2001 followed by reminder issued up to August 2002; their reply has not been received (November 2002).

3.06 Non/short assessment and non/short realisation of cesses and surcharge from patta holders

As per provisions of the Cess Act, 1880, read with the West Bengal Primary Education Act, 1973, road cess, public works cess and education cess are leviable and realisable on land rent payable by the Raiyats. The West Bengal

Rural Employment and Production Act, 1976 provides for levy of rural employment surcharge at prescribed rate on land rent. Raiyats exempted from payment of land rent are liable to pay all the above cesses and rural employment surcharge.

Scrutiny of records of 5² District Land and Land Reforms Offices revealed (between January 1997 and June 2001) that in 68 Block Land and Land Reforms offices a total area of 6,06,804.52 acres of vested land was distributed to the landless persons on raiyati basis between 1994-1995 and 1999-2000 for which pattas were given. The patta holders of such distributed land were liable to pay other cesses and rural employment surcharge of Rs.25.62 lakh on the notional rent of the land out of which only a sum of Rs.2.32 lakh had been realised. This resulted in non/short assessment and non/short realisation of cess and surcharge of Rs.23.30 lakh.

On this being pointed out (between January 1997 and June 2001) the department recovered (July 2002) an amount of Rs.0.29 lakh in two districts but did not furnish any reply for realisation of the balance amount (November 2002).⁵

The cases were reported to Government between April 1997 and August 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

3.07 Loss of revenue due to non-settlement of *sairati* interests

Under the provisions of the West Bengal Land and Land Reforms Manual, 1991 all *sairati*³ interests like fisheries, khal etc. should be leased out on year to year basis, but not exceeding seven years. The Collector has to fix the economic lease rent and to realise twenty five per cent of the same at the time of settlement of *sairati* interests and the balance before the beginning of the year. Rents for the successive years are to be deposited by the lessee in full before the beginning of the respective year and a lease agreement is required to be executed beforehand.

² Burdwan (East), Nadia, Purulia, South 24 Parganas and Tamluk

³ Derived from the word *sair*. The duties which the owners of hat, bazar, markets, ferries, fisheries etc. used to levy on commodities sold or benefits derived in those places were designated as *sair* collections. Such hats, ferries, fisheries etc. are known as *sairati* interests.

Scrutiny of records of 2⁴ District Land and Land Reforms Offices revealed (between January 1999 and June 2001) that 321.33 acres water areas classified as khal fisheries and other *sairati* interests were not settled on lease basis during the period from 1995-1996 to 1999-2000 resulting in loss of revenue of Rs.11.39 lakh.

On this being pointed out (between January 1999 and June 2001) the department stated that action would be taken to lease out the *sairati* interests. Report on action taken has not been received (November 2002).

The cases were reported to Government between March 1999 and August 2001, followed by reminders issued up to August 2002; their reply has not been received (November 2002).

3.08 Non-realisation of rent and interest

Under the provisions of the West Bengal Land Reforms Manual, 1991, rent is payable yearly and arrear rent bears a simple interest at the rate of 6.25 per cent per annum, from the expiry of the Bengali year in which the rent falls due. Arrears of rent with interest shall be realisable as a public demand by the certificate proceedings.

Scrutiny of records of 3⁵ District Land and Land Reforms Offices revealed (between August 2001 and September 2001) that annual lease rent in 11 cases had not been paid by the lessees for different periods between 1992-1993 and 2000-2001. No action to recover the same was taken by the district authorities. This resulted in non-realisation of rent and interest of Rs.7.09 lakh including interest of Rs.0.72 lakh.

On this being pointed out (between August and September 2001) the department stated (July 2002) that an amount of Rs.1.65 lakh has been realised in 5 cases. Report on recovery of the remaining cases has not been received.

The cases were reported to Government between September and November 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

⁴ Hooghly and South 24 Parganas

⁵ Bankura, Midnapore and Murshidabad

3.09 Non-realisation of Government revenue due to non-renewal of lease agreement

Under the provisions of the West Bengal Land and Land Reforms Manual, 1991, non-agricultural khas land may ordinarily be settled on long term lease basis for a maximum period of thirty years. The lessee is, however, entitled to an option of successive renewal of the lease for equal period. At the time of renewal of lease, rent shall be fixed at 4% of the current market value of the land for industrial or commercial purposes. In case of residential purposes such rent shall be 15 times the annual rent previously payable or 4% of the market price of the land at the time of renewal of the lease, whichever is less.

Scrutiny of records of 2⁶ District Land and Land Reforms Offices revealed (between February 1998 and December 2000) that in 5 long term leases holders continued to occupy the leased area though it had expired between July 1990 and January 1998. The lease was not renewed resulting in non-realisation of revenue of Rs.7.16 lakh.

On this being pointed out (between February 1998 and December 2000) the department stated that in 4 lease cases in Darjeeling, action to renew would be taken while in the remaining lease case of North 24 Parganas, the lease could not be renewed due to some internal problems of the company. However, the fact remains that lack of timely action on the part of the department resulted in non-realisation of Government revenue of Rs.7.16 lakh.

The cases were reported to Government between July 1998 and July 2001 followed by reminder issued up to August 2002; their reply has not been received (November 2002).

3.10 Non/short realisation of establishment charges and contingent charges

Under the provisions of the West Bengal Land Acquisition Manual, 1991, whenever land is acquired for a company or a local authority the establishment charges, contingent charges and law charges should be assessed on the cost of acquisition and realised at the prescribed rates⁷ from the requiring bodies.

⁶ Darjeeling, North 24 Parganas

⁷ Establishment charges – 8 to 18 percentum, contingent charges – 2 to 7 percentum and law charges 1 to 15 percentum with a minimum of Rs.100 and a maximum of Rs.10000.

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Scrutiny of records of 9th Special Land Acquisition Offices revealed that in 17 cases out of 22, establishment charges, contingency charges and law charges for acquisition of land on behalf of different non-Government/Central Government department were not included in the compensation award, while in the remaining 5 cases, said charges were levied on the land value only but not on buildings. This resulted in non/short levy of incidental charges of Rs.3.17 crore.

On this being pointed out (between June and November 2001) the department admitted (between June and December 2001) the mistake in 8 cases and in the remaining 14 cases furnished no specific reply. Action taken to recover the amount has not been intimated.

The cases were reported to Government in April 2002, followed by reminders issued upto August 2002; their reply has not been received (November 2002).

3.11^{*} Non/short realisation of Capitalised Value of land**

The West Bengal Land Acquisition Manual, 1991, provides that in case of acquisition of land on behalf of non-Government organisation and Central Government department, capitalised value of land revenue is to be assessed on the basis of the cost of the land and is worked out in accordance with the prescribed rates. This was to be realised from the requiring bodies.

(a) Scrutiny of records of the following 3 Special Land Acquisition Offices revealed that in 3 cases out of 24 cases relating to Central Government department, capitalised value of land revenue of Rs.1.18 lakh were not assessed and demanded while in the remaining 21 cases there was short assessment of capitalised value of land revenue of Rs.23.33 lakh as shown below:

^{*} Burdwan, Dakshin Dinajpur, Darjeeling, Hooghly, Howrah, Kolkata, Malda, North 24 Parganas and South 24 Parganas.

(Rupees in lakh)

District	Name of requiring body	No. of LA cases involved Year	Cost of land	Amount of capitalised value		
				Realisable	Realised	Short realisation
Malda	Central Public Works Department	19 1991-92 and 1994-95	70.09	10.32	0.08	10.24
	Border Security Force	1 1988-89	19.15	3.64	0.01	3.63
North 24 Parganas	Central Public Works Department	3 1999-2000	8.54	1.18	--	1.18
Howrah	South Eastern Railway	1 1990	64.95	12.79	4.51	8.28
Total		24		27.93	4.60	23.33

On this being pointed out (between June and October 2001), the department admitted (between June and October 2001) the mistake in 20 cases and no specific reply/report on recovery has been furnished in the remaining 4 cases.

(b) As per provisions of the West Bengal Land Acquisition Manual, 1991, capitalised value of land revenue in the case of acquisition of land on behalf of a company or local authority financially independent of Government, shall be 35 times of the annual amount of land revenue.

Scrutiny of records of the following 7 Special Land Acquisition Collectors revealed that in 24 cases, relating to acquisition of land on behalf of different company/local authority, the capitalised value of land revenue was assessed less instead of 35 times of annual amount of land revenue. This resulted in short assessment of revenue of Rs.1.15 crore as shown below:

(Rupees in lakh)

Name of the district	Name of the Requiring Body	No. of cases involved	Annual amount of rent	Capitalised value		
				Realisable	Realised	Short realisation
Midnapore	Kolaghat Thermal Power Project	7	1.99	69.38	18.70	50.68
	Century Textiles & Industries Ltd.	1	1.59	55.80	39.86	15.94
	WBSEB	1	0.18	6.26	4.90	1.36
Howrah	Bharat Petroleum Corporation Ltd.	1	0.14	4.90	3.50	1.40
Burdwan	Indian Oil Corporation Ltd.	1	0.09	2.88	2.06	0.82
	Hindustan Petroleum Corporation Ltd.	1	0.05	1.70	1.21	0.49
	Bardhaman Zilla Parishad	2	0.70	24.18	-	24.18
	Eastern Coal fields Ltd.13.28	1	0.13	4.60	3.29	1.31
North 24 Parganas	WBSEB	1	0.09	3.28	2.34	0.94
Uttar-Dinajpur	Power Grid Corporation of India	1	0.04	1.57	1.12	0.45
Nadia	Nawadip Municipality	1	0.15	5.13	-	5.13
Darjeeling	Siliguri-Jalpaiguri Development Authority	1	0.89	31.09	22.21	8.88
	Airport Authority of India	1	0.04	1.25	0.89	0.36
	W.B.S.E.B.	3	0.13	3.93	2.81	1.12
	West Bengal Dairy & Poultry Development Corporation	1	0.05	1.75	-	1.75
Total		24		217.70	102.89	114.81

On this being pointed out (between June and October 2001) the local office furnished no specific reply.

The cases were reported to Government in April 2002, followed by reminders issued upto August 2002; their reply has not been received (November 2002).

3.12 Blockage of Government revenue towards stamp duty and registration fees

Under the provisions of the West Bengal Land Acquisition Manual, 1991, the land on acquisition vests absolutely in Government and in order to divest it and vest in the company for which the land is acquired, a deed of transfer in form IC should be executed which will be liable to stamp duty under the Indian Stamp Act, 1899, as amended from time to time. The costs are to be borne by the company.

Scrutiny of records of 2⁹ Special Land Acquisition Collector revealed (between June and August 2001) that in 10 cases land was acquired and possession thereof handed over to Balagar Power Company Ltd. and Siliguri-Jalpaiguri Development Authority on realisation (between May 1990 and September 2000) of compensation award of Rs.5.34 crore but no deed of transfer was executed and registered in favour of the requiring bodies till August 2001. This resulted in non-realisation of stamp duty and registration fee of Rs.32.55 lakh.

On this being pointed out (between June and August 2001), the department confirmed (June 2001) the fact and stated that 9 draft deeds had been sent to Government between January and June 2000 for execution while the remaining one case was under process.

The cases were reported to Government in April 2002, followed by reminders issued upto August 2002; their reply has not been received (November 2002).

3.13 Revenue realised but not credited to Government Account

Under the provision of the West Bengal Land Acquisition manual, 1991, whenever land is acquired for a company or a local authority, whole cost of acquisition including establishment charges, contingent charges and law charges and also the capitalised value of land revenue should be charged to such company or local authority. The amount of revenue as incorporated in

⁹ Darjeeling and Hooghly.

the compensation estimate are to be deposited in head of account '0029 Land Revenue'.

Scrutiny of records of 3¹⁰ Land Acquisition Offices revealed that in 7 cases 236.61 acres of land were acquired on behalf of CESC, HPCL, BSF and IOC and possession thereof were handed over to them on realisation of full compensation award of Rs.2.36 crore (between April 1998 and February 1999) which were kept under PL Account for payment. It was, however, noticed that establishment and contingent charges of Rs.36.75¹¹ lakh out of undisbursed balance of Rs.48.74 lakh were not credited to Government Account till September 2001.

On this being pointed out (between September and October 2001) the department stated (between September and December 2001) that the amount would be credited under the proper head of account.

The cases were reported to Government in April 2002, followed by reminders issued upto August 2002; their reply has not been received (November 2002).

¹⁰ Burdwan, South 24 Parganas and Uttar Dinajpur.

¹¹ Establishment and contingent charges – Rs.19.88 lakh, law charges – Rs.0.67 lakh and capitalised value – Rs.16.20 lakh.

CHAPTER 4 STATE EXCISE

4.01 Results of audit

Test check of records of State Excise revenue, conducted in district revenue wings during the year 2001-2002, revealed non/short realisation of excise duty amounting to Rs.1.75 crore in 18 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of excise duty on chargeable wastage of rectified spirit, non/short receipt of IMFL	5	0.83
2	Non/short recovery of privilege fee/additional fee/licence fee/transport pass fee etc.	7	0.37
3	Other cases	6	0.55
Total		18	1.75

During the course of the year 2001-2002, the concerned department accepted underassessments etc. of Rs.0.91 crore involved in 6 cases. All the cases had been pointed out in audit during the year 2001-2002. An amount of Rs.5.92 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.21.48 lakh highlighting important observations are given in the following paragraphs:

4.02 Evasion of privilege fee for storage of beer

Under the provisions of the Excise Rules, a licensee is required to pay a privilege fee at the rate of sixty paise for each quart bottle of beer for storage of the same in a private warehouse for the purpose of export or for removal to another bonded warehouse for export.

Scrutiny of records of the Superintendent of Excise, Nadia revealed (October 2001) that a licensee produced and stored in the private warehouse (between September 1998 and August 2001) a total quantity of beer of 25,41,564 quart

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bottles and exported these without payment of privilege fee. This resulted in evasion of privilege fee of Rs.15.25 lakh.

On this being pointed out (October 2001), the Superintendent of Excise, Nadia stated (October 2001) that necessary action would be taken to recover the amount. Report on further development has not been received (November 2002).

The case was reported to Government in November 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

4.03 Non/short realisation of establishment cost

Under the provisions of the Excise Rules, the licensee of a bonded warehouse is to pay to Government a monthly fee in cash equivalent to monthly cost comprising average pay, compensatory allowance and contributions towards leave salary and pension in respect of the excise establishment deployed in a warehouse.

Scrutiny of records of the Collector of Excise, Kolkata revealed (between December 2000 and January 2001) that arrear establishment cost due to revision of pay scale/DA etc., in respect of excise establishment deployed in 4 bonded warehouses and cost of one Sub-Inspector in one bonded warehouse had not been realised in full for various periods between January 1996 and December 2000 resulting in non/short realisation of establishment cost of Rs.6.23 lakh.

On this being pointed out (between December 2000 and January 2001), the Collector of Excise, Kolkata stated (between December 2000 and January 2001) that action would be taken for realisation of revenue.

Government to whom the matter was reported in May 2001 stated (May 2002) that Rs.2.79 lakh had been realised towards establishment cost in 3 cases. Report on realisation in the remaining case is awaited (November 2002).

CHAPTER 5 MOTOR VEHICLES TAX

5.01 Results of Audit

Test check of records in the offices of the Transport Department, conducted in audit during the year 2001-2002, revealed non/short realisation of revenue amounting to Rs.11.44 crore in 152 cases, which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl. No	Categories	No. of cases	Amount
1	Non/short levy/realisation of tax, fee and fine	94	3.17
2	Loss of revenue	46	4.58
3	Blockage of revenue	5	0.99
4	Other cases	7	2.70
Total		152	11.44

During the course of the year 2001-2002 the concerned department accepted underassessments etc. of Rs.5.81 crore in 64 cases of which 53 cases amounting to Rs.5.37 crore had been pointed out in audit during the year 2001-2002 and the rest in earlier years. An amount of Rs.10.45 lakh was realised at the instance of audit.

The results of a review on “Assessment, levy and collection of fees and fines on motor vehicles including those on National Permits” and a few illustrative cases involving Rs.10.56 crore highlighting important observations are given in the following paragraphs:

5.02 Review on “Assessment, levy and collection of fees and fines on motor vehicles including those on National Permits”

The findings of review on the procedure of assessment, levy and collection of fees and fines on motor vehicles including those on national permits and its effectiveness and deficiencies are discussed below:

Highlights

- i) *Failure of Enforcement wing to detect illegal plying of vehicles with expired certificate of fitness resulted in loss of revenue of Rs.3.44 crore.*
(Para 5.02.05)
- ii) *Delayed implementation of enhanced rate of different fees led to short realisation of revenue of Rs.81.20 lakh.*
(Para 5.02.06)
- iii) *Non-levy of fine on vehicles presented by the dealers for registration with lapsed trade certificates led to loss of revenue of Rs.45.92 lakh.*
(Para 5.02.08)
- iv) *Short realisation of composite fees from national permit holders amounting to Rs.42.67 lakh.*
(Para 5.02.13)
- v) *Discrepancy between receipts and disposal of bank drafts and resultant blockage of revenue of Rs.1.03 crore.*
(Para 5.02.14(a))
- vi) *Delayed remittance of lapsed bank drafts to the State Bank of India led to loss of interest of Rs.42.08 lakh.*
(Para 5.02.15)

5.02.01. Introduction

The criteria for regulation of different kinds of fees on motor vehicles viz. grant and renewal of registration certificate/assignment of new registration marks/certificate of fitness/driving licence/trade certificates etc., including the composite fee for issue of National Permit are enjoined in the Central Motor Vehicles Rules, 1989 and fees for issue and renewal of permits and temporary registration fees are regulated by the West Bengal Motor Vehicles Rules, 1989. The Motor Vehicles Act, 1988 prescribes fines for contravention of the provisions of this Act or Rules or Notifications made thereunder and empowers the State Government for composition of certain offences.

5.02.02 Organisational set up

Subject to the provisions of the Motor Vehicles Act, 1988, the Transport Department of West Bengal administers laws relating to Motor Vehicles in this State. For administrative convenience the entire State is divided into 26 regions. The Principal Secretary is in overall charge of the Transport

Department. The Director, Public Vehicles Department (PVD), and the Regional/Additional Regional Transport Officers (RTOs/ARTOs) under the District Collectors perform the duties and functions of registering authority, licensing authority and taxing officer for Kolkata region and each district respectively. The Secretary, State Transport Authority (STA), West Bengal is responsible for issuing national permit, inter-state permit, tourist permit etc.

The regional officers as registering/licensing authority collect, on the basis of Act and Rules, different fees viz., registration fee, certificate of fitness fee, permit fee etc. The motor vehicle inspectors (Non-Technical) collect fine for offences for contravention of the provisions of the Act, Rules and notifications.

5.02.03 Scope of Audit

With a view to ascertaining the assessment, levy and collection of fees and fines a review on test check of relevant records of 16 Regional Transport Offices including the activities of the enforcement wings and of State Transport Authority, West Bengal covering the period from 1996-97 to 2000-2001, was conducted between April 2001 and February 2002. The deficiencies in violation of rules and other procedural lapses detected in audit have been highlighted below:

5.02.04 Trend of revenue

The budget estimate and actual collection of revenue under the major head 0041-Taxes on vehicles were as follows:

<i>(Rupees in crore)</i>			
Year	Budget estimate	Actual collection of revenue	Percentage of excess/shortfall (+) Increase (-) Decrease
1996-1997	125.00	134.27	(+) 7.42
1997-1998	145.00	147.92	(+) 2.00
1998-1999	161.70	158.07	(-) 2.24
1999-2000	200.00	185.56	(-) 7.22
2000-2001	206.00	282.53*	(+) 37.15*

* As per Budget Publication for the year 2002-03 an amount of Rs.94.02 crore was wrongly booked under 0041 – Taxes on vehicles.

The department did not maintain any separate account for collection of fees and fines on motor vehicles; as such excess/shortfall thereof could not be ascertained.

5.02.05 Failure of the Enforcement wing to detect illegal plying of vehicles with expired certificate of fitness

Under the Motor Vehicles Act, 1988, no transport vehicle can ply without a valid certificate of fitness (CF). For renewal of certificate of fitness the owner of a vehicle is required to apply one month in advance of its expiry. In accordance with the notification issued in July 1995, Government prescribed fine on vehicles plying without CF which may be compounded by the enforcement authorities at the rate of Rs.3000/- on goods carriages.

Scrutiny of records in 14¹ Regional offices revealed (between June 2001 and February 2002) that 11425 goods carriages renewed their CFs between 1996-97 and 2000-2001 after a lapse ranging between 17 days and 6 years 10 months. Due to lack of internal control, enforcement authorities failed to detect the illegal plying of goods carriages on road without CFs. This resulted in loss of revenue of Rs.3.44 crore.

On this being pointed out (between June 2001 and February 2002) the department confirmed (between June 2001 and February 2002) the audit observation in 8² regions while in other 4³ regions it was stated (between September 2001 and January 2002) that action would be taken after scrutiny. The RTO, Nadia and Hooghly did not furnish any specific reply.

5.02.06 Delayed despatch of notification led to short realisation of fees

(a) The Government of India in their notification of 5 October, 1999 enhanced the rates of various kinds of fees like registration fees, fees for certificate of fitness, fees for driving licence etc., by amendment of the Central Motor Vehicles Rules, 1989 from 22 October, 1999.

¹ Director, PVD, Kolkata; RTOs - Birbhum, Howrah, Hooghly, Jalpaiguri, Murshidabad, Nadia, North 24 Parganas and South 24 Parganas; ARTOs - Asansol, Barrackpore, Durgapur, Siliguri and Tamluk.

² Director, PVD, Kolkata; RTOs - Birbhum, North 24 Parganas; ARTOs - Asansol, Barrackpore, Durgapur, Siliguri and Tamluk.

³ RTOs - Howrah, Jalpaiguri, Murshidabad and South 24 Parganas.

Review of records of 13⁴ regional offices revealed (between August 2001 and February 2002) that the notification was despatched by the State Government after a lapse of nearly 3 months. This led to delay in implementation of enhanced rate of fee resulting in short realisation of fees of Rs.41.43 lakh in 25118 cases as shown below:

<i>(Rupees in lakh)</i>		
Fees	No. of cases	Amount
Certificate of fitness	4102	12.86
Driving licence	12976	9.44
Registration/assignment of new registration mark	8040	19.13
Total	25118	41.43

On this being pointed out (between August 2001 and February 2002) the Regional Officers of all the regions except Midnapore stated (between August 2001 and February 2002) that due to delay in receipt of notification, fees at enhanced rate could not be realised in time. However, steps were being taken to recover the fees short realised. The RTO, Midnapore failed to furnish any reply. Report on realisation has not been received (November 2002).

(b) The State Government in their notification of May, 1998, enhanced the rates of various kinds of fees like permit fees, temporary registration fees etc., by amendment of the West Bengal Motor Vehicles Rules, 1989, from 4 May, 1998.

Review of records of 10⁵ regional offices revealed (between May 1999 and February 2002) that the notification was despatched by the State Government in the last week of July 1998. This led to delay in implementation of the enhanced rate and resulted in short realisation of fees of Rs.39.78 lakh in 19782 cases as shown below:

<i>(Rupees in lakh)</i>		
Fees	No. of cases	Amount
Permanent permit fees	3388	25.41
Temporary registration	6841	4.50
Special/temporary permit	9553	9.87
Total	19782	39.78

⁴ RTOs – Birbhum, Burdwan, Hooghly, Howrah, Jalpaiguri, Midnapore, Murshidabad, North 24 Parganas and South 24 Parganas; ARTOs – Asansol, Barrackpore, Siliguri and Tamluk.

⁵ RTOs – Birbhum, Burdwan, Hooghly, Howrah, Midnapore, North 24 Parganas, South 24 Parganas; Director PVD, Kolkata; ARTOs – Asansol and Siliguri.

On this being pointed out (between May 1999 and February 2002), the Regional Officers of all the regions except Midnapore region stated (between May 1999 and February 2002) that due to late receipt of the notification, fees at enhanced rate could not be realised. However, steps were being taken to realize the arrears from the owners of the vehicles. The RTO, Midnapore failed to furnish any reply. Report on realisation has not been received (November 2002).

5.02.07 Non-reference of offence cases to courts

Under the West Bengal Motor Vehicles Rules, 1989, the compounding officer shall prepare notice in the prescribed form and shall hand it over to the offending owner/driver of the vehicle with the direction to deposit the compounding amount to the Motor Vehicles Department within 7 days.

Where the offending driver/owner fails to deposit the amount within 7 days from the date of issue of notice under the rule, the compounding officer shall arrange for submission of the prosecution against the offending driver or owner in the court of Law.

Scrutiny of case records of enforcement wing of 10⁶ regional offices revealed (between June 2001 and January 2002) that 779 offence cases pending before the compounding officer, were not referred to the courts even after lapse of 6 years as shown below:

⁶ RTOs – Birthing, Burdwan, Jalpaiguri, Nadia, Midnapore, North 24 Parganas, South 24 Parganas; ARTOs – Asansol, Barrackpore and Tamluk.

(Rupees in lakh)

Name of Regional office	No. of offences detected	Period of detection (Between)	Period of delay in sending to Court till the 30 June 2002	Blockage of revenue
RTO, Nadia	99	July 1998 & August 2000	22 to 48 months	4.22
RTO, North 24 Parganas	38	July 1998 & September 2000	22 to 48 months	1.38
RTO, South 24 Parganas	208	August 1998 & September 2000	24 to 47 months	11.24
ARTO, Barrackpore	27	November 1998 & March 2001	14 to 43 months	0.96
RTO, Birbhum	17	January 1998 & April 2000	22 to 54 months	0.47
ARTO, Tamluk	180	April 1997 & January 2001	36 to 60 months	6.19
RTO, Jalpaiguri	121	June 1996 & February 1997	60 to 72 months	4.20
RTO, Burdwan	12	January 1998 & March 2000	19 to 54 months	0.47
RTO, Midnapore	35	June 1997 and March 2001	21 to 60 months	1.36
ARTO, Asansol	42	April 1999 & March 2001	11 to 38 months	0.65
Total	779			31.14

This resulted in blockage of revenue of Rs.31.14 lakh.

5.02.08 Failure to levy fine on vehicles presented for registration with lapsed Trade Certificates

Under the provision of the Central Motor Vehicles Rules, 1989 a motor vehicle in possession of a dealer shall be exempted from the necessity of registration subject to the condition that the dealer obtains a trade certificate (TC) from the concerned registering authority where the dealer has his place of business. Such TC is used for plying the vehicle from dealer's place to the registering authority for registration and it is valid for one year from the date of issue or renewal thereof. Presentation of vehicles to the registering authority for registration with lapsed TC is subject to a fine for plying vehicles without registration and attracts fine at the rate of Rs.3000 in respect of goods and contract carriages and Rs.2000 in respect of other vehicles as prescribed in the notification of 5 July, 1995.

Scrutiny of records of 8⁷ regional offices revealed (between November 1999 and January 2002) that 13 dealers presented 2100 numbers of vehicles to the registering authorities for registration with lapsed TCs. The said authorities, however, failed to levy fine on vehicles presented with lapsed TCs. This resulted in non-realisation of fine of Rs.45.92 lakh.

On this being pointed out (between November 1999 and January 2002) the Registering Officers of all the regions stated (between November 1999 and January 2002) that action to realise the fine would be taken. Final report on realisation has not been received (November 2002).

5.02.09 Non-realisation of revenue due to non issue of permits

The Motor Vehicles Act, 1988, prohibits plying of any transport vehicle in a public place without a valid permit. Fee for grant of permits other than temporary permits is Rs.80 per vehicle per annum for stage carriages in Kolkata region. This was revised to Rs.120 per vehicle per annum from 4 May 1995.

Scrutiny of records of the office of the Director, Public Vehicles Department, Kolkata revealed (June 2001) that no permits were issued to 1159 stage carriage buses (registered between April 1990 and March 2001) owned by different State Transport Corporations. This resulted in non-realisation of permit fees of Rs.5.45 lakh.

On this being pointed out (June 2001) the Secretary, Regional Transport Authority (RTA), Kolkata stated (June 2001) that demand notices were being issued.

5.02.10 Non-levy of special fee

The West Bengal Motor Vehicles Rules, 1989 prohibits plying of heavy goods vehicle having Gross Vehicle Weight (GVW) above 22542 kg within the State. Government in their orders issued between 28 December 1990 and 5 June 1991 permitted plying of such vehicles on payment of special fees at varying rates depending on their GVW in relaxation of the conditions imposed earlier.

⁷ Director, PVD, Kolkata; RTOs - Asansol, Burdwan, Murshidabad and Nadia; ARTOs - Durgapur, Siliguri and Tamluk.

Scrutiny of records in 9⁸ regional offices revealed (between June 2001 and January 2002) that no special fee on 279 vehicles having GVW between 25000 Kg and 35200 Kg had been realised during 1999-2001 though road taxes were paid regularly by their owners. This resulted in non-realisation of revenue of Rs.14.41 lakh.

On this being pointed out (between September 2000 and December 2001) all the regional officers stated (between September 2000 and December 2001) that necessary action would be taken after scrutiny of the cases. Report on realisation has not been received (November 2002).

5.02.11 Non/short realisation of fines on vehicles without/expired temporary registration

The Motor Vehicles Act, 1988 prohibits plying of any vehicle in a public place without registration. Compounding fine is leviable at the rate of Rs.3000 on goods and contract carriages and Rs.2000 on other categories of vehicles presented for permanent registration without/expired temporary registration.

Scrutiny of records in 7⁹ regional offices revealed (between January 1998 and December 2001) that fine on 657 vehicles presented for permanent registration to the registering authorities without or expired temporary registration, was either not levied or levied short. This resulted in non/short-realisation of fines of Rs.14.33 lakh.

On this being pointed out (between January 1998 and December 2001) all the Regional Officers admitted (between February 1998 and December 2001) the audit observations and stated that necessary action would be taken for realisation of fine. Report on realisation has not been received (November 2002).

⁸ Director, PVD, Kolkata; RTOs - Burdwan, Hooghly, Jalpaiguri, Midnapore, North 24 Parganas and South 24 Parganas; ARTOs - Asansol and Barrackpore.

⁹ RTOs - Hooghly, Nadia, North 24 Parganas and South 24 Parganas; ARTOs - Asansol, Barrackpore and Tamluk.

5.02.12 Failure to levy temporary registration fees on light motor vehicles

The West Bengal Motor Vehicle Rules, 1989 prescribes temporary registration fee for a light motor vehicle at Rs.50.

Scrutiny of records in Hooghly region revealed (January 2000) that 29219 motor cars and 2645 trekkers, all light motor vehicles were temporarily registered between 14 November 1994 and 5 April 1997 by a motor vehicle manufacturing company in the course of despatch to other States as well as sales in West Bengal. The requisite fee for temporary registration was not levied. This led to non-levy of temporary registration fee of Rs.15.93 lakh.

On this being pointed out (January 2000) the RTO, Hooghly stated (February 2001) that demand notices had been issued (January 2001). Report on realisation has not been received (November 2002).

5.02.13 Short realisation of composite fee

In terms of Government Notification of November 1993 the rate of composite fee to be collected by the States of Haryana, Bihar, Gujarat and Uttar Pradesh in respect of goods vehicles authorized to ply in West Bengal on the basis of National Permits granted by those States is rupees five thousand per annum per vehicle and rupees three thousand for the States of Andhra Pradesh and Nagaland from 1 September 1993. The composite fee so collected by the States is required to be remitted to the STA, West Bengal through bank draft for credit into Government account.

Test check of records in the office of the STA, West Bengal revealed (November 2001) that in respect of 3142 goods vehicles which were registered in those 6 States between April 2000 and March 2001 and authorised to ply in West Bengal, the concerned authorities realised composite fee at rates lower than the prescribed revised rates. Failure of the authority to take note of this and to take up the matter with the concerned States resulted in short realisation of Rs.42.67 lakh.

On this being pointed out (November 2001), the local office stated (November 2001) that the matter would be looked into. Report on further development has not been received (November 2002).

5.02.14 Defective system of maintenance of records and absence of monitoring of bank drafts

As per guidelines issued by the Transport Department in May 1995 all the bank drafts received by the STA, West Bengal from other States shall be entered in separate State wise registers along with all particulars. The entries on the receipt side shall be made daily and against each such entry date of sending the drafts to the Reserve Bank of India (RBI) shall be noted.

(a) Discrepancies between bank drafts received and remitted to Bank

The STA, West Bengal received 16825 bank drafts (value of draft ranging between Rs.2500 and Rs.5000) from the State of Haryana during the period from 1 April 1998 to 5 August 1999 and remitted 12715 bank drafts during 1 April 1998 to 23 March 2000. Whereabouts of remaining 4110 bank drafts was not recorded in the registers. The minimum amount involved in those bank drafts would have been at least Rs.1.03 crore.

(b) Remittances of bank drafts not traceable

2763 bank drafts involving amount of Rs. 63.61 lakh received during 2000-2001 from the States of Haryana, Uttar Pradesh and Andhra Pradesh were not traceable till November 2001.

(c) Blockage of revenue due to non-remittance of lapsed drafts

Verification of records revealed that the STA, West Bengal retained 6142 lapsed bank drafts, received between March 1987 and March 2000 from different States. No action was taken to get the bank drafts revalidated till March 2001 resulting in blockage of revenue of Rs.98.12 lakh.

(d) Less acknowledgement of chalans by R.B.I

During July 1999 to March 2001, 182 challans containing 20806 bank drafts involving Rs.5.60 crore were sent to the RBI; however, RBI acknowledged receipts of Rs.5.39 crore only. Whereabouts of bank drafts

(numbers not available) containing the balance amount of Rs.21.41 lakh could not be ascertained.

Absence of cross reference of draft received and remitted/authentication of entries/monthly reconciliation of credit/maintenance of separate State wise register of lapsed bank drafts etc. has left no scope of monitoring the system of accounting of drafts.

On this being pointed out (between February and November 2001), the Secretary, STA, West Bengal stated (between March and November 2001) that necessary action would be taken. Report on further action taken has not been received (November 2002).

5.02.15 Non-remittance of lapsed bank drafts to the SBI led to loss of interest

Scrutiny of records of the STA, West Bengal revealed (November 2001) that arrangements were made (April 1995) with the State Bank of India, Kolkata Main Branch with the concurrence of the Finance Department for revalidation of lapsed bank drafts. As per arrangement all lapsed bank drafts could be deposited with the SBI main branch by the STA, West Bengal by April 1995 to get the benefit of instant credit and interest @ 9% thereon for a period of 6 months by October 1995 and the SBI would issue instant credit in favour of the STA, West Bengal in the form of Fixed Deposit Receipt for the entire amount with interest. The STA, West Bengal held 75151 lapsed drafts in April 1995 and they deposited 22000 drafts on 4 May 1995 and 17135 drafts on 19 September 1995 leaving a balance of 36016 lapsed drafts in their custody and the same were deposited with the SBI in phased manner between March 1997 and September 1998. Failure on the part of the STA, West Bengal to deposit all the lapsed drafts in April 1995 led to loss of interest to the extent of Rs.42.08 lakh calculated at borrowing rate of interest taking into account of minimum value of bank draft as Rs.375.

On this being pointed out (November 2001) the local office stated (April 2002) that the delay was obvious and care would be taken in future to avoid it. Report on further action has not been received (November 2002).

5.02.16 Failure to enforce internal control

Test check of records revealed that registering authority, Siliguri assigned (between January 1997 and June 2000) new registration marks to 408 goods vehicles brought from other states without NOC/Permit/Sale letter as required under the provision of the M.V. Act, 1988 and Government of India Notification of June 1981. The Registering Authority failed to levy fine for illegal plying of those vehicles in this state without permit.

All the points mentioned in the foregoing paragraphs were reported to Government in May 2002, followed by reminders issued up to August 2002; their reply has not been received (November 2002).

5.03 Non-realisation of additional tax and penalty from omnibuses

Under the Additional Tax and One-time Tax on Motor Vehicles Act, 1989, as amended from time to time, additional tax is leviable on the omnibuses plying for hire or reward under contract at the rate of rupees four thousand per annum up to 24 November 1991 and thereafter rupees six thousand per annum irrespective of seating capacity. The Act also provides for realisation of penalty at an equal amount of additional tax for non-payment of such tax within 150 days up to 16 August 1994 and thereafter within 75 days from the due date of payment.

Scrutiny of records in 10 Regional Transport Offices (between January 1998 and January 2001) revealed that additional tax was not realised for various periods between April 1989 and February 2001 in respect of 113 contract carriages and no spot enquiry had so far been conducted by the taxing authorities to detect these vehicles. This resulted in non-realisation of additional tax and penalty of Rs.72.11 lakh as detailed below:

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(Rupees in lakh)

Region	No. of contract carriages	Period for which tax realisable (between)	Non-realisation of revenue		
			Additional Tax	Penalty	Total
1. Alipurduar	14	April 1989 & February 2001	6.37	6.36	12.73
2. Asansol	10	April 1989 & March 2000	5.82	4.23	10.05
3. Burdwan	14	April 1989 & July 2000	7.03	7.03	14.06
4. Dakshin Dinajpur	16	August 1993 & December 2000	5.49	5.49	10.98
5. Hooghly	4	December 1994 & December 1997	0.39	-	0.39
6. Malda	22	December 1991 & October 2000	7.89	7.89	15.78
7. Nadia	8	April 1989 & May 1999	0.52	-	0.52
8. Jalpaiguri	3	November 1991 & December 1998	1.18	-	1.18
9. Uttar Dinajpur	8	April 1996 & May 1997	1.00	-	1.00
10. Murshidabad	14	March 1992 & January 2001	2.65	2.77	5.42
Total	113		38.34	33.77	72.11

On these being pointed out (between January 1998 and January 2001) taxing officers, Hooghly, Jalpaiguri, Burdwan and Murshidabad stated (July 2002) that demand notices had been issued; taxing officers, Alipurduar, Asansol, Dakshin Dinajpur, Uttar Dinajpur and Malda did not furnish any specific reply while taxing officer, Nadia stated (July 2002) that an amount of Rs.0.28 lakh had been realised in 4 cases. Report on further realisation has not been received (November 2002).

The cases were reported to the Government between May 1998 and May 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

5.04 Non/short realisation of tax including penalty on cars, bare chassis registered temporarily

In accordance with the instructions issued by the State Government on March and September 1997 that taxes from chassis or complete vehicles travelling within the jurisdiction of the Regional Transport Officers (RTO) on temporary permit obtained from outside the State would be levied in accordance with the rates applicable to "Motor car owned by companies" as prescribed by the West Bengal Motor Vehicles Tax Act, 1979.

Accordingly it was decided that the bare chassis, complete car brought by the Regional Sales Offices (RSO) of West Bengal into this State from their manufacturers of outside States on the strength of temporary registration are liable to pay tax on their unladen weights (ULW) at such rate as prescribed for "Motor cars owned by companies". The Act also provides for realisation of arrear tax of a vehicle which remained unpaid before its transfer and penalty at the rate of 100 per cent of arrear tax from the transferee in case of non-payment of tax within 75 days from the due date of payment.

Scrutiny of records of 3¹⁰ RTOs revealed (between March and August 2000) that tax and penalty in respect of 12536 bare chassis and 438 complete cars, brought temporarily into the State between April 1997 and May 2000, was not realised or realised short due to levy of tax at the rate applicable to goods carriages instead of motor cars owned by companies. This resulted in non/short realisation of revenue of Rs.42.83 lakh including penalty of Rs.8.55 lakh.

On this being pointed out, RTO, Howrah stated (July 2002) that demand notices had been issued to all the registered owners while RTOs, Paschim Midnapore and Siliguri did not furnish any specific reply. Report on final action taken has not been received (November 2002).

The cases were reported to Government between May and November 2000 followed by reminders issued upto August 2002; their reply has not been received (November 2002).

5.05 Non/short realisation of tax/additional tax/penalty from different types of vehicles

The Motor Vehicle Tax Rules, 1957 provides for maintenance of a Tax Demand Register by a Taxing Officer to watch proper and regular payment of tax for a period with reference to a declaration form prescribed for payment of tax by this Rule.

(i) Cross verification of the Tax Demand Register with the declaration forms, in the office of the Additional Regional Transport Officer, Durgapur revealed (between June and July 2000) that the taxes of current period had

¹⁰ Howrah, Paschim Midnapore and Siliguri

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been realised without realising the taxes relating to past periods. Consequently, the tax and penalty of Rs.14.74 lakh in respect of 194 vehicles for a period between February 1994 and July 2000 remained unrealised. This resulted in short realisation of Government revenue to that extent of Rs.14.74 lakh.

On this case being pointed out the department stated that the demand notices for Rs.1.02 lakh had been issued to two Registered owners and demand notices for Rs.13.72 lakh would be issued to 192 Registered owners. Report on further development has not been received (November 2002).

(ii) Scrutiny of records of 4 Regional Transport Offices¹¹ revealed (between June 2000 and December 2000) that in respect of 13 vehicles (articulated vehicles, break down vans and crane) additional tax was either not realised or realised short between August 1994 and October 2001. This resulted in non/short realisation of additional tax of Rs.4.60 lakh including penalty of Rs.1.01 lakh.

On this being pointed out the department while accepting the audit observation stated that action was being taken for realisation of the amount.

The cases were reported to Government between May 1998 and May 2001 followed by reminders issued upto August 2002; their reply has not been received (November 2002).

¹¹ Bankura, Barrackpore, Kolkata and Malda

CHAPTER 6 PROFESSIONS TAX

6.01 Results of audit

Test check of records in the offices dealing with assessment and collection of professions tax conducted in audit during the year 2001-2002, revealed underassessments/non-levy of tax of Rs.0.77 crore in 17 cases which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1	Non-realisation of tax due to non-enrolment	6	0.19
2	Non-realisation due to non-assessment	5	0.20
3	Non-imposition of penalty	3	0.18
4	Others	3	0.20
Total		17	0.77

During the course of the year 2001-2002, the concerned department accepted underassessments etc. of Rs.0.20 crore in 9 cases of which 4 cases involving Rs.0.16 crore had been pointed out in audit during the year 2001-2002 and the rest in earlier years. An amount of Rs.1.38 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.85.90 lakh highlighting important observations are given in the following paragraphs:

6.02. Non-realisation of professions tax due to non-enrolment

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 every person coming under the purview of the Act shall be liable to be enrolled and pay tax at the prescribed rates.

Cross verification of the records of the Collectors, Co-operative Societies, District/Sub-Divisional Controller of Food and Supplies, the Chief Medical Officer of Health of the district concerned and Head Post Offices of the

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districts with the records of 11¹ Range/Unit Offices of Profession Tax Officers revealed (between June 2000 and April 2001) that 204 Video Parlour/Video Hall owners, 150 MR dealers/distributors, 270 Co-operative Societies, 68 Nursing Home and Pathological Units, 54 Cinema Hall owners, 134 Cable TV operators, 115 Kerosine Oil agents/distributors and 10 LPG dealers/distributors were not enrolled till the date of audit. This resulted in non-realisation of Professions Tax of Rs.57.20 lakh.

On this being pointed out (between June 2000 and April 2001) the Profession Tax Officer, West Bengal North Unit-II, Jalpaiguri accepted (December 2000) the observations while the remaining units did not furnish any specific reply.

The cases were reported to Government between August 2000 and May 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

6.03. Non-raising of demand of professions tax against enrolled certificate holders

Under the West Bengal State Tax on Professions, Trades, Callings and Employment Act, 1979, an enrolled certificate holder is liable to pay professions tax at the prescribed rate as specified in their certificate of enrolment and that will be paid before the 30th September each year in respect of persons who stand enrolled before the commencement of a year.

Scrutiny of enrolment case records and registers of 18² Range/Unit offices revealed (between June 2000 and March 2001) that 876 persons who stood enrolled on different dates between 1995-1996 and 1998-1999 had not made payment of professions tax for different periods between 1995-1996 and 1999-2000. But no demand for payment of arrear tax for that period was raised against defaulting enrolled persons resulting in non-realisation of professions tax of Rs.28.70 lakhs.

¹ West Bengal North Unit-II, W.B. Central Unit-II, W.B. Central Unit-VIII, W.B. Central Unit-V, W.B. Central Unit-IV, W.B. North Unit-III, W.B. Central Unit-VII, W.B. Central Unit-II, W.B. West Unit-II, W.B. Central Unit-I and South Range

² West Bengal West Unit-II, WB West Unit-IV, WB West Unit-VI, WB South Unit-I, WB Central Unit-I, WB South Unit-III, W.B. Central Unit-V, W.B. South Unit-II, W.B. Central Unit-VII, W.B. North Unit-III, W.B. North Unit-II, W.B. North Unit-I, W.B. North Unit-V, W.B. South Unit-IV, W.B. West Unit-III, W.B. Central Unit-III, W.B. Central Unit-VI and Kolkata Central Range

On this being pointed out (between June 2000 and March 2001) two offices stated (December 2000) that action to realise the amount would be taken, while other offices did not furnish any specific reply. Report on further development has not been received (November 2002).

The cases were reported to Government between August 2000 and May 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

CHAPTER 7 ELECTRICITY DUTY

7.01 Results of audit

Test check of records in the offices dealing with assessment and collection of electricity duty conducted in audit during the year 2001-2002, revealed underassessments etc. of tax amounting to Rs.5.34 crore in 24 cases, which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1	Non-assessment and non-realisation of electricity duty	10	0.25
2	Non-realisation of assessed electricity duty	8	3.32
3	Non-levy/non-payment of interest	4	0.10
4	Blockage of Government Revenue	1	1.66
5	Loss of Government Revenue	1	0.01
Total		24	5.34

During the course of the year 2001-2002, the concerned department accepted underassessments etc. of Rs.2.04 crore involved in 13 cases of which 7 cases involving Rs.0.16 crore had been pointed out in audit during the year 2001-2002 and the rest in earlier years. An amount of Rs.1.49 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.3.72 crore highlighting important observations are given in the following paragraphs:

7.02 Non-assessment and non-realisation of electricity duty

Under the provisions of the West Bengal Duty on Inter-State River valley Authority Electricity Rules, 1973, where a consumer fails to pay electricity duty for any period, the assessing authority may ask the defaulter for production of necessary data and assess duty on the basis of the data furnished by the consumer. In case of non-furnishing of the same the assessing authority shall assess electricity duty to the best of his judgement.

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Scrutiny of records of the Chief Electrical Inspector, West Bengal revealed (July 2001) that the following 4 consumers of Damodar Valley Corporation in Burdwan district had neither furnished returns nor paid electricity duty for different consumption periods between August 1999 and March 2001. No action was, however, taken by the Collector either to get the data for assessment of electricity duty or to assess the duty to the best of his judgement. This resulted in non-assessment and non-realisation of electricity duty of Rs.3.16 crore calculated on the basis of average monthly duty payable in preceding periods as under:

(Rupees in crore)

Sl.No.	Name of defaulting consumers	Period for which no return submitted and electricity duty paid	Period of last assessment made	Assessed duty	Estimated arrear duty
1.	Indian Iron & Steel Company (Kulti Works)	April 2000 to March 2001 (12 months)	April 1999 to March 2000 (12 months)	0.75	0.75
2.	Indian Iron & Steel Company (Burnpur Works)	April 2000 to March 2001 (12 months)	April 1999 to March 2000 (12 months)	1.76	1.76
3.	M/s. Hindusthan Cable Ltd.	August 1999 to March 2001 (20 months)	April 1995 to July 1999 (52 months)	1.42	0.54
4.	M/s. Bharat Aluminium Ltd.	April 2000 to March 2001 (12 months)	April 1998 to March 2000 (24 months)	0.21	0.11
Total					3.16

On this being pointed out (July 2001), the Chief Electrical Inspector, West Bengal stated (July 2002) that in three cases proposals for assessment were sent to the Collector, Burdwan while in the remaining case no specific reply was furnished. Report on realisation in all the cases has not been received (November 2002).

The cases were reported to Government in September 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

7.03 Non-levy of duty on energy consumed in residential complexes of Government Establishments

Under section 3(3) of the Bengal Electricity Duty Act, 1935 electricity duty shall not be leviable on the units of energy consumed by any Government or Railway administration. However, electricity duty on the units of energy

consumed in respect of premises used for residential purposes is leviable at the prescribed rates.

Scrutiny of records of the Collector, Midnapore revealed (between April 2000 and September 2001) that electricity duty amounting to Rs.46.08 lakh payable by one defence establishment for their residential complexes at Kalaikunda AIR field and by the South Eastern Railway for their residential complexes at Kharagpur, Dantan and Gidhni for consumption of energy between April 1998 and March 2001 was neither assessed nor realised. This resulted in non-levy of electricity duty of Rs.46.08 lakh.

On this being pointed out (between April 2000 and September 2001), the Collector, Midnapore accepted (September 2001) the audit observation. Report on further development has not been received (November 2002).

The cases were reported to Government between June 2000 and December 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

7.04 Non-levy and non-realisation of interest for delayed payment of electricity duty

Under the provision of the Bengal Electricity Duty Act, 1935 where a licensee fails to pay electricity duty by the prescribed date, he is liable to pay a simple interest at the rate of two per cent for each month of default from April 1995.

Scrutiny of records of the Collector, Burdwan and Hooghly revealed (between September 2000 and August 2001) that M/s Durgapur Project Limited (DPL) and Singur Haripal Rural Electric Co-operative Society deposited (between July 1998 and July 2000) arrear electricity duty amounting to Rs.97.37 lakh payable for the period of consumption between April 1997 and March 2000. But, interest of Rs.10.00 lakh for delayed payment of electricity duty was not levied and realised.

On this being pointed out (September 2000 and August 2001), the Collector, Burdwan stated (July 2002) that DPL authority had requested (April 2002) to waive the interest payable while Collector, Hooghly did not furnish any specific reply. Report on final action taken is awaited (November 2002).

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This was reported to Government between November 2000 and September 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

CHAPTER 8 OTHER TAX RECEIPTS

8.01 Results of audit

Test check of records in the offices dealing with assessments and collection of other tax receipts, namely, Stamp Duty and Registration Fees, Agricultural Income Tax, Luxury Tax and Amusements Tax, conducted in audit during the year 2001-2002, revealed underassessments/short levy of revenue amounting to Rs.7.59 crore in 112 cases as indicated below:

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1	Stamp Duty and Registration Fees	95	5.53
2	Amusements Tax	9	0.36
3	Agricultural Income Tax	3	1.66
4	Luxury Tax	5	0.04
Total		112	7.59

During the course of the year 2001-2002, the concerned department accepted underassessments etc. of Rs.2.78 crore involved in 33 cases of which 27 cases involving Rs.2.66 crore had been pointed out in audit during the year 2001-2002 and the rest in earlier years. An amount of Rs.9.82 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.4.25 crore highlighting important observations are given in the following paragraphs:

A. STAMP DUTY AND REGISTRATION FEES

8.02 Non-realisation of deficit stamp duty and registration fees

Under the Indian Stamp Act, 1899 as applicable in West Bengal read with departmental circular issued in July 1998 where the registering authority has reason to believe that the market value of the property had not been truly set forth in the document presented for registration, he is authorised to accept such document subject to determination of market value and after assessment of the market value, issue notice to the party for payment of deficit stamp duty and registration fees within thirty days. In the event of non-payment by stipulated period of thirty days, the case is to be referred to the district

collector within fifteen days for determination of market value of the property and collection of deficit stamp duty and registration fees and return the same for final registration.

(a) Delay/pending at Registration Offices

Scrutiny of records of 23 registration offices in 9¹ districts revealed (between February 2001 and October 2001) that 1154 instruments, market value of which were re-assessed by Registering Authorities due to undervaluation of the properties set forth therein, were lying pending in different registration offices for a long time ranging from 1 to 5 years due to non-realisation of deficit stamp duty and registration fees. These cases were not forwarded to the collectors for collection of deficit stamp duty & registration fees resulting in non-realisation of deficit stamp duty and registration fees of Rs.2.06 crore in 1154 cases.

(b) Delay/pending at Collectors' Offices

Scrutiny of records of those registration offices also revealed that 526 instruments had been forwarded to the Collectors between 1994-1995 to 2000-2001 due to non-payment of deficit stamp duty and registration fees of Rs.2.04 crore as assessed by the Registering Officers. Those cases were lying pending in the Collectors' offices for a long time ranging from 1 year to 4 years due to inaction on the part of the Collectors. This resulted in non-realisation of stamp duty and registration fees of Rs.2.04 crore as assessed by the Registering Officers.

On this being pointed out, the Registering Authorities stated (between February 2001 and October 2001) that action for realisation of the amount was being taken. Report on final action has not been received (November 2002).

The cases were reported to Government between March 2001 and February 2002 followed by reminders issued upto August 2002; their reply has not been received (November 2002).

¹ Bankura, Hooghly, Kolkata, Malda, Midnapore (East), Midnapore (West), Nadia, North 24 Parganas and Uttar Dinajpur.

B. AMUSEMENTS TAX

8.03 Non-levy of tax for exhibition of films through video parlours

Under the provisions of the West Bengal Entertainment-cum-Amusements Tax Act, 1982 a holder of a video cassette recorder/player (VCR/VCP) shall pay tax at the rate of rupees six hundred per week for commercial exhibition of films in rural areas within seven days from the end of such week.

Scrutiny of records relating to amusements tax in 3² Agricultural Income Tax Offices revealed (between January and December 2001) that proprietors of 42 video halls arranged commercial-exhibition of video shows in rural areas between February 1998 and June 2001 without payment of tax. Accordingly, the proprietors were liable to pay tax of Rs.15.33 lakh for such exhibition of films through video. But, no action was taken to levy and realise the tax of Rs.15.33 lakh.

On the cases being pointed out (between January and December 2001), all the taxing officers stated (July 2002) that demand notices had been issued against all the defaulters. Report on realisation has not been received (November 2002).

The cases were reported to Government between February 2001 and January 2002 followed by reminders issued upto August 2002; their reply has not been received (November 2002).

² Darjeeling, Jalpaiguri and Malda

CHAPTER 9 FOREST RECEIPTS

9.01 Results of audit

Test check of records of forest receipts in different Divisional Forest Offices, conducted in audit during the year 2001-2002, revealed non/short realisation of revenue amounting to Rs.22.57 crore in 77 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non/short realisation of revenue/royalty	16	2.12
2.	Loss of revenue	25	3.36
3.	Non/short levy of sales tax	3	0.03
4.	Other cases	33	17.06
Total		77	22.57

During the course of the year 2001-2002, the department accepted underassessments etc. of Rs.13.76 crore involved in 41 cases of which 31 cases involving Rs.13.29 crore had been pointed out in audit during the year 2001-2002 and the rest in earlier years.

A few illustrative cases involving Rs.2.37 crore highlighting important observations are given in the following paragraphs:

9.02 Non-realisation of price of timber

According to the procedure for disposal of forest produce prescribed by the Government in January 1977, allotment sales of timber to Government undertakings and other wood-based industries are required to be made on cash and carry basis at the rates fixed by the State Price Fixation Committee. The Principal Chief Conservator of Forests in his circular issued in November 1990 directed all the Divisional Forest Officers (DFO) to follow the said procedure strictly and not to allow lifting of any produce without realisation of royalty.

Scrutiny of records of the DFO, Kurseong Division revealed (September 2000) that the division allowed 1362.85 cu. m. of different species of timber to

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be lifted by the Kurseong (Logging) Division, a unit of West Bengal Forest Development Corporation (WBFDC), between 1998-1999 and 1999-2000 at a price of Rs.1.77 crore but the DFO had realised Rs.39.33 lakh from the WBFDC in March 1999 and January 2000 only. Failure of the Department to observe cash and carry system resulted in non-realisation of revenue of Rs.1.37 crore.

On this being pointed out (September 2000), the DFO stated (July 2002) that the matter had already been pursued with Kurseong (Logging) Division. Report on further development has not been received (November 2002).

The matter was reported to Government (November 2000) followed by reminders issued up to August 2002; their reply has not been received (November 2002).

9.03 Short realisation of revenue due to incorrect deduction of service charge

The work of harvesting of timber and disposal thereof were entrusted to the West Bengal Forest Development Corporation (WBFDC) from 1988-1989. The Corporation is required to remit the revenue realised from sale proceeds to the concerned Divisional Forest Officers (DFOs) after deduction of service charge at the rate of ten per cent of gross revenue in addition to harvesting cost and charges towards interest on working capitals. Service charge includes overhead charges, cost of carriage, storage and disposal.

Scrutiny of records of 3¹ Divisional Forest Offices revealed (between December 1998 and February 2001) that the harvesting operation as well as auction were undertaken by the concerned DFOs themselves. But while remitting the proceeds of auction sale of 4 cases for the years between 1996-1997 and 1998-1999 in respect of concerned Divisions, the WBFDC deducted service charge of Rs.72.80 lakh on account of overhead charges, cost of carriage, storage and disposal at the rate of ten per cent on timber valued at Rs.7.28 crore though it had rendered no service towards harvesting and auction. This resulted in incorrect deduction of service charge with consequent short-realisation of revenue of Rs.72.80 lakh.

¹ Bankura (North), Bankura (South) and Midnapore (East).

On this being pointed out (between December 1998 and February 2001), the DFOs stated (July 2002) that in one case, the matter has been taken up with the WBFDC, in the remaining 3 cases it was stated that such deduction was allowed as a policy matter. The reply in the latter 3 cases is not tenable as allowance of deduction of service charge without rendering service tantamounts to allowance of undue benefit to the Corporation and is detrimental to the policy of the Government.

The cases were reported to Government (between February 1999 and March 2001) followed by reminders issued up to August 2002; their reply has not been received (November 2002).

9.04 ✱ Short realisation of sales tax

Under the West Bengal Sales Tax Act, 1994 sales of goods, unless otherwise exempted, are taxable at the prescribed rates. A sale when made to a registered dealer is taxable at concessional rate subject to production of declaration in prescribed form obtainable from the purchasing dealer. Sales not covered by declaration forms are exigible to tax at the normal rate. Further, surcharge and additional surcharge at the rate of ten per cent and five per cent are also leviable on sales tax payable with effect from 1 May 1995 and 1 May 1997 respectively. Forest Department, being a registered dealer under the Act, is liable to pay tax including surcharge and additional surcharge on its sale of forest produce and accordingly is required to realise such tax from the purchaser.

Scrutiny of records of 3² Divisional Forest Offices revealed (between May 1999 and July 2001) that in 4 cases for total sale of timber valued Rs.1.61 crore effected between 1996-1997 and 1999-2000, sales tax amounting to Rs.4.02 lakh had been realised from the purchasers at concessional rate without production of declaration in the prescribed forms. In absence of such declaration forms, sales tax of Rs.21.66 lakh, including surcharge and additional surcharge was recoverable from them. This resulted in short realisation of sales tax of Rs.17.64 lakh.

² Bankura (North), Jalpaiguri and Kharagpur.

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On this being pointed out (between May 1999 and July 2001), the department accepted audit observations in all the four cases and realised an amount of Rs.0.74 lakh in one case. Final report on recovery in the other cases has not been received (November 2002).

All the cases were reported to Government between July 1999 and October 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

9.05 Short realisation of royalty on kendu leaves and sal seeds

By a notification issued in January 2001, Government extended the monopoly right for collection and disposal of kendu leaves and sal seeds by the WBTDCC for a further period of five years from 1998-1999 to 2002-2003 on revision of rate of royalty for kendu leaves from Rs.5 lakh to Rs.7.50 lakh per annum and for sal seeds from Rs.100 to Rs.150 per Metric Tonne (MT) and an advance payment of 25 per cent of the annual royalty for the running year.

Scrutiny of records of the Divisional Forest Officer (DFO) Midnapore (East) revealed (August 2001) that WBTDCC had collected kendu leaves between 1998-1999 and 2001-2002 and 3113.05 MT of sal seeds between 1999-2000 and 2001-2002 from the forest area under Midnapore (East) Division on payment of royalty of Rs.18.61 lakh at pre-revised rate instead of Rs.27.61 lakh at revised rates. The failure to implement the revised rate resulted in short realisation of royalty of Rs.9.31 lakh.

The case was reported to the department and to Government in August/September 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

CHAPTER 10 MINES AND MINERALS

10.01 Results of audit

Test check of records relating to mines and minerals under different District Land and Land Reforms Offices and offices of the Cess Deputy Collector, Chief Mining Officer and other Mining Officers, conducted in audit during the year 2001-2002, revealed underassessments, non-realisation and short realisation of revenue amounting to Rs.3.27 crore in 61 cases, which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1	Non/short assessment of cess on minor/major minerals	9	0.11
2	Non/short assessment of price of minor minerals extracted unauthorisedly	23	2.35
3	Non/short assessment of surface/dead rent	2	0.04
4	Non-assessment/non-realisation of royalty and cess	16	0.57
5	Other cases	11	0.20
Total		61	3.27

During the course of the year 2001-2002, the concerned department accepted underassessments etc. of Rs.0.91 crore involved in 35 cases of which 22 cases involving Rs.0.71 crore had been pointed out in audit during the year 2001-2002 and the rest in earlier years. An amount of Rs.0.12 lakh was realised at the instance of audit.

A few illustrative cases involving Rs.1.24 crore highlighting important observations are given in the following paragraphs:

10.02 Non/short realisation of revenue from minor minerals extracted unauthorisedly

(a) Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 as amended in 1972, read with the West Bengal Minor Minerals Rules, 1973, no person is entitled to undertake any mining operation in any areas except under the authority of a valid quarry permit. In the event of unauthorised extraction of minor minerals, apart from other penal action, the State Government is empowered to recover either the minerals

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raised unlawfully, or, where such minerals have already been disposed of, the price thereof. Government clarified (August 1981) that quantity of minor minerals extracted or removed in excess of the quantity permitted should also be treated as unauthorised extraction and price thereof should be realised. By an order issued in September 1984, the Board of Revenue, West Bengal fixed the market price of brick earth at Rs.30 per 100 cft. for 1981 with an increase of Rs.1.50 per 100 cft. each year till a new price is fixed by the Director of Mines and Minerals, West Bengal.

Scrutiny of records of 6¹ District Land and Land Reforms Offices revealed (between January 1999 and August 2001) that in 278 cases, unauthorised extraction of brick earth of 83.84 lakh cft. done between 1995-1996 and 2000-2001 amounted to realisable price of Rs.46.03 lakh, out of which the department had realised Rs.9.38 lakh. This resulted in non/short realisation of revenue of Rs.36.65 lakh as detailed below:

<i>(Rupees in lakh)</i>					
Year	Quantity of unauthorised extraction of brick earth (lakh cft)	Rate applicable (per 100 cft)	Realisable amount	Amount realised	Non/short realisation
1995-1996	4.59	Rs.51.00	2.34	0.31	2.03
1996-1997	12.66	Rs.52.50	6.65	3.70	2.95
1997-1998	22.37	Rs.54.00	12.08	2.52	9.56
1998-1999	18.65	Rs.55.50	10.35	1.55	8.80
1999-2000	23.04	Rs.57.00	13.13	1.30	11.83
2000-2001	2.53	Rs.58.50	1.48	Nil	1.48
Total	83.84		46.03	9.38	36.65

On this being pointed out (between January 1999 and August 2001) the district authorities, Bankura, Burdwan(East) and Howrah stated (July 2002) that Rs.0.15 lakh, Rs.4.41 lakh and Rs.2.89 lakh respectively had been realised. Report on further realisation has not been received (November 2002).

The cases were reported to Government between April 1999 and September 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

(b) The price of sand has been fixed at Rs.40 per hundred cft. under the Act. Scrutiny of records of the Chief Mining Officer, Asansol revealed (April 2001) that the Commerce and Industries Department had issued two temporary working permits to M/S Eastern Coal Fields Limited (ECL) for extraction of

¹ Bankura, Burdwan (East), Howrah, Jalpaiguri, Midnapore and South 24 Parganas

sand for stowing purposes during the period from August 1999 and August 2000. But the ECL had extracted 10.69 crore cft. of sand against the sanctioned quantity of 10.16 crore cft. In February 2001, the ECL had deposited Rs.1.05 lakh as royalty for the excess extraction of 0.53 crore cft. sand though the ECL was liable to pay the price of excess quantity of stowing sand. This resulted in short realisation of revenue of Rs.19.99 lakh.

On this being pointed out, the Chief Mining Officer, Asansol did not furnish any specific reply.

The case was reported to Government in July 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

10.03 ^{*}Non/short assessment and non/short realisation of cesses on minor minerals

Under the provisions of the Cess Act, 1880 as amended in 1984, read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, holders of quarry permits or mining leases under the West Bengal Minor Minerals Rules, 1973, are liable to pay public works cess, road cess, education cess and rural employment cess at the rate of 50 paise, 50 paise, Re.1 and 50 paise respectively per M.T. of minor minerals extracted and despatched from the quarries or mines from 1 June 1987.

Scrutiny of records of the 7² District Land and Land Reforms Offices revealed (between January 1999 and February 2001) that in 1859 cases the quarry permit holders extracted and despatched 2022758.743 MT of minor minerals during the period from 1995-1996 to 1999-2000. Total cesses realisable worked out to Rs.50.56 lakh at the prescribed rates but the department did not assess/assessed short and consequently did not levy/levied short cesses. This resulted in non/short levy and non/short-realisation of cesses of Rs.30.97 lakh.

On this being pointed out (between January 1999 and February 2001), the district authorities Purulia, Nadia, Hooghly and Howrah stated (July 2002) that Rs.5.88 lakh had been realised. Report on further realisation has not been received (November 2002).

² Bankura, Darjeeling, Hooghly, Howrah, Midnapore, Nadia and Purulia

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The cases were reported to Government (between April 1999 and June 2001) followed by reminders issued up to August 2002; their reply has not been received (November 2002).

10.04 Non-assessment and non-realisation of water rate

The provisions of the Mineral Concession Rules, 1960 provides for realisation of water rate not exceeding the rate assessable on lands as may be specified by the Government in the case. Besides, under the provisions of the West Bengal Irrigation (Imposition of Water Rate) Act, 1974, the water rate has been fixed at Rs.54 per acre per annum.

Scrutiny of records of the Cess Deputy Collector, Asansol revealed (April 2001) that payment of water rate, required to be made by 3 collieries in terms of lease agreement entered with the mining department, had not been made by them during the period from 1997 to 2001. This resulted in non-assessment and non-realisation of water rate of Rs.14.58 lakh.

On this being pointed out, the Cess Deputy Collector, Asansol stated that the matter had been referred to the Government to ascertain the authority which is responsible for the collection of the water tax. However, the fact remains that the Government dues remained unrealised (November 2002).

The case was reported to the Government in May 2001 followed by reminder issued up to August 2002; their reply has not been received (November 2002).

10.05 Short realisation of royalty on minor minerals due to application of pre-revised rate

Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, the holder of a mining lease is required to pay royalty in respect of any mineral removed or consumed by him or by his agent, manager or employee at the rates prescribed from time to time by the Government. In terms of the Government of West Bengal, Commerce and Industries Department, Mines Branch order dated 24 February 1999, the rate of royalty on stone and sand has been revised w.e.f. 1 March 1999 as under:

Name of the minerals	Pre-revised rate	Revised rate
Stone	Rs.20.00 per 100 cft.	Rs.50.00 per 100 cft.
Sand	Rs.15.00 per 100 cft.	Rs.37.50 per 100 cft.

Scrutiny of records of 3¹ District Land and Land Reforms Offices revealed (between January 2000 and February 2001) that 142 quarry permits were issued for extraction of 2747750 cft. of minor minerals (stone 1650750 cft., sand 1097000 cft.) between March and May 1999 on realisation of royalty at pre-revised rate. This resulted in short realisation of royalty of Rs.7.42 lakh out of which Rs.0.19 lakh was realised (November 2000) by the DL & LRO, Darjeeling. No action was, however, taken to assess and realise the balance amount of Rs.7.23 lakh.

On this being pointed out (between January 2000 and February 2001), all the district authorities stated (July 2002) that action was being taken. Report on action taken has not been received (November 2002).

The cases were reported to Government between May 2000 and June 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

10.06 Short realisation of royalty and cesses on minor minerals

Under the West Bengal Minor Minerals Rules, 1973 extraction of minor minerals is permissible on obtaining quarry permit issued by the Collector on payment of royalty and other dues in advance at the rates prescribed by the Government. Besides, under the provisions of the Cess Act, 1880 as amended in 1984, read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, holders of quarry permits are liable to pay different kinds of cesses at the rate of Rs.2.50 per MT of minor minerals extracted and despatched from the quarries from 1 June, 1987.

Scrutiny of records of 2⁴ District Land and Land Reforms Offices revealed (between January 2000 and August 2001) that in 141 cases the quarry permit holders extracted and despatched 271261 MT of minor minerals (Brickearth 178500 MT, Sand 86570 MT, Boulder 5225 MT, Morrum 660 MT and Gravels 306 MT) between 1997-1998 and 2000-2001. Total royalty and cesses realisable worked out to Rs.18.38 lakh at the prescribed rates but the

³ Bankura, Darjeeling and Purulia.

⁴ Bankura, Midnapur

department assessed and realised cesses and royalty of Rs.9.83 lakh, which resulted in short realisation of revenue of Rs.8.55 lakh.

On this being pointed out (between January 2000 and August 2001), the DL&LRO, Bankura stated (July 2002) that Rs.1.92 lakh had been realised in 11 cases. Report on further realisation has not been received (November 2002).

The cases were reported to Government between May 2000 and November 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

10.07 Non-assessment and non-realisation of surface rent and cesses

Under the provisions of the West Bengal Estates Acquisition Act, 1953 as amended in 1977 and as per terms and conditions of mining lease, the holder of a mining lease shall pay surface rent at the rate of rupees forty five per acre per annum in respect of all portions of surface area used or occupied by him for the purpose of mining operation. Cesses under the Cess Acts are also leviable on surface rent payable by the lessee of mines and minerals.

Scrutiny of records of the Cess Deputy Collector, Asansol, and 2⁵ District Land and Land Reforms Offices revealed (between December 1998 and August 2001) that in 34 cases, assessment of surface rent on 4442.99 acres of land for the period from 1997 to 2001 had escaped assessment resulting in non-realisation of surface rent and cesses of Rs.6.24 lakh.

On this being pointed out 2 district authorities stated (between December 1998 and August 2001) that action was being taken while the Cess Deputy Collector, Asansol furnished no specific reply.

The cases were reported to Government between February 1999 and September 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

⁵ Bankura and Jalpaiguri.

CHAPTER 11 OTHER NON-TAX RECEIPTS

11.01 Results of audit

Test check of records relating to revenue of Public Works Department, Irrigation and Waterways Department and Housing Department conducted during the year 2001-2002, revealed non/short realisation of revenue amounting to Rs.22.20 crore in 34 cases, which broadly fall under the following categories:

<i>(Rupees in crore)</i>			
Sl. No.	Categories	No. of cases	Amount
1	Public Works	20	1.96
2	Irrigation and Waterways	13	3.16
3	Housing Receipts	1	17.08
Total		34	22.20

During the course of the year 2001-2002, the concerned departments accepted non/short realisation of revenue of Rs.22.51 crore involved in 28 cases of which 17 cases involving Rs.19.66 crore had been pointed out in audit during the year 2001-2002 and the rest in earlier years.

A few illustrative cases involving Rs.6.36 crore highlighting important observations are given in the following paragraphs:

A-HOUSING

11.02 Non-collection of rent from employer

Scrutiny of records of the offices of 2¹ Estate Managers revealed (between December 2000 and March 2002) that the Housing Directorate made bulk allotment of 3350 flats in favour of 16 Government Undertakings/private employers for use and occupation of their employees.

It was, however, noticed that the employers did not make regular payment of rent. The Department took no step to realise the same by certificate proceedings or otherwise in terms of section 3(2)(ii) of West Bengal premises

¹ Kolkata and Durgapur

(Tenancy Regulation) Act, 1976. Lack of internal control thus resulted in blockage of revenue of Rs.2.17 crore in the shape of rent as of March 2001.

On this being pointed out (between December 2000 and March 2002), the departmental authority admitted (between April 2001 and March 2002) the position. Government to whom the matter was reported in May 2002 stated (June 2002) that efforts were being made to gear up the collection machineries and to contact the Employers/Industrialists to collect the rent.

11.03 Loss of revenue due to non-allotment of Government flats

Scrutiny of records of 2 Government housing estates in Kolkata revealed (between April 2001 and February 2002) that 275 flats remained vacant ranging between 8 and 51 months although 1042 applicants were awaiting allotment. Due to non-allotment of the ready made flats there was loss of revenue of Rs.54.01 lakh shown as under:

Name of the Housing Estate	No. of vacant flat	Vacant period	Total months	Rate per month (Rs.)	Amount (rupees in lakh)
Shampa Mirza Nagar Phase-II	235	September 1997 to July 1998	11	796	20.58
	113	August 1998 to March 1999	8	796	7.20
	104	April 1999 to March 2000	12	796	9.93
	87	April 2000 to March 2001	12	796	8.31
East Kolkata Township Project Phase-IV	40	January 1996 to March 2000	51	345	7.04
	23	April 2000 to March 2001	12	345	0.95
Total	275				54.01

On this being pointed out (between April 2001 and February 2002) the Estate Manager stated (between April 2001 and March 2002) that the flats could not be allotted in time due to non-introduction of computerised system in the matter of allotment of flats. The contention of the department is not tenable as system of allotment other than computerised system should have been adopted for allotment of the flats to avoid loss of revenue.

Government to whom the matter was referred in May 2002 stated (June 2002) that 20 flats were awaiting allotment.

11.04 Non eviction of unauthorised occupants due to inaction on the part of the department

Under Section 6A of the West Bengal Government Premises (Tenancy Regulation) Act, 1976, where any person, not being a tenant, occupies or remains in occupation of any Government premises without the written order of the authority, the authority may take such step and use force as may be necessary to take possession of the premises; such person shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Scrutiny of records of the Estate Directorate of the Housing Department revealed (March 2001) that 2766 flats in 53 Government Housing Estate in Kolkata and Durgapur were under unauthorised occupation as of March 2001. But the department neither took effective steps to evict the encroachers nor legal steps for imposition of fine and to get back possession of the premises.

Instead, the Estate Managers introduced collection of 'occupation charges' equivalent to normal rent per month from the unauthorised occupants without any Government order up to November 2000 after which such collection was stopped by the departmental authority. An amount of Rs.58.59 lakh on account of occupation charges remained unrealised.

Thus, owing to failure on the part of the department there was scope of occupying Government flats at free of cost particularly from December 2000 and there was loss of Government revenue of Rs.58.59 lakh in the shape of arrear occupation charges upto November 2000.

On this being pointed out (March 2001) the Estate Manager, Kolkata stated (March 2001) that in order to minimize the loss of revenue, such charges were collected under verbal instruction of the then authority and there was no order of Government in this respect and action had been taken to evict the unauthorised occupants or to regularise them.

Government to whom the matter was referred in May 2002 stated (June 2002) that 300 cases out of 2766 cases had been regularised in favour of legal heirs of the deceased allottees in 2001-2002 and a large number of similar prayers

for transfer of tenancy were under consideration. Further action taken has not been received (November 2002).

B. IRRIGATION AND WATERWAYS

11.05 Non-assessment and non-realisation of water rate

Under the Water Rate Laws, as soon as possible after notification imposing or revising water rate in any notified area is published, the Revenue Officer shall on the basis of test-notes received from engineering divisions, prepare and publish in the prescribed manner an assessment list or issue demand notices containing the names of all persons liable to pay water rate at such rates as specified by the government from time to time.

Scrutiny of records of 3² revenue divisions in the districts of Burdwan and Bankura revealed (between April 2000 and August 2001) that assessment of water rates for *kharif, rabi and boro*³ crops for various periods between April 1996 and March 2001 was made on 720592.94 acres of land although the actual irrigation area as per test-notes of the engineering divisions was 1284487.54 acres. Thus, revenue of Rs.1.81 crore remained unrealised due to non-assessment of water rate in respect of 563894.60 acres of land irrigated during *kharif, rabi and boro* seasons.

On this being pointed out (between April 2000 and August 2001), the concerned revenue officers stated (between April 2000 and September 2001) that steps were being taken for the assessment and collection of water rate. Report on realisation has not been received (November 2002).

The cases were reported to Government between May and October 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

² Damodar Canal Revenue Division, Damodar Irrigation Revenue Division II and Kangsabati Revenue Division II.

³ *Kharif* means the season of autumn, the autumnal harvest; here the part of the year from July to October.

Boro means Summer seasons, the part of the year from March to April

Rabi means the season of Spring, the spring harvest, here the part of the year from November to February.

11.06 Non/short recovery of royalty and cesses on minor minerals

Under the provisions of the West Bengal Minor Minerals Rules, 1973 read with the Cess Act, 1880, the extractor of any minor minerals is required to pay royalty and cess at the rates prescribed by the competent authority. In execution of Government works, the rate of carried earth from land arranged by the contractor is inclusive of royalty and cesses and accordingly the Chief Engineer (Irrigation and Waterways) in a circular of December 1999 instructed all the Executive Engineers to recover royalty and cess from the contractors' bills for non-submission of royalty clearance certificate.

Scrutiny of records of the Executive Engineer, Teesta Canal Division-II in the district of Uttar Dinajpur revealed (April 2001) that in 21 cases different agencies were engaged in canal embankment work during the years between 1996-1997 and 2000-2001. Those agencies had extracted and utilised 89.682 lakh cft. earth in execution of project works but did not produce royalty clearance certificates showing payment of royalty and cesses as per circular of the Government in December 1999. The Executive Engineer, however, made payment without recovering royalty and cesses. This resulted in non-recovery of royalty and cesses of Rs.29.15 lakh (royalty Rs.17.94 lakh + cesses Rs.11.21 lakh).

On this being pointed out (April 2001), the department stated *inter alia* (April 2001) that the agencies normally collect mines and minerals on advance payment of royalty and cesses. In the absence of any complaint regarding non-payment of royalty etc. the question of realisation of royalty etc. did not arise. The reply is not tenable as royalty clearance certificates as envisaged in the departmental circular were not produced by the contractors.

The matter was reported to Government in July 2001 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

C – PUBLIC WORKS

11.07 Loss of revenue due to non-collection of toll tax at enhanced rate

Under the Indian Tolls Act, 1851, as amended from time to time, the State Government has been empowered to levy toll tax at the rates prescribed in respect of bridges over any river/canal constructed or repaired at the expense of the State Government. Such tax is payable by the owner of vehicles using the bridges and collected departmentally or through private agency as specified.

The Public Works Department, by an order January 2000 issued under the act, enhanced toll tax and fixed the new rates for different types of vehicles crossing the bridge with effect from 1 February 2000 as follows:

	Old rate	Enhanced rate
Loaded Bus	Rs. 2.00	Rs. 10.00
Loaded Truck	Rs. 3.00	Rs. 20.00
Car/Jeep	Rs. 1.00	Rs. 4.00
Auto Rickshaw	Rs. 1.00	Rs. 2.00

Scrutiny of records of 3⁴ Public Works Divisions revealed (between August 2001 and January 2002) that toll tax at enhanced rate had been collected departmentally on Til Para Barrage, Birbhum from 1 February 2000 to 31 March 2000 (up to 6 AM) but thereafter collections were made at old rates, whereas from the vehicles plying on the Ramananda Setu, Bankura, toll tax was collected at old rate from 1 February 2000 to 5 February 2000 in violation of Government order. In another case the buses plying over the bridge on Diamond Harbour Road, South 24 Parganas, no toll tax had at all been collected from 1 February 2000. Thus, there was a loss of revenue of Rs.96.40 lakh as calculated from 1 February 2000 to 31 December 2001.

On this being pointed out (August 2001 and January 2002), the Executive Engineer, Birbhum Highway Division stated (October 2001) that the matter was under review and detailed report would follow, the other Public Works Divisions did not furnish any specific reply. However, the fact reveals that non-implementation of Government order resulted in non-realisation of

⁴ Alipur Division-II, Bankura Division and Birbhum Highway Division.

Rs.96.40 lakh. Report on further action taken has not been received (November 2002).

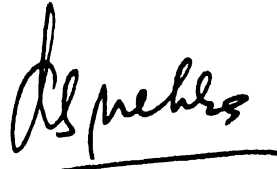
The cases were reported to Government between January 2001 and March 2002 followed by reminders issued up to August 2002; their reply has not been received (November 2002).

Kolkata,

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(D. S. NEHRA)

Accountant General (Local Bodies Audit)
West Bengal

Countersigned

New Delhi,

The

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(Vijayendra N. Kaul)

Comptroller and Auditor General of India



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