



**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended 31 March 2018**



लोकहितार्थ सत्यनिष्ठा  
Dedicated to Truth in Public Interest



**Government of Bihar**  
*Report No. 2 of the year 2019*

**Report of the  
Comptroller and Auditor General of India  
on  
Revenue Sector  
for the year ended 31 March 2018**

**Government of Bihar**  
*Report No. 2 of the year 2019*



## TABLE OF CONTENTS

	Paragraph	Page
Preface		iii
Overview		v
<b>CHAPTER 1: GENERAL</b>		
Trend of receipts	1.1	1
Analysis of arrears of revenue	1.2	7
Follow up on Audit Reports – summarised position	1.3	8
Response of the departments/Government to Audit	1.4	9
Internal Audit by Finance (Audit) Department	1.5	11
Results of audit	1.6	12
Coverage of this Report	1.7	12
<b>CHAPTER 2: COMMERCIAL TAXES</b>		
Tax administration	2.1	13
Results of audit	2.2	13
<b>Audit on Implementation of transitional provisions of Goods and Services Tax Act in Bihar</b>	2.3	15
Suppression of turnover	2.4	33
Short levy of tax due to application of incorrect rate of tax	2.5	34
Input Tax Credit	2.6	35
Short levy of tax due to incorrect adjustment of entry tax towards payment of VAT	2.7	37
Short levy of tax due to incorrect availing/claim of deduction	2.8	38
Short levy of tax on rental charges of electric meter	2.9	38
Non/short payment of admitted tax and interest	2.10	39
Non/short levy of entry tax	2.11	41
Short/non-payment of admitted entry tax and interest	2.12	41
Short levy of electricity duty	2.13	43
<b>CHAPTER 3 : REVENUE AND LAND REFORMS</b>		
Tax administration	3.1	45
Results of audit	3.2	45
Non-remittance of establishment charges into the consolidated fund of the State	3.3	45
Non-realisation/remittance of revenue on alienation/transfer of Government land	3.4	47
Excess realisation of contingency charges	3.5	48

<b>CHAPTER 4 : TAXES ON VEHICLES</b>		
Tax administration	4.1	49
Results of audit	4.2	49
Short/non-levy of road safety cess from one time tax (OTT) paying vehicles	4.3	50
Assignment of registration mark to commercial tractor without realisation of one time tax	4.4	51
Non-realisation of penalty for belated payment of OTT	4.5	52
Non-realisation of Motor vehicle tax	4.6	53
<b>CHAPTER 5 : STAMPS AND REGISTRATION FEES</b>		
Tax administration	5.1	55
Results of audit	5.2	55
<b>Audit of Computerisation in Registration Department</b>	5.3	56
Short realisation of stamp duty and registration fee due to undervaluation of property	5.4	77
Government revenue not realised from the finalised referred cases	5.5	79
Short realisation of stamp duty and registration fee on mining lease of stone	5.6	79
<b>CHAPTER 6 : MINING RECEIPTS</b>		
Tax administration	6.1	81
Results of audit	6.2	81
Non-realisation of Government revenue due to non-settlement of stone quarries	6.3	82
Loss of revenue due to non/delayed settlement of sand <i>ghats</i>	6.4	86
Loss of revenue due to cancellation of leases of sand <i>ghats</i>	6.5	90
Non-levy of penalty for irregular procurement of minerals by works contractors	6.6	91
Non/short realisation of royalty and penalty from brick kiln owners	6.7	92
District mineral foundation and national mineral exploration trust	6.8	93
<b>APPENDICES</b>		97

## **PREFACE**

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2018 has been prepared for submission to the Governor of Bihar under Article 151 of the Constitution of India.

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

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2017-18 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2017-18 have also been included wherever necessary.

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



# **OVERVIEW**





## OVERVIEW

This Report contains 26 paragraphs besides the results of audit of ‘**Implementation of transitional provisions of Goods and Services Tax Act in Bihar**’ and ‘**Computerisation in Registration Department**’. The total financial implication of the Report is ₹ 1,648.80 crore. Some of the major findings in this report are summarised below:

### 1. General

The total receipts of the Government of Bihar for the year 2017-18 amounted to ₹ 1,17,446.74 crore, of which revenue raised by the State Government from its own sources was ₹ 26,643.23 crore (22.69 *per cent*). The share of receipts from the Government of India amounting to ₹ 90,803.51 crore (77.31 *per cent* of the total receipts) comprised of State’s share of divisible Union taxes of ₹ 65,083.38 crore (55.42 *per cent* of the total receipts) and grants-in-aid of ₹ 25,720.13 crore (21.90 *per cent* of the total receipts).

**(Paragraph 1.1)**

Arrears of revenue as on 31 March 2018 on taxes on sales, trade etc., taxes on goods and passengers, taxes and duties on electricity, taxes on vehicles, other taxes and duties on commodities and services, land revenue, state excise and non-ferrous mining and metallurgical industries amounted to ₹ 4,979.85 crore of which ₹ 670.97 crore was outstanding for more than five years.

**(Paragraph 1.2)**

The Public Accounts Committee (PAC) discussed selected paragraphs pertaining to the Audit Reports for the years 2008-09 to 2015-16 and issued recommendations on 47 paragraphs relating to Commercial taxes Department, Prohibition, Excise and Registration Department, Revenue and Land Reforms Department, Transport Department and Mines and Geology Department as incorporated in aforesaid Reports. However, no action taken report has been received from these departments on PAC recommendations (September 2019).

**(Paragraph 1.3)**

Audit observed (between April 2017 and October 2018) underassessment/ short levy/loss of revenue aggregating to ₹ 4,515.17 crore in 3,452 cases. The departments concerned accepted (between April 2017 and July 2019) underassessment and other deficiencies of ₹ 2,353.28 crore in 1,830 cases, out of which 356 cases involving ₹ 870.47 crore were pointed out during 2017-18 and the rest in earlier years. The departments reported (between April 2017 and July 2019) recovery of ₹ 39.77 crore in 416 cases.

**(Paragraph 1.6)**

Revenue earning departments did not address audit observations included in 2,493 Inspection Reports (IRs) (21,994 audit observations) involving potential revenue of as much as ₹ 24,304.01 crore whereas the total revenue collection of the State is ₹ 26,643.23 crore. Even the first replies, required to be received from the heads of offices within four weeks of receipt of the IRs, were not received in respect of

1,183 IRs (10,111 audit observations) involving potential revenue of as much as ₹ 12,893.64 crore, issued from 2008-09 onwards.

(Paragraph 1.4.1)

## 2. Commercial Taxes

Goods and Services Tax (GST) was introduced from 1 July 2017. Audit of 'Implementation of transitional provisions of Goods and Services Tax Act in Bihar' revealed the following:

The Department did not re-assess the workload as well as the sanctioned strength of the Department after GST implementation in the light of increase of 53 *per cent* in the number of dealers and redundancies of work in the computerised environment.

**Audit recommends that the Department should re-assess the workload after increase in the taxpayer base as well as the GST automation in the interest of revenue.**

(Paragraph 2.3.9)

726 existing dealers having a turnover of ₹ 20 lakh or more during 2016-17 and ₹ five lakh or more during first quarter of 2017-18 did not migrate to GST. The Department could not detect such non-migration of these 726 potential dealers.

**Audit recommends that the Department should examine the reason for non-migration of existing potential dealers to GST and initiate proceedings under GST for levy of tax as well as penalty.**

(Paragraph 2.3.10.1)

The Department did not collect statistics and relevant information as per Section 150 and 151 of BGST Act and it also failed to undertake any survey and other enforcement measures as per rule 16 of BGST Rules to identify potential and eligible dealers during 2017-18 to augment the tax base of the GST.

**Audit recommends that the Department should initiate process to detect un-registered and potential dealers by conducting survey and other enforcement measures and examine the reason for non-registration under GST.**

(Paragraph 2.3.10.2)

12,746 taxpayers already registered under existing tax regime, were allowed new registration into GST instead of migration, and 401 dealers were allowed to migrate to GST regime despite their registration already cancelled in the existing laws.

(Paragraphs 2.3.10.4 and 2.3.10.5)

Instructions of the Commissioner, State Tax to conduct verification of transitional ITC in a time-frame were not fully complied by the field JCSTs as only 24 *per cent* cases were verified by them indicating inadequate monitoring.

(Paragraph 2.3.11.1)

The IT system of GST was not integrated with the VATMIS which resulted into non-migration of legacy data from VAT to GST system facilitating the dealers to claim irregular transitional Input Tax Credit (ITC). Irregular claims of transitional ITC of ₹ 42.79 crore by 95 dealers out of 484 test checked dealers (total 1,944 dealers under State tax authority claimed SGST claims) were detected by audit.

**(Paragraphs 2.3.11.3 to 2.3.11.9)**

The AAs did not scrutinise returns of the dealers to detect suppression of turnover of ₹ 32.13 crore which resulted in under-assessment of VAT of ₹ 6.09 crore including leviable penalty and interest in cases of 13 dealers out of total 1,293 test checked dealers.

**(Paragraph 2.4)**

The AAs did not scrutinise the returns of the dealers to detect application of incorrect rate of tax which resulted in short levy of tax of ₹ 4.70 crore including leviable interest in cases of nine dealers out of total 733 test checked dealers.

**(Paragraph 2.5)**

Due to non-scrutiny of returns and absence of a system of cross-verification of purchase and sales figures of the dealers, there was excess/incorrect availing of ITC of ₹ 73.80 crore including penalty and interest in cases of 94 dealers out of total 3,114 test checked dealers.

**(Paragraph 2.6)**

Availing of incorrect adjustment of entry tax towards payment of VAT remained undetected by the AAs due to non-scrutiny of returns by them which resulted in short levy of VAT of ₹ 1.74 crore including leviable interest in cases of three dealers out of total 463 test checked dealers.

**(Paragraph 2.7)**

Assessing Authorities did not scrutinise the returns of the dealers to detect the short/delayed payment of admitted tax, which resulted in short realisation of tax of ₹ 20.15 crore and non-levy of interest of ₹ 1.57 crore in cases of 125 dealers out of total 4,836 test checked dealers.

**(Paragraph 2.10)**

Assessing Authority levied electricity duty of ₹ 12.21 crore only against leviable duty of ₹ 16.64 crore on sale of electrical energy of ₹ 277.30 crore to distribution franchisees, which led to short realisation of electricity duty of ₹ 4.43 crore.

**(Paragraph 2.13)**

### **3. Revenue and Land Reforms**

Five District Land Acquisition Officers (DLAOs) failed to remit establishment charges of ₹ 299.65 crore into the Consolidated Fund of the State though the fund was available with them.

**Audit recommends that the Department should ensure that the amount of establishment charges realisable, realised and kept in PD/bank accounts are reconciled and the balance amount is remitted into the Consolidated Fund of the State without further delay and responsibility is fixed on the erring DLAOs who inordinately delayed deposit of establishment charges into the Consolidated Fund of the State.**

**(Paragraph 3.3)**

Due to non-adherence of the sanction order by the Additional Collector/Circle Officer, the Government was deprived of revenue of ₹ 16.01 crore.

**(Paragraph 3.4)**

#### **4. Taxes on Vehicles**

Road safety cess (RSC) from 12,865 commercial vehicles was realised at the rate of one *per cent* of One Time Tax (OTT) paid instead of one *per cent* of sales value due to issuance of amendment notification contrary to the approval of the Transport/ Finance departments which resulted into short levy of RSC of ₹ 3.39 crore. Further due to delayed mapping of RSC in *VAHAN*, ₹ 21.89 lakh could not be realised from owners of 2,905 personalised vehicles.

**(Paragraph 4.3)**

Due to absence of requirement for payment of tax before registration of vehicle, applications of owners of 429 tractors for registration were accepted and processed to generate a registration mark in *VAHAN* without realising OTT of ₹ 2.78 crore including leviable penalty.

**(Paragraph 4.4)**

Absence of mechanism for periodic review of *VAHAN* database by the District Transport Officers to detect tax defaulter vehicles resulted in non-realisation of taxes of ₹ 1.90 crore (Road tax: ₹ 62.51 lakh; Green tax: ₹ 0.65 lakh and Road safety cess: ₹ 0.75 lakh) including penalty of ₹ 1.26 crore in 12 District Transport Offices.

**(Paragraph 4.6)**

#### **5. Stamps and Registration fee**

**Audit of Computerisation in Registration Department** revealed the following:

System Design Document, Business Continuity and Disaster Recovery Plan were not available/documented. Standardisation Testing and Quality Certification (STQC) of SCORE software was not done.

**(Paragraphs 5.3.8, 5.3.9 and 5.3.11)**

The Department did not avail facility of State Wide Area Network (SWAN) and State Data Centre (SDC) and obtained intranet and data centre services from outsourced vendors and made avoidable payments of ₹ 3.98 crore.

**(Paragraphs 5.3.13 and 5.3.14)**

Only 27 per cent of the deeds executed between April 2011 and March 2018 were found uploaded (upto March 2018) on System for Computerised Registration (SCORE) database. Further, though six vendors were paid ₹ 23.94 crore for digitisation and uploading of 1,26,37,896 records pertaining to period 1995 to 2010, details of only 5,87,576 deeds (five per cent) were available in database and further pdf format of only 23 deeds were found uploaded (March 2018). In absence of data on server, the main purpose of digitisation to facilitate online access to digitised data was defeated.

**(Paragraph 5.3.15)**

Crucial fields such as area of land, period of lease were not found entered in SCORE database which indicates that leviable stamp duty and registration fees were manually entered and not auto calculated by SCORE defeating one of its objectives.

**(Paragraph 5.3.16)**

Details of challans were not entered in SCORE database for 50,62,399 deeds and 42,350 challans were not linked with the concerned deed/token number though these facilities were available in the application system.

**(Paragraph 5.3.17)**

Gaps in system generated token number/deed number, duplication in system generated deed number/Book deed number and reference of incorrect page numbers in endorsement of certificate of registration were noticed.

**(Paragraphs 5.3.18, 5.3.19 and 5.3.21)**

Fees relating to search of documents, inspection, issuance of certified copy of deeds, etc. were collected manually and not reflected in the SCORE database. As a result, daily fee books and monthly fee books generated by SCORE database did not include all transactions.

**(Paragraph 5.3.22)**

Non-encumbrance certificates were issued manually though its online issuance was one of the objectives of SCORE.

**(Paragraph 5.3.24)**

The Registration Department illegally made provision for collection of service charge in the Bihar Registration Rules, 2008 and consequently not only collected service charge of ₹ 152.60 crore during 2008-09 to 2017-18 by putting undue burden on stakeholders but also kept them in bank account instead of the Consolidated Fund of the State.

**Audit recommends that the Department should amend the Bihar Registration Rules, 2008 so that service charge may not be collected in violation of the legislative intent of Section 69 of the Registration Act. The Department should reconcile the collected service charge (kept in bank account) and remit it into the Consolidated Fund of the State immediately. Further the Department may**

**also investigate how the amount thus collected has been used by the Bihar Society for Computerisation of Registration offices (BISCORE) and District Society for Computerisation of Registration Offices (DISCORE).**

**(Paragraph 5.3.27)**

Assistant Inspector General (AIG) Muzaffarpur overlooked factual position of land while finalising case referred by SR Chakia which resulted in short levy of Stamp Duty (SD) and Registration Fee (RF) of ₹ 4.32 crore. Six Registering Authorities failed to detect undervaluation of properties which resulted in short levy of SD and RF of ₹ 3.96 crore in 11 deeds.

**(Paragraph 5.4)**

## **6. Mining Receipts**

Lackadaisical approach of State officials in settlement of stone quarries resulted in non/delayed settlement of ten blocks of stone quarries of Gaya, three blocks of stone quarries of Rohtas and one block of stone quarry of Aurangabad and therefore, the State Government was deprived of revenue of ₹ 710.18 crore during 2015-19.

**(Paragraph 6.3)**

Delayed approval of Mining Plan and Environmental Clearance and lackadaisical approach of the Collectors/District Mining Officers (DMOs) in resorting to alternative mechanism to safeguard the revenue, and taking decisions to issue work order as well as weak monitoring and supervision by the Mines Commissioner and the Director led to non-settlement/operation of sand *ghats* during 2016-2018 and consequently total revenue loss of ₹ 166.89 crore.

**(Paragraph 6.4)**

Absence of provisions to operationalise sand *ghats* during the interim period between cancellation of leases and their subsequent restoration, resulted in loss of revenue of ₹ 96.39 crore in four district mining offices.

**(Paragraph 6.5)**

The errors/omissions pointed out are on the basis of a test audit. The Department/Government may, therefore, undertake a thorough review of all units to check whether similar errors/omissions have taken place elsewhere and, if so, to rectify them; and to put a system in place that would prevent such errors/omissions.

# **CHAPTER 1**

## **GENERAL**





## CHAPTER 1: GENERAL

### 1.1 Trend of receipts

**1.1.1** The tax and non-tax revenues raised by the Government of Bihar (GoB), the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-aid received from Government of India (GoI) during the period 2013-18 are depicted in **Table-1.1**.

**Table-1.1**  
**Trend of receipts**

Sl. No.	Particulars	2013-14	2014-15	2015-16	2016-17	2017-18
<b>(₹ in crore)</b>						
<b>1.</b>	<b>Revenues raised by the State Government</b>					
	• Tax revenues	19,960.68	20,750.23	25,449.18	23,742.26	23,136.49
	<b>Percentage of growth compared to previous year</b>	<b>22.81</b>	<b>3.96</b>	<b>22.65</b>	<b>(-) 6.71</b>	<b>(-) 2.55</b>
	• Non-tax revenues	1,544.83	1,557.98	2,185.64	2,403.11	3,506.74
	<b>Percentage of growth compared to previous year</b>	<b>36.08</b>	<b>0.85</b>	<b>40.29</b>	<b>9.95</b>	<b>45.93</b>
	<b>Total</b>	<b>21,505.51</b>	<b>22,308.21</b>	<b>27,634.82</b>	<b>26,145.37</b>	<b>26,643.23</b>
<b>2.</b>	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	34,829.11	36,963.07	48,922.68	58,880.59	65,083.38 <sup>1</sup>
	• Grants-in-aid <sup>2</sup>	12,584.03	19,146.26	19,565.60	20,559.02	25,720.13 <sup>3</sup>
	<b>Total</b>	<b>47,413.14</b>	<b>56,109.33</b>	<b>68,488.28</b>	<b>79,439.61</b>	<b>90,803.51</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>68,918.65</b>	<b>78,417.54</b>	<b>96,123.10</b>	<b>1,05,584.98</b>	<b>1,17,446.74</b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>31</b>	<b>28</b>	<b>29</b>	<b>25</b>	<b>23</b>
<b>5.</b>	<b>Percentage of tax revenue to total revenue receipts</b>	<b>29</b>	<b>26</b>	<b>26</b>	<b>22</b>	<b>20</b>

(Source: Finance Accounts, Government of Bihar)

Above table indicates that the average annual growth rate in respect of tax revenue and non-tax revenue were 8.03 per cent and 26.62 per cent respectively during 2013-18.

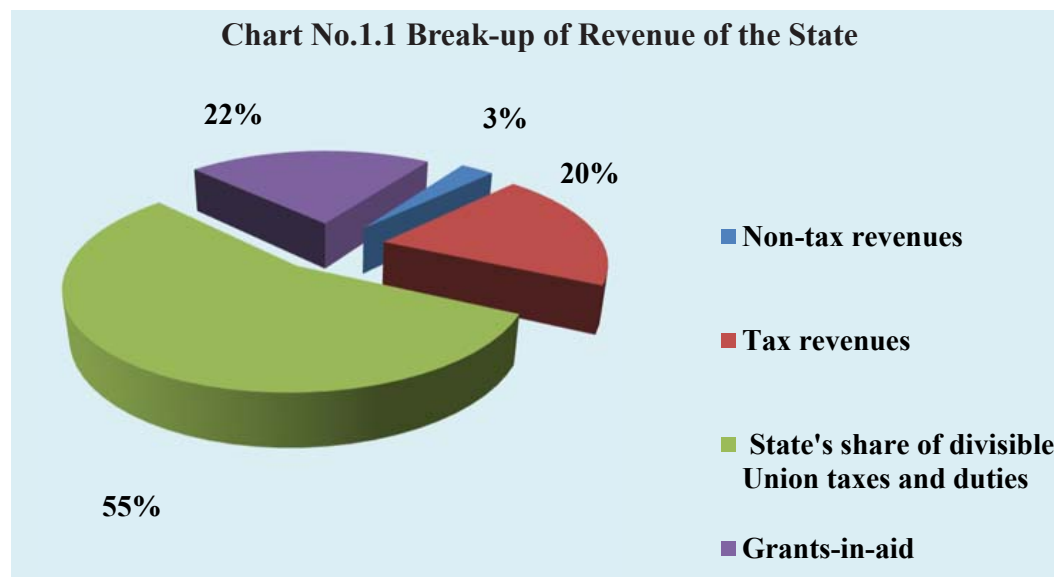
<sup>1</sup> For details, please see Statement No. 14 - Detailed accounts of revenue by minor heads in the Finance Accounts of Government of Bihar for the year 2017-18. Figures under Minor Head 901 - Share of net proceeds assigned to the State under the Major Heads – 0005- Central Goods and Services Tax (₹ 925.48 crore), 0008 – Integrated Goods and Services Tax (₹ 6,572.00 crore) 0020 - Corporation Tax (₹ 19,935.56 crore), 0021 - Taxes on income other than Corporation Tax (₹16,834.16 crore), 0032 - Taxes on Wealth (₹ -0.60 crore), 0037 – Customs (₹ 6,570.00 crore), 0038 - Union Excise Duties (₹ 6,867.50 crore), 0044 - Service Tax (₹ 7,379.29 crore) and 0045 – Other taxes and duties on commodities and services (₹ -0.01 crore).

<sup>2</sup> Centrally sponsored schemes, Finance Commission grants and other transfer/grants (also includes compensation on GST received from GoI) to States/Union Territories with Legislatures.

<sup>3</sup> Includes Compensation worth ₹ 3,041 crore towards loss of revenue due to implementation of Goods and Service Tax (GST).

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

Breakup of revenue of the State is given in **Chart 1.1**:



**1.1.2** Details of budget estimates (BEs) and tax revenues raised during the period 2013-14 to 2017-18 are given in **Table-1.2**.

**Table- 1.2**  
**Details of Tax Revenues**

(₹ in crore)

Sl. No.	Head of revenue	2013-14	2014-15	2015-16	2016-17	2017-18	Percentage of increase (+)/decrease (-) in actual of 2017-18 in comparison to	
		BE Actual	BE Actual	BE Actual	BE Actual	BE Actual	BE of 2017-18	Actual of 2016-17
1.	State Goods and Services Tax	-	-	-	-	0.00 6,746.96	-	-
2.	Taxes on sales, trade etc.	12,324.04 8,453.02	12,820.15 8,607.16	16,025.18 10,603.40	14,021.33 11,873.51	24,400.00 8,298.10	-	-
3.	Taxes on goods and passengers <sup>4</sup>	1,192.75 4,349.00	4,117.50 4,451.25	5,146.88 6,087.12	7,211.96 6,245.62	0.00 1,644.85	-	-
4.	Other taxes and duties on commodities and services	34.14 50.43	48.59 105.34	45.43 69.36	88.90 81.08	0.01 20.51	-	-
<b>Sub-total (1, 2, 3 and 4)</b>		<b>13,550.93</b> <b>12,852.45</b>	<b>16,986.24</b> <b>13,163.75</b>	<b>21,217.49</b> <b>16,759.88</b>	<b>21,322.19</b> <b>18,200.21</b>	<b>24,400.01</b> <b>16,710.42</b>	<b>(-31.51)</b>	<b>(-8.19)</b>
5.	State excise <sup>5</sup>	3,300.00 3,167.72	3,700.00 3,216.58	4,000.00 3,141.75	2,100.00 29.66	0.00 (-)3.43	-	(-) 111.56
6.	Stamps and registration fees	3,200.00 2,712.41	3,600.00 2,699.49	4,000.00 3,408.57	3,800.00 2,981.95	4,600.00 3,725.66	(-)19.01	(+)24.94
7.	Taxes on vehicles	800.00 837.48	1,000.00 963.56	1,200.00 1,081.22	1,500.00 1,256.67	1,800.00 1,599.51	(-)11.14	(+)27.28

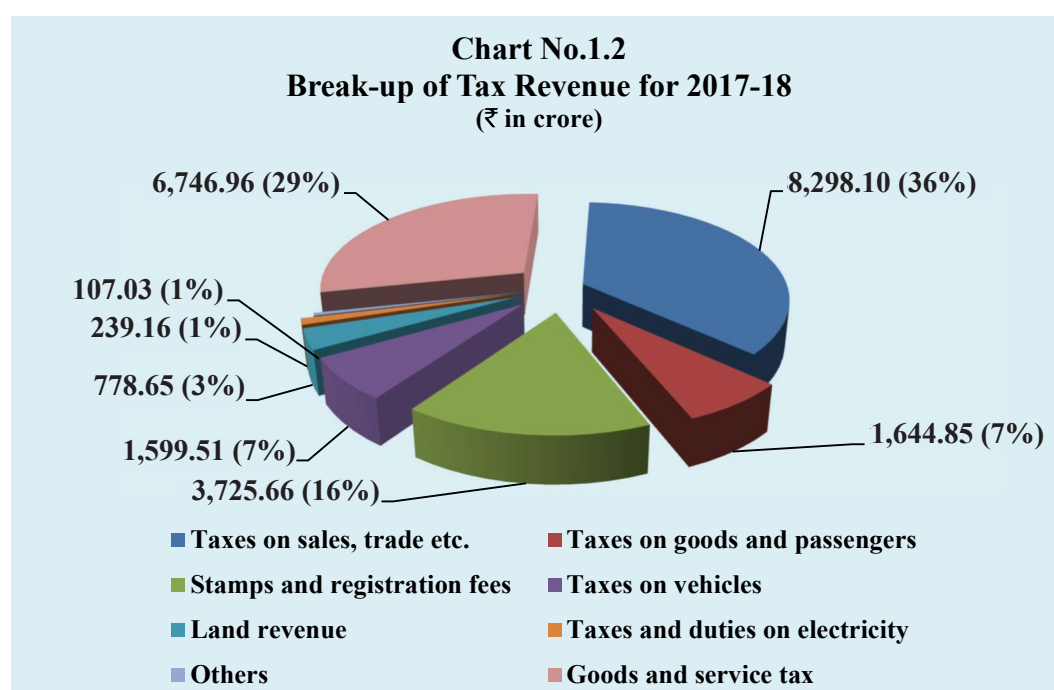
<sup>4</sup> All the receipts under Taxes on goods and passengers is from Entry Tax during the year 2017-18, which has since been abolished and subsumed in GST from 1.7.2017.

<sup>5</sup> Sale of Liquor has been prohibited in Bihar since April 2016.

Sl. No.	Head of revenue	2013-14	2014-15	2015-16	2016-17	2017-18	Percentage of increase (+)/decrease (-) in actual of 2017-18 in comparison to	
		<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	BE of 2017-18	Actual of 2016-17
8.	Land revenue	205.00 201.71	250.00 277.13	300.00 695.15	330.00 971.12	600.00 778.65	(+)29.78	(-)19.82
9.	Taxes and duties on electricity	66.17 141.31	82.70 374.76	102.50 297.99	590.04 223.90	501.09 239.16	(-) 52.27	(+) 6.82
10.	Other taxes on income and expenditure- taxes on professions, trades, callings and employment	32.59 47.60	44.00 54.96	55.00 64.55	88.03 78.75	100.00 86.52	(-)13.48	(+)9.87
<b>Total</b>		<b>21,154.69</b> <b>19,960.68</b>	<b>25,662.94</b> <b>20,750.23</b>	<b>30,874.99</b> <b>25,449.11</b>	<b>29,730.26</b> <b>23,742.26</b>	<b>32,001.10</b> <b>23,136.49</b>	<b>(-) 27.70</b>	<b>(-) 2.55</b>

{Source: Finance Accounts, Government of Bihar and Revenue and Capital Receipts (Detail)}

Break-up of tax revenues of the State is given in **Chart 1.2**:



It appears from the Table 1.2 that there were wide variations between the budget estimate and actual during 2017-18 under different heads of Tax revenue which indicated that the budget was not prepared on realistic basis.

Audit further observed the following:

### Comparison of pre-GST and post-GST revenues

Audit noticed that after implementation of GST with effect from 1 July 2017, combined revenue of State Goods and Services Tax, Taxes on sales, trade, etc., Taxes on goods and passengers, and Other Taxes and duties on commodities and services (which were subsumed in GST) decreased by 8.19 per cent in real terms in the year 2017-18 in comparison to last year revenue receipts and increased by 8.52 per cent after including ₹ 3,041.00 crore received towards compensation of GST.

**Short payment of compensation:** According to GST (Compensation to the States) Act 2017, Central Government will compensate the States for loss of revenue arising on account of implementation of GST for a period of five years. The compensation payable to the State shall be calculated for every financial year after the receipt of final revenue figures, as audited by the CAG of India. A base year (2015-16) revenue figure of taxes subsumed under GST was finalised under GST Act. In case of Bihar, the revenue was ₹ 12,620.56 crore during the base year (2015-16). The projected revenue for any year in a State shall be calculated by applying the projected growth rate (14 per cent per annum) over the base year revenue of that State.

The projected revenue for the year 2017-18 (1 July 2017 to 31 March 2018) in accordance with the base year figure was ₹ 12,301.25 crore (₹ 16,401.68 crore for whole year). Revenue figure under GST for the year 2017-18 has been depicted in Finance Accounts as per nature of receipts i.e. State Goods and Services Tax (SGST), Input Tax Credit cross utilisation of SGST and IGST (Integrated Goods & Services Tax), Apportionment of IGST-transfer-in of Tax component to SGST and Advance apportionment from IGST.

Against the projected revenue of ₹ 12,301.25 crore, the revenue receipt of the State Government under GST and compensation paid by the Central Government during the year 2017-18 is given in **Table 1.3**.

**Table 1.3**  
**Pre-GST tax and SGST collected, including apportionment of IGST and compensation received from Government of India against loss of revenue for the period from July 2017 to March 2018**

Month	Revenue to be protected	Pre-GST taxes collected	SGST collected including apportionment of IGST	Total amount received	Compensation received	Deficit/Surplus
	1	2	3	4=(2+3)	5	6= {1-(4+5)}
July and August 2017	2,733.61	1,401.70	375.64	1,777.34	00	956.27
September and October 2017	2,733.61	273.85	1,684.26	1,958.11	692.00	83.50
November and December 2017	2,733.61	165.19	1,641.50	1,806.69	1,054.00	(-) 127.08
January and February 2018	2,733.61	175.06	2,190.62	2,365.68	373.00	(-) 5.07
March 2018	1,366.81	415.32	854.83	1,270.15	922.00	(-) 825.34
<b>Total</b>	<b>12,301.25</b>	<b>2,431.12</b>	<b>6,746.85<sup>6</sup></b>	<b>9,177.97</b>	<b>3,041.00</b>	<b>82.28</b>

(Source: Ministry of Finance, Government of India and Commercial Taxes Department, Government of Bihar).

It was evident from Table 1.3 that during 2017-18 after implementation of GST revenue to be protected was ₹ 12,301.25 crore and total revenue realised was ₹ 9,177.97 crore. Thus, shortfall of revenue was ₹ 3,123.28 crore which was to be compensated from Government of India. However, only ₹ 3,041.00 crore was received as compensation and thus ₹ 82.28 crore was aggregate deficit on account of implementation of GST. However, compensation of ₹ 99.00 crore (for the month of March 2018) was received in May 2018 from GoI to meet this shortfall subject to recovery of the excess payment from future claims or by direct debit to the State Governments' accounts as per procedure.

<sup>6</sup> As per Finance Accounts, collection of SGST is ₹ 6,746.96 crore including advance apportionment of IGST of ₹ 552.00 crore. Bimonthly figure of SGST is not available in Finance Account, therefore figure furnished by the Department has been taken in Table 1.3

**State excise:** There was collection of revenue of ₹ 1.62 crore on account of fines and confiscations, commercial and denatured spirits and medicated wines and other receipts and refund of ₹ 5.05 crore resulting net loss of ₹ 3.43 crore during 2017-18. Due to implementation of prohibition policy of liquor BE was fixed at 'nil'.

**Stamps and registration fees:** The main reason for increase of 24.94 per cent in receipts from stamp duty and registration fee during 2017-18 over previous year was substantial increase in number of instruments registered during 2017-18.

**Taxes on vehicles:** The main reasons for increase of 27.28 per cent in taxes on vehicle during 2017-18 over previous year were enhancement of rate of permit fee with effect from 23 June 2017 and increase in licence fee, permit fee in pursuance of amendment in the Central Motor Vehicles Rules, 1989 from 17 January 2017. The increase was also attributable to substantial increase in number of vehicles registered during 2017-18.

**Land revenue:** The main reasons for decrease of ₹ 192.47 crore (19.82 per cent) in Land Revenue during 2017-18 in comparison to the actual collection (₹ 971.12 crore) of 2016-17 was reduction in rate of establishment charge.

**1.1.3** Details of budget estimates and non-tax revenues raised during the period 2013-14 to 2017-18 are indicated in **Table 1.4**.

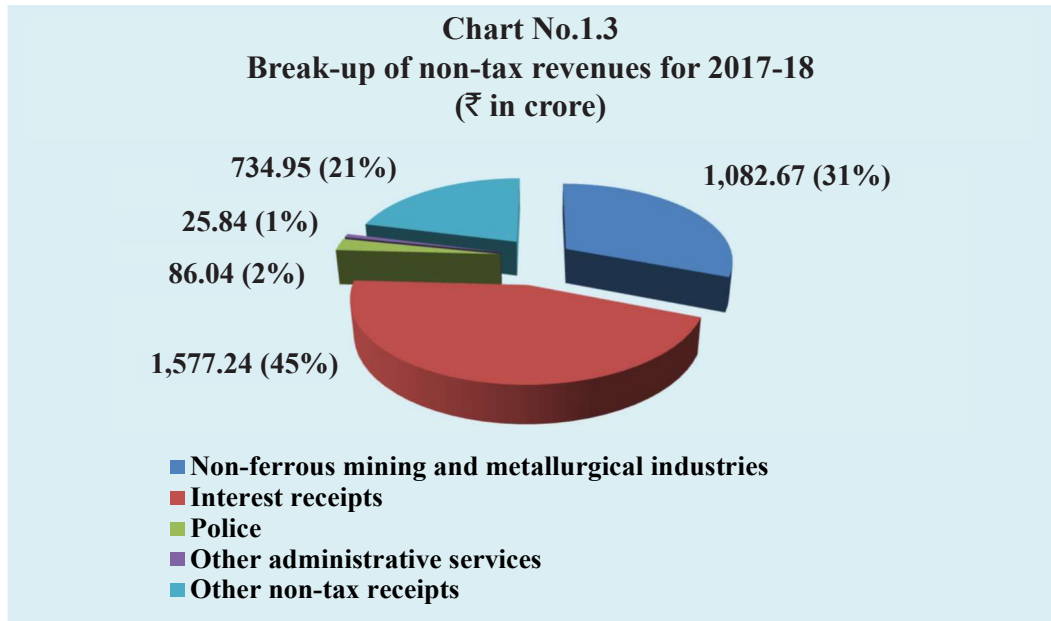
**Table- 1.4**  
**Details of non-tax revenues**

Sl. No.	Head of Revenue	2013-14	2014-15	2015-16	2016-17	2017-18	Percentage of increase (+)/decrease (-) in actual of 2017-18 in comparison to	
		BE Actual	BE Actual	BE Actual	BE Actual	BE Actual	BE of 2017-18	Actual of 2016-17
1.	Non-ferrous mining and metallurgical industries	641.00	750.00	1,000.00	1,100.00	1,350.00	(-)19.80	(+)8.53
		569.14	879.87	971.34	997.60	1,082.67		
2.	Interest receipts	338.48	202.22	312.13	365.78	619.25	(+)154.70	(+)67.81
		269.48	344.77	583.66	939.91	1,577.24		
3.	Police	70.59	69.74	28.93	31.74	41.53	(+)107.18	(+)104.08
		27.27	29.50	66.05	42.16	86.04		
4.	Other administrative Services	65.01	251.60	51.25	23.35	256.32	(-)89.92	(-)74.13
		10.18	21.77	72.61	99.88	25.84		
5.	Other non-tax <sup>7</sup> receipts	2,279.76	1,797.93	1,988.80	819.87	567.21	(+)29.57	(+)127.14
		668.26	282.07	491.98	323.56	734.95		
<b>Total receipts</b>		<b>1,544.83</b>	<b>1,557.98</b>	<b>2,185.64</b>	<b>2,403.11</b>	<b>3,506.74</b>		

(Source: Actual receipts as per Finance Accounts of the Government of Bihar and the budget estimates as per the Statement of Revenue and Capital Receipts (Detail) of Government of Bihar).

<sup>7</sup> Other non-tax receipts includes actual receipts during 2017-18 under the following heads: Road and bridges (₹ 66.74 crore), Medical and public health (₹ 54.53 crore), Other rural development programmes (₹ 48.61 crore), Forestry and wild life (₹ 29.41 crore), Education, sports, arts and culture (₹ 21.47 crore), Public service commission (₹ 130.11 crore), Other general economic services (₹ 18.40 crore), Contribution and recoveries towards pension and other retirement benefits (₹ 202.53 crore), Crop husbandry (₹ 11.93 crore), Major irrigation (₹ 22.22 crore), Medium irrigation (₹ 17.27 crore), Labour employment and skill development (₹ 16.79 crore), Jail (₹ 15.94 crore), Fisheries (₹ 12.02 crore), Miscellaneous general service (₹ 3.45 crore), Water supply and sanitation (₹ 16.63 crore), Housing (₹ 6.57 crore), Urban development (₹ 7.43 crore), Information and publicity (₹ 0.39 crore), Social security and welfare (₹ 0.17 crore), Animal husbandry (₹ 0.76 crore), Cooperation (₹ 8.62 crore), Land reforms (₹ 0.22 crore), Minor irrigation (₹ 5.21 crore), Civil aviation (₹ 4.12 crore), Road transport (₹ 0.17 crore), Tourism (₹ 1.62 crore), Village and small industries (₹ 0.06 crore), Industries (₹ 0.11 crore) and Civil supplies (₹ 0.05 crore).

Break-up of non-tax revenues of the State is given in **Chart 1.3**:



Reason for wide variations are discussed below:

**Non-ferrous mining and metallurgical industries:** Audit observed that BE of 2017-18 could not be achieved due to non-settlement of stone quarries and non-resettlement of sand *ghats* after their cancellation.

**Interest receipts:** The estimates were not based on realistic assessments which is evident from the fact that despite actual receipts of interest of ₹ 939.91 crore during 2016-17, the estimate for 2017-18 was only ₹ 619.25 crore which led to wide variation (154.70 *per cent*) between budget estimates and actual receipts during 2017-18.

Audit observed that the sudden increase in interest receipts in 2016-17 was due to more Cash balance of the state Government in the Account of Reserve Bank of India (RBI) Nagpur and investment of ₹ 8,000 crore in 91 days ATB Auction keeping in view the Daily cash position. The sudden increase in interest receipts in 2017-18 was due to more cash balance of the state Government in the Account of RBI Nagpur and investment of ₹ 18,000 crore in 91 days ATB Auction. Further, remittance of interest earned on the amount of money kept in Banks by various Drawing and Disbursing Officers (DDOs) in the consolidated fund of State was also among the reasons for increase in interest receipts.

**Police Receipts:** Main reason for excess of actual receipts over BE during 2017-18 and over actual receipts of 2016-17 was more receipts mainly under fees, fines and forfeitures.

**Other administrative services:** The BE of receipts under Election sub-head during 2017-18 was fixed at ₹ 255.37 crore despite actual receipts of ₹ 84.23 crore during 2016-17 which led to wide variation between BE and actuals under other administrative services during 2017-18. Further, actual receipts was mere ₹ 5.47 crore under Election sub-head in 2017-18 in comparison to ₹ 84.23 crore during 2016-17 this led to decrease in receipts.

**Other non-tax receipts:** Main reason for excess of actual receipts over BE during 2017-18 was receipt of ₹ 130.11 crore under staff selection commission/public service commission examination fee during 2017-18 against ₹ 16.31 crore of previous year which was taken into account while preparing budget estimates of ₹ 22 crore for the year 2017-18.

## 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2018 in respect of the principal heads of revenue amounted to ₹ 4,979.85 crore of which ₹ 670.97 crore was outstanding for more than five years as detailed in the **Table-1.5**.

**Table- 1.5**  
**Arrears of revenue**

(₹ in crore)

Sl. No.	Heads of revenue	Total amount outstanding as on 31 March 2018	Amount outstanding for more than five years as on 31 March 2018	Stages of pendency as stated by the departments concerned
1.	Taxes on sales, trade etc.	2,945.25	625.30	Out of ₹ 2,945.25 crore, demands for ₹ 343.71 crore were certified for recovery as arrears of land revenue, recoveries of ₹ 441.08 crore and ₹ 398.75 crore were stayed by the courts and the Government respectively, ₹ 0.80 crore was held up due to assesses/dealers becoming insolvent, ₹ 2.48 crore was likely to be written off and ₹ 1,758.43 crore was pending at other stages.
2.	Taxes on goods and passengers	1,332.36	13.00	Out of ₹ 1,332.36 crore, demand for ₹ 0.62 crore was certified for recovery as arrears of land revenue, recovery of ₹ 136.99 crore was stayed by the courts and ₹ 1,194.75 crore was pending at other stages.
3.	Taxes and duties on electricity	22.99	2.25	Out of ₹ 22.99 crore, recovery of ₹ 2.06 crore was stayed by the courts and ₹ 20.93 crore was pending at other stages.
4.	Taxes on vehicles	188.52	-	The Transport Department did not provide details of arrears outstanding for more than five years.
5.	Other taxes and duties on commodities and services	10.56	8.19	Demands for ₹ 8.48 crore were certified for recovery as arrears of land revenue, and ₹ 2.08 crore was pending at other stages.
6.	Land revenue	143.26	-	The Revenue and Land Reforms Department did not provide details of arrears outstanding for more than five years.
7.	State excise	49.40	22.23	Demands for ₹ 37.25 crore were certified for recovery as arrears of land revenue, recovery of ₹ 6.06 crore and ₹ 0.40 crore was stayed by the courts and the Department respectively, ₹ 1.09 crore and ₹ 0.07 crore was held up due to assessee/dealers becoming insolvent and rectification/ review of application respectively, ₹ 0.31 crore was likely to be written off and ₹ 4.22 crore was pending at other stages.
8.	Non-ferrous mining and metallurgical industries	287.51	-	Demands for entire arrear of ₹ 287.51 crore were certified for recovery as arrears of land revenue.
<b>TOTAL</b>		<b>4,979.85</b>	<b>670.97</b>	

(Source: Information from the departments)



From the above table, it can be seen that out of total outstanding arrears of ₹ 4,979.85 crore, arrears of ₹ 985.41 crore was under dispute in Courts/Appellate authorities.

The departments intimated pendency at different stages after obtaining information from field units, but individual records relating to outstanding arrears were not produced to audit for examination. It was further observed that the departments failed to monitor collection of arrears, since they do not have database of outstanding arrears.

In Commercial Taxes Department, it was further observed that arrear of ₹ 4,288.17 crore of pre-GST period was still outstanding of which ₹ 646.49 crore was outstanding for more than five years as on 31 March 2018. Audit further observed that 4,876 cases involving ₹ 4,871.45 crore pertaining to CTD were pending for disposal at Appellate courts/CCT court, commercial taxes tribunal as well as in higher courts as on 31 March 2018. Thus, total arrear reported by the CTD was less than arrear pending at different courts and tribunal by ₹ 583.28 crore, which needs to be reconciled at the earliest to ascertain actual amount of arrear.

After this was pointed out, the Commercial taxes Department did not furnish any reply (September 2019).

**Recommendation: The departments should create a database of outstanding arrears for periodic review, reconciliation and liquidation of arrears, and ensure that arrears of revenue which are not under dispute are realised on priority basis.**

### 1.3 Follow up on Audit Reports– summarised position

In terms of the Manual of Instructions (1998) of the Finance Department, departments are required to initiate action on the audit paragraphs contained in the Report of the Comptroller and Auditor General of India (CAG) within two months of their laying in the Legislative Assembly, and Government shall submit explanatory notes thereon for consideration by the Public Accounts Committee (PAC). However, explanatory notes (reply of the departments) were submitted with delays of more than five months in respect of 311 paragraphs (including performance audits) appearing in the CAG's Revenue Audit reports for the years ended 31 March 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017 placed before the State Legislature between July 2009 and November 2018. Details of pending explanatory notes as on July 2019 pertaining to various departments<sup>8</sup> are given in **Table-1.6**.

**Table-1.6**  
**Pending explanatory notes**

Sl. No.	Audit Report ending on	Date of presentation in the legislature	No. of paragraphs	No. of paragraphs where explanatory notes received	No. of paragraphs where explanatory notes not received
1.	31 March 2009	23.07.2010	29	26	3
2.	31 March 2010	20.07.2011	26	26	0
3.	31 March 2011	06.08.2012	35	35	0

<sup>8</sup> Commercial Taxes (55 paragraphs); Prohibition, Excise and Registration (4 paragraphs); Transport (11 paragraphs); Revenue and Land Reforms (17 paragraphs) and Mines and Geology (one paragraph).

Sl. No.	Audit Report ending on	Date of presentation in the legislature	No. of paragraphs	No. of paragraphs where explanatory notes received	No. of paragraphs where explanatory notes not received
4.	31 March 2012	08.01.2013	38	36	2
5.	31 March 2013	21.02.2014	41	39	2
6.	31 March 2014	24.12.2014	44	38	6
7.	31 March 2015	18.03.2016	39	34	5
8.	31 March 2016	27.03.2017	42	8	34
9.	31 March 2017	29.11.2018	36	0	36
<b>Total</b>			<b>330</b>	<b>242</b>	<b>88</b>

It was observed that though the departments initiated action for recovery of revenue in the instances pointed out by Audit, corrective measures to prevent persistent irregularities were not addressed by the departments at any level.

The PAC discussed selected paragraphs pertaining to the Audit Reports for the years 2008-09 to 2015-16 and issued recommendations on 47 paragraphs pertaining to Commercial taxes Department, Prohibition, Excise and Registration Department, Revenue and Land reforms Department, Mines and Geology Department and Transport Department incorporated in the aforesaid Reports on which no Action Taken Notes (ATNs) has been received from the departments (September 2019).

The Principal Accountant General (Audit) requested Secretary, Bihar *Vidhan Sabha* (August 2018) and Chief Secretary, Government of Bihar (July 2019) to instruct the concerned department for timely submission of self-explanatory action taken notes on audit observations and action taken notes of PAC's recommendation.

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

## **1.4 Response of the departments/Government to Audit**

### **1.4.1 Position of outstanding Inspection Reports**

On completion of audit of Government departments and offices, Audit issues Inspection Reports (IRs) to the concerned heads of offices, with copies to their superior officers for corrective action and their monitoring. Serious financial irregularities are reported to head of the departments and the Government. Review of IRs issued during the period 2008-09 to 2017-18 revealed that 21,994 paragraphs relating to 2,493 IRs remained outstanding at the end of March 2019. The potential recoverable revenue in these IRs is as much as ₹ 24,304.01 crore whereas the total revenue collection of the State is ₹ 26,643.23 crore. Details of IRs relating to major revenue earning departments of the State Government are given in **Table - 1.7**.

**Table - 1.7**  
**Department-wise details of Inspection Reports**

(₹ in crore)

Sl. No.	Names of Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Commercial Taxes	Taxes on sales, trade etc.	381	9,684	11,590.39
		Entry tax			
		Electricity duty			
		Entertainment tax etc.			
2.	Excise and Prohibition	State excise	324	1,457	1,055.90
3.	Revenue and Land Reforms	Land revenue	747	4,929	7,474.55
4.	Transport	Taxes on vehicles	346	2,724	1,000.21
5.	Registration	Stamps and registration fees	371	1,140	1,111.65
6.	Mines and Geology	Mining receipts	324	2,060	2,071.31
<b>Total</b>			<b>2,493</b>	<b>21,994</b>	<b>24,304.01</b>

Even the first replies, required to be received from the heads of offices within four weeks of receipt of the IRs, were not received for 1,183 IRs (10,111 audit observations) involving potential revenue of as much as ₹ 12,893.64 crore, issued from 2008-09 onwards. Department-wise details are given in **Table - 1.8**

**Table - 1.8**  
**Details of Inspection Reports pending first reply**

(₹ in crore)

Sl. No.	Names of Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Commercial Taxes	Taxes on sales, trade etc.	91	3,136	3,774.25
		Entry tax			
		Electricity duty			
		Entertainment tax etc.			
2.	Excise and Prohibition	State excise	76	403	473.20
3.	Revenue and Land Reforms	Land revenue	530	3,542	6,323.74
4.	Transport	Taxes on vehicles	238	1,789	830.12
5.	Registration	Stamps and registration fees	136	419	768.01
6.	Mines and Geology	Non-ferrous mining and metallurgical industries	112	822	724.32
<b>Total</b>			<b>1,183</b>	<b>10,111</b>	<b>12,893.64</b>

The matter was reported to the Principal Secretary, Finance Department in June 2019, who directed all the revenue departments for speedy compliance of the pending audit observations.

**Recommendation:**

**The State Government may introduce a mechanism to ensure that departmental officers respond to Audit Inspection Reports promptly, take corrective action, and work closely with Audit to bring about the early settlement of audit observations.**

**1.4.2 Response of the Departments to the Statement of facts and draft audit paragraphs**

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the principal Accountant General

(PAG) to the Principal Secretaries/Secretaries of the Departments concerned, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the Departments/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Out of 495 Statement of Facts issued to the Principal Secretaries/Secretaries of the concerned departments during 2017-18, Audit did not receive (September 2019) reply of 365 Statement of Facts (73.74 per cent) as detailed below:

**Table 1.9**

Sl. No.	Names of Department	Number of SOF issued to the department	Number of SOF in respect of which reply received
1.	Commercial Taxes	275	103
2.	Excise and Prohibition	2	0
3.	Revenue and Land Reforms	26	2
4.	Transport	127	10
5.	Registration	38	4
6.	Mines and Geology	27	11
<b>Total</b>		<b>495</b>	<b>130</b>

Further, 26 paragraphs and Audits of ‘**Implementation of transitional provisions of Goods and Services Tax Act in Bihar**’ and ‘**Computerisation of Registration Department in Bihar**’ included in this Report were sent to the Principal Secretaries/ Secretaries of the respective Departments in 2018-19. However Audit did not receive the reply of 24 draft paragraphs (92.31 per cent) (September 2019). The replies of the Principal Secretaries/Secretaries of the departments on the paragraphs, wherever received, have been appropriately incorporated and commented upon in this Report.

### **1.5 Internal Audit by Finance (Audit) Department**

The Finance (Audit) Department, GoB headed by the Chief Controller of Accounts, undertakes internal audit of the state government departments/offices based on requisitions received from the concerned administrative departments and availability of audit teams.

The manpower position of the Finance (Audit) Department (as on 31 March 2019) is given in **Table-1.10**.

**Table-1.10**  
**Manpower position in Finance (Audit) Department**

Cadre	Sanctioned strength	Persons in position	Shortfall (in per cent)
Gazetted	565	33	94
Non-Gazetted	1,004	167	83
<b>Total</b>	<b>1,569</b>	<b>200</b>	<b>87</b>

Audit further observed that the Finance (Audit) Department audited four units of Revenue and Land Reforms Department, two units of Registration Department and one unit of Transport Department during 2017-18. The Finance (Audit) Department did not conduct audit of any other major revenue earning departments viz., Commercial Taxes Department and Mines and Geology Department due to acute shortage of manpower in non-gazetted and gazetted cadres.

**Recommendation:**

**The State Government should ensure filling up vacancies in different cadres of the Finance (Audit) Department to ensure effective internal audit.**

**1.6 Results of audit**

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

Audit covered six departments of the State Government and test checked records of 214 out of 1,182 auditable units (18.10 *per cent*) relating to commercial taxes, state excise, taxes on vehicles, stamps and registration fees, land revenue and mining receipts during the year 2017-18. Besides 14 units of Mining Department were audited during April 2017 to October 2018. In six departments, revenue of ₹ 24,739.86 crore was collected during 2016-17, out of which audited units collected ₹ 19,087.54 crore (77.15 *per cent*) and revenue of ₹ 16,966.68 crore was examined in test-checked units.

Audit observed underassessment/short levy/loss of revenue aggregating to ₹ 4,515.17 crore in 3,452 cases, which were communicated to the departments through Inspection Reports. The departments concerned accepted (between April 2017 and July 2019) underassessment and other deficiencies of ₹ 2,353.28 crore in 1,830 cases, out of which 356 cases involving ₹ 870.47 crore were pointed out during 2017-18 and the rest in earlier years. The departments reported (between April 2017 and July 2019) recovery of ₹ 39.77 crore in 416 cases.

**1.7 Coverage of this Report**

This Report contains 26 paragraphs and Audits on ‘**Implementation of transitional provisions of Goods and Services Tax Act in Bihar**’ and ‘**Computerisation of Registration Department in Bihar**’. The total financial implication of the Report is ₹ 1,648.80 crore.

The departments/Government have accepted (upto July 2019) audit observations amounting to ₹ 1,116.89 crore, of which ₹ 32.74 crore was recovered. The recoveries in the remaining cases have not been intimated (July 2019). The audit observations are discussed in chapters 2 to 6 of this Report.

The errors/omissions pointed out are on the basis of a test audit. The Department/Government may, therefore, undertake a thorough review of all units to check whether similar errors/omissions have taken place elsewhere and, if so, to rectify them; and to put a system in place that would prevent such errors/omissions.

**CHAPTER 2**  
**COMMERCIAL TAXES**



## CHAPTER 2: COMMERCIAL TAXES

### 2.1 Tax administration

The levy and collection of commercial taxes<sup>1</sup> in the State is governed by the provisions of the following Acts and Rules made thereunder:

- Central Sales Tax (CST) Act, 1956;
- Central Goods and Services Tax (CGST) Act, 2017
- Bihar Goods and Services Tax (BGST) Act, 2017
- Integrated Goods and Services Tax (IGST) Act, 2017.
- Bihar Value Added Tax (BVAT) Act, 2005;
- Bihar Tax on entry of goods into local areas (BTEG) Act, 1993;
- Bihar Entertainment Tax Act, 1948;
- Bihar Taxation on Luxuries in Hotels Act, 1988;
- Bihar Electricity Duty Act, 1948;
- Bihar Tax on Professions, Trades, Callings and Employments Act, 2011; and
- Bihar Tax on Advertisement Act, 2007.

The Commercial Taxes Department is headed by the Principal Secretary cum Commissioner of Commercial Taxes (CCT) at the apex level. Before GST era, in the exercise of his functions, the CCT is assisted by five Additional Commissioners, three Joint Commissioners of Commercial Taxes (JCCT), 10 Deputy Commissioners of Commercial Taxes (DCCT)/Assistant Commissioners of Commercial Taxes (ACCT) and five Commercial Taxes Officers (CTOs) at the headquarters level including the Bureau of Investigation wing. At the field level the State is divided into nine administrative divisions<sup>2</sup>, nine appeals divisions<sup>3</sup> and nine audit divisions<sup>4</sup>, each headed by a JCCT. The nine administrative divisions are further sub-divided into 50 circles each headed by a DCCT/ACCT assisted by CTOs. The circle is the basic activity centre of the Department. GST was implemented (w.e.f. 1 July 2017), thereafter nomenclature of officers were changed which is mentioned in Paragraph No.2.3.2.

### 2.2 Results of audit

During 2017-18, Audit test checked records of 31 units<sup>5</sup> (52 *per cent*) out of 60 units of CTD. The CTD collected ₹ 18,502.86 crore revenue during 2016-17 of which audited units collected ₹ 15,575.80 crore (84 *per cent*). Audit test checked records of 3,534 dealers out of total 1,80,313 dealers registered in test checked

<sup>1</sup> Commercial taxes include Taxes on Sales, Trade etc., Taxes on goods and services, Taxes on Goods and Passengers; Taxes and Duties on Electricity; Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.

<sup>2</sup> Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.

<sup>3</sup> Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.

<sup>4</sup> Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.

<sup>5</sup> Office of Commissioner of Commercial Taxes; **29 Circles**-Ara, Aurangabad, Barh, Begusarai, Chhapra, Biharsharif, Danapur, Darbhanga, Gandhi Maidan, Gaya, Hajipur, Jehanabad, Katihar, Khagaria, Madhepura, Motihari, Munger, Muzaffarpur East, Muzaffarpur West, Patliputra, Patna Central, Patna North, Patna South, Patna Special, Patna West, Purnea, Saharsa, Samastipur and Sasaram; **Check Post** - Dobhi



units. Besides, Audit of ‘Implementation of transitional provisions of Goods and Services Tax Act in Bihar’ was also undertaken between July 2018 and January 2019. Audit noticed irregularities involving ₹ 1,516.67 crore in 1,962 cases which fall under the following categories as detailed in Table 2.1.

<b>Table - 2.1</b>			
<b>Results of audit</b>			
(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
<b>A: Taxes on sales, trade etc./ VAT/CGST/SGST/IGST</b>			
1.	<b>Implementation of transitional provisions of Goods and Services Tax Act in Bihar</b>	<b>1</b>	<b>42.79</b>
2.	Suppression of turnover	344	664.87
3.	Application of incorrect rates of tax	53	27.89
4.	Non-levy and short levy of taxes	22	27.36
5.	Excess allowance of ITC	128	33.92
6.	Irregular allowance of exemption from tax	63	103.58
7.	Under assessment of CST	19	48.44
8.	Non/short levy of additional tax and surcharge	32	167.70
9.	Short levy due to incorrect determination of turnover	11	12.33
10.	Incorrect/ irregular adjustment of entry tax towards VAT	87	26.65
11.	Non/ short payment of tax	361	76.79
12.	Other cases	603	76.30
<b>Total</b>		<b>1,724</b>	<b>1,308.62</b>
<b>B: Entry Tax</b>			
1.	Short levy of entry tax due to suppression of import value	87	142.78
2.	Application of incorrect rates of entry tax	16	12.30
3.	Other cases	118	35.28
<b>Total</b>		<b>221</b>	<b>190.36</b>
<b>C: Electricity duty</b>			
1.	Non/short levy of electricity duty	1	16.64
2.	Non/ short levy of surcharge	1	0.68
<b>Total</b>		<b>2</b>	<b>17.32</b>
<b>D: Entertainment/Luxury Tax</b>			
1.	Non/short levy of entertainment tax	03	0.02
2.	Other cases	12	0.35
<b>Total</b>		<b>15</b>	<b>0.37</b>
<b>Grand Total</b>		<b>1,962</b>	<b>1,516.67</b>

The Department accepted underassessment and other deficiencies of ₹ 130.50 crore in 458 cases between April 2017 and July 2019. Out of these, 55 cases involving ₹ 34.36 crore were pointed out during 2017-18 and the rest during earlier years. Further, the Department recovered (between April 2017 and July 2019) ₹ 29.12 crore in 113 cases, of which ₹ 23.52 crore pertained to cases pointed out during 2017-18 and the rest to earlier years. Replies in the remaining cases of 2017-18 and those of earlier years are awaited (September 2019).

Audit on “Implementation of transitional provisions of Goods and Services Tax Act in Bihar” and some other audit observations involving tax effect of ₹ 115.39 crore are mentioned in the following paragraphs:

## 2.3 Audit on Implementation of Transitional Provisions of Goods and Services Tax Act in Bihar

### 2.3.1 Introduction

The Goods and Services Tax (GST) was rolled out from 1 July 2017 in India as well as in the State of Bihar by subsuming various central and state indirect taxes<sup>6</sup>. Smooth transitional provisions are prerequisites for successful implementation of any new tax regime to ensure that the new tax regime does not bring disadvantages to the existing taxpayers at the outset. This is also required to instil confidence among the taxpayers about the new tax regime and to ensure that ease of doing business is not affected.

Considering these aspects, transitional provisions were made under Sections 139 to 142 of BGST Act and rules made thereunder. Migration of taxpayers and carry forward of eligible balance of Input Tax Credit (ITC) from existing Acts to GST were the two major transitional issues. The process of migration of existing taxpayers to the GST Network was initiated from November 8, 2016 by launching a website ([www.gst.gov.in](http://www.gst.gov.in)) which enabled taxpayers located across different states to update their information and other relevant documents as a first step towards migration/ registration under GST.

To ensure that the taxes borne/paid by the dealers on the inputs in the existing Acts are not forgone, provision for carrying forward of such balance of un-utilised credits of input taxes to the GST regime by the eligible dealers was made under the CGST/BGST Acts and Rules through claiming them in GST TRAN<sup>7</sup>-1 and GST TRAN-2 subject to the prescribed conditions/restrictions. The credit of taxes paid under erstwhile CENVAT was to be claimed as CGST and credit of taxes paid under erstwhile VAT/ET was to be claimed as SGST.

### 2.3.2 Organisational set-up

Organisational structure of the Department under the Pre-GST and GST period are detailed below in **Table-2.2**:

**Table-2.2**

Pre-GST period	GST period
<ul style="list-style-type: none"> <li>At the apex level, Commercial Taxes Department (CTD) was headed by the Commissioner of Commercial Taxes (CCT) assisted by Additional Commissioners, Joint Commissioners of Commercial Taxes (JCCT), Deputy Commissioners of Commercial Taxes (DCCT)/Assistant Commissioners of Commercial Taxes (ACCT) and Commercial Taxes Officers (CTOs).</li> </ul>	<ul style="list-style-type: none"> <li>At the apex level, the CTD is headed by the Commissioner of State Tax (CST) assisted by Special Commissioners of State Tax, Additional Commissioners of State Tax, Joint Commissioners of State Tax (JCST), and Deputy Commissioners of State Tax (DCST) /Assistant Commissioners of State Tax (ACST).</li> </ul>

<sup>6</sup> **Central taxes-** Excise duty, Additional Excise Duty, Service tax, Countervailing Duty (CVD), Special Additional Duty (SAD), Central Cesses and Surcharges.

**State taxes** – Value Added Tax (VAT) excluding petroleum crude, high speed diesel, motor spirit, natural gas, aviation turbine fuel and alcoholic liquor for human consumption, Central Sales Tax (CST), Entertainment Tax, Luxury tax, Advertisement Tax, Tax on Lottery, betting, gambling, Entry tax and Purchase tax.

<sup>7</sup> GST TRAN-1 and TRAN-2 are the declarations/forms prescribed under GST for claiming/ carrying balance ITC of the existing Acts (VAT/ET) as on 30.06.2017 to the GST period.

Pre-GST period	GST period
<ul style="list-style-type: none"> <li>At the field level, the State was divided into nine administrative divisions, nine appeal divisions and nine audit divisions, each headed by a JCCT. The nine administrative divisions were further sub-divided into 50 circles each headed by a DCCT/ACCT assisted by CTOs. The circle was the basic activity centre of the Department where assessment/scrutiny was done by the assessing authority.</li> </ul>	<ul style="list-style-type: none"> <li>At the field level, the State is divided into nine administrative divisions, nine appeal divisions and nine audit divisions as they were under the VAT period, each headed by an Additional Commissioner of State Tax. The nine administrative divisions are further sub-divided into 50 circles each headed by a JCST/DCST assisted by Assistant Commissioners of State Tax. In the GST period also the circle is the basic activity centre of the Department where registration, assessment/scrutiny etc. is done by the assessing authority.</li> </ul>

As is evident from the above details, no substantial change was brought out in the organisational structure of the Department subsequent to the implementation of the GST as discussed in Paragraph No. 2.3.9 of this Report.

### 2.3.3 Audit objectives

The Audit has been conducted with a view to examine:

- the sufficiency and effectiveness of rules, provisions, notifications in relation to migration of taxpayers and availing of transitional ITC under GST.
- the compliance of extant provisions by the tax authorities and the efficacy of the system in place to ensure compliance by tax payers.
- the sufficiency of internal control mechanism with regard to transitional provisions of GST.

### 2.3.4 Audit criteria

The Audit criteria have been derived from the following sources:

- Bihar Value Added Tax (BVAT) Act and Rules, 2005;
- Central Goods and Services Tax (CGST) Act and Rules, 2017
- Bihar Goods and Services Tax (BGST) Act and Rules, 2017
- Integrated Goods and Services Tax (IGST) Act and Rules, 2017.
- The executive and departmental orders and instructions issued from time to time.

### 2.3.5 Scope and Methodology

#### Migration:

The Audit was conducted between July 2018 and January 2019 covering the transitional period (2016-17 and 2017-18) for migration of dealers into GST. Audit examined databases of taxpayers of existing Act in Bihar, provisionally migrated dealers in GST regime, existing taxpayers who migrated into GST regime, new taxpayers who got themselves registered under GST regime, division of jurisdiction of migrated dealers, Gross Turnover (GTO) report of taxpayers for the period 2016-17 and 2017-18 (1<sup>st</sup> quarter) and VR-I (Register of registration) data of taxpayers under the existing Acts, as provided by the Commercial Taxes Department.

To confirm audit observation, audit was also conducted in 17 circles<sup>8</sup> selected randomly so as to cover all the nine divisions of the state and reply obtained from the Circles in-charge.

### **Transitional ITC:**

The Audit was conducted between August 2018 to October 2018 covering both pre-GST (01.04.2016 to 30.06.2017) and GST period (01.07.2017 to 31.03.2018). Records of the office of the Commissioner State Tax and 49<sup>9</sup> out of 50 circles in the State were selected for audit examination.

Out of the total claims of transitional ITC of ₹ 130.05 crore made by 1,944 dealers under SGST through TRAN-1 in the State, audit examined records of 484 dealers<sup>10</sup> (25 per cent) registered in 45 circles who claimed transitional ITC of ₹ 10.00 lakh and above (comprising CGST and SGST both). Thus, audit examined transitional ITC claims of ₹ 110.28 crore which is 85 per cent of total transitional ITC claims.

An Entry Conference was held with the Commissioner State Tax on 4<sup>th</sup> September 2018 wherein audit objectives, scope and methodology of audit were explained. The Exit Conference was held on 7<sup>th</sup> February 2019 with the Additional Secretary, Commercial Taxes Department. Replies of the Department have been suitably incorporated in the relevant paragraphs.

### **2.3.6 Acknowledgement**

Audit acknowledges the co-operation of the Commercial Taxes Department in providing the necessary information and records to Audit.

### **2.3.7 Migration and Registration of taxpayers**

#### **(A) Dealer Migration**

The dealers who were registered under the Bihar VAT Act, 2005 were required to be registered provisionally under the Section 139 of the Bihar GST Act, 2017, if they possess a valid PAN. After verification of all required information and documents by the Department, Registration Certificate under Bihar GST Act, 2017, was to be issued to all individual dealers.

The bulk of migrated dealers had completed migration before 01.07.2017. However, the facility to verify and validate documents furnished was not made available to the Department at the backend during this period (beginning of migration – November 2016). As on 31 January 2019, only 74.74 per cent existing dealers (1,76,070 out of 2,35,563) were migrated and registered under GST.

<sup>8</sup> Begusarai, Bettiah, Bhagalpur, Danapur, Darbhanga, Gandhi Maidan, Gaya, Muzaffarpur East, Muzaffarpur West, Patliputra, Patna Central, Patna City East, Patna City West, Patna Special, Patna North, Purnea and Sasaram.

<sup>9</sup> Aurangabad, Barh, Bagha, Begusarai, Bettiah, Bhabhua, Bhagalpur, Biharsharif, Buxar, Danapur, Darbhanga, Forbesganj, Gandhi Maidan, Gaya, Gopalganj, Hajipur, Jamui, Jehanabad, Jhanjharpur, Kadamkuan, Katihar, Khagaria, Kishanganj, Lakhisarai, Madhepura, Madhubani, Motihari, Munger, Muzaffarpur East, Muzaffarpur West, Nawada, Patliputra, Patna Central, Patna City East, Patna City West, Patna North, Patna South, Patna Special, Patna West, Purnea, Raxaul, Saharsa, Samastipur, Saran, Sasaram, Shahabad, Sitamarhi, Siwan and Teghra.

<sup>10</sup> This includes cases of 25 dealers verified by AAs.

The status of provisional migration and final registration of those migrated taxpayers in the Department is detailed in **Table 2.3**.

**Table 2.3**  
**Status of dealers' registration as on 31 January 2019**

Total number of registered dealers under Pre-GST laws (as on 30.06.2017)	Total number of provisionally migrated dealers to GST (percentage w.r.t. column I)	Total number of dealers finally migrated to GST (as on 31.01.2019) (percentage w.r.t. column I)	Total number of existing dealers who took new registration instead of migration (percentage w.r.t. column I)	Total number of existing dealers who took registration under GST (percentage w.r.t. column I)
2,35,563	2,26,517 (96.16 per cent)	1,63,324 (69.33 per cent)	12,746 (5.41 per cent)	1,76,070 (74.74 per cent)

(Source: Information furnished by the Commercial Taxes Department)

The table above indicates that around 25 per cent of the existing dealers did not migrate to GST.

• **Allocation of taxpayers between Centre and State**

The allocation of migrated taxpayers between the Centre and Bihar was to be done as per the circular dated 20 September 2017 issued by the GST Council. The criteria laid down by the GST Council for allocation of taxpayers were as follows:

- i) Of the total number of taxpayers with turnover below ₹ 1.50 crore, all the administrative control over 90 per cent of the taxpayers shall vest with the State tax administration and 10 per cent with the Central tax administration;
- ii) In respect of the taxpayers with turnover above ₹ 1.50 crore, all the administrative control shall be divided equally in the ratio of 50 per cent each to the Central and the State tax administration; and
- iii) The division of taxpayers in each State shall be done by computer at the State level based on stratified random sampling and could also take into account the geographical location and type of the taxpayers, as may be mutually agreed.

As per CBIC, the allocation of taxpayers between the Centre and Bihar was to be completed by 18.10.2017. However, this was done in December 2017 and September 2018, in two phases, as given in **Table 2.4**:

**Table 2.4**  
**Allocation of taxpayers**

	Turnover above ₹ 1.50 crore		Turnover below ₹ 1.50 crore		Total
	1 <sup>st</sup> phase	2 <sup>nd</sup> phase	1 <sup>st</sup> phase	2 <sup>nd</sup> phase	
<b>State</b>	8,530	614	1,22,914	16,686	1,48,744
<b>Centre</b>	8,531	613	13,658	1,853	24,655
<b>Total</b>	<b>17,061</b>	<b>1,227</b>	<b>1,36,572</b>	<b>18,539</b>	<b>1,73,399</b>

(Source: Information furnished by the Commercial Taxes Department)

**(B) Registration of new taxpayers**

Status of new registration of dealers under GST as on 10 September 2018 is detailed in **Table 2.5**:

**Table 2.5: New registration under GST**

Registration of new dealers	Registration of existing dealers instead of migration	Total number of new registrations	Number of dealers allocated to state	Number of dealers allocated to centre
1,84,115	12,746	1,96,861	96,899	99,962

(Source: Information furnished by the Commercial Taxes Department)

### 2.3.8 IT preparedness and capacity building efforts by the Department

GSTN was to provide three *front-end services* to the taxpayers namely registration, payment of tax and filing of returns. As Bihar had opted model-II for implementation of GST, *back-end applications* like registration approval, taxpayer detail viewer, Letter of Undertaking (LUT) processing, refund processing, management information system (MIS) reports etc. for GST administration were being developed by GSTN.

As informed by the CTD, 2,358 outreach programmes at 305 places in the State were organized and workshops conducted for stakeholders such as Drawing and Disbursing Officers, Taxpayers, Advocates, Accountants, General Public including Chartered Accountants in January 2017 and May 2017 to October 2018. A total of 72,741 participants attended in all the above said outreach programmes. CTD has dedicated helpdesk, a centralised call center, functioning 24 x 7 in three shifts to attend to the problems/queries of taxpayers.

Audit observed that 10 officers of JCCT rank were imparted training for Master Trainer in GST by National Academy of Customs, Excise and Narcotics (NACEN), Faridabad (July 2015), 19 officers (upto the level of Commercial Taxes Officer) were trained as trainer of GST (September 2016), IT training on GST Portal of 50 Master Trainers were organized in Chennai at Infosys campus, Tamil Nadu in five phases (February 2017) to the officers of CTD upto the level of Commercial Taxes Officer.

In addition to above, training was also imparted to officers up to the level of CTO/ ACST between April 2017 and September 2018, as detailed in **Table 2.6**.

**Table 2.6**  
**Training on GST**

Sl. No.	Name of training	Number of participants
1.	Training on GST	346
2.	GST portal training	323
3.	Workshop in GST	298
4.	Orientation training for Master Trainers	38
5.	Hands on training	137
6.	Training for Master Trainers on E-way bill	143
7.	Training on E-way bill	161
8.	Training on new functionalities on GST portal	132
9.	Training on Search and Seizure	132
10.	Training for trainers on TDS	74

Besides, 691 other employees like Assistants and Data Entry Operators were also provided GST portal training.

CTD has assessed the requirement of hardwares for the officers and other staff and on the basis of that assessment, the department procured 580 desktops, 495 printers. Apart from these hardwares, all officers were provided official laptops to strengthen the IT infrastructure of the Department.

### Audit findings

#### 2.3.9 Organisational structure and manpower position

**The Department did not re-assess the workload as well as the sanctioned strength of the Department after GST implementation in the light of increase of 53 per cent in the number of dealers and redundancies of work in the computerised environment.**

GST is a comprehensive tax reform which envisages bringing a new tax regime with wider tax-base to collect tax on supply of goods and services. After the implementation of GST, besides designing and implementing new sets of rules and procedures, organisational structure as well as the sanctioned strength of the Department also need to be reassessed as per the needs of new tax statutes to achieve the desired objectives of GST including the ease of doing business.

On examination of Department's records, audit observed the following:

- A Committee consisting of one Additional Commissioner as Chairman and four Joint Commissioners Commercial Taxes as members was constituted (April 2017) to assess the re-structuring of the organisation under GST. As per recommendations (July 2017) of the Committee, the Department changed nomenclature of the officers of the CTD. However, other recommendations such as increasing appellate offices, formation of two separate appellate offices for two corporate circles, formation of new circles by re-structuring the existing large circles, etc., were not accepted by the Department without assigning any reason.

In reply, the Department did not offer any specific comment.

- Audit further observed that there was shortage of 70 per cent in DCST/ACST cadres in the Department against the sanctioned strength of 201 and 403 of these posts respectively (as on August 2018). After this was pointed out by audit, the Department stated (February 2019) that 83 new ACSTs have been recruited and 73 ACSTs are expected to join soon. Though new recruitments have taken place after 17 months of implementation of GST, still 49 per cent posts of ACST are vacant.

The Department did not re-assess the workload as well as the sanctioned strength of the Department after GST implementation in the light of increase of 53 per cent in the number of dealers and redundancies of work in the computerised environment.

- As per Section 109 of BGST Act, 2017, the Goods and Services Tax Tribunal was to be constituted and jurisdiction of the State Bench and the Area Benches located in the State was to be in accordance with the provisions of section 109 of the CGST Act or the rules made there under.

Audit observed that State Bench and the Area Bench under the aforesaid Appellate Tribunal have not been constituted (February 2019). Due to non-constitution of

such bench, any second time appeals cannot be made by the aggrieved dealers, if any, whose transitional ITC is disallowed by the AAs.

**Recommendation: The Department should re-assess the workload after increase in the taxpayer base as well as the GST automation in the interest of revenue.**

### 2.3.10 Migration of dealers from existing Act to GST

Section 139(1) of the BGST Act and Rule 24 of the BGST Rules prescribes that all existing taxpayers having valid PAN were required to get provisional registration certificate. Every person granted provisional registration was required to submit an application electronically, with specified information and documents. If the information and the particulars furnished in the application are found, by the proper officer, to be correct and complete, a certificate of registration shall be issued to the registered person electronically. In case information has either not been furnished or not found to be correct or complete, the proper officer shall, cancel the provisional registration. In case a certificate of registration has not been issued to the applicant within a period of 15 days from the date of furnishing of information/documents and no notice has been issued within the period, the registration shall be deemed to have been granted.

Section 22 (1) of the BGST Act, 2017, requires every supplier to be registered under this Act in the State from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds ₹ 20 lakh. Section 63 of the Acts *ibid* provides that if eligible taxable person fails to obtain registration, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement.

#### 2.3.10.1 Non-migration of eligible dealers under GST

**726 existing dealers having a turnover of ₹ 20 lakh or more during 2016-17 and ₹ five lakh or more during first quarter of 2017-18 did not migrate to GST. The CTD could not detect such non-migration of these 726 potential dealers.**

Audit observed from scrutiny of data of existing, migrated and new registration of taxpayer that 59,493 existing taxpayers neither migrated nor took new registration under GST. On matching the database of migrated taxpayers and new registrations with the GTO report as available on VATMIS, Audit observed that 726 taxpayers having gross turnover of more than ₹ 20 lakh in 2016-17 and ₹ 5 lakh in the first quarter of 2017-18 had not migrated/registered under GST (February 2019). The AAs did not detect non-migration of these 726 dealers which indicates that they failed to cross-verify and link the registration/migration databases under GST with their VAT returns.

These 726 taxpayers had paid ₹ 44.46 crore in 1<sup>st</sup> quarter of 2017-18. The probable tax liability of these dealers in the next three quarters of 2017-18 and three quarters of 2018-19 (up to December 2018) under the GST regime may be assessed by the proper officers as per the provision of the Act *ibid*. Audit calculated the tax liability



of these dealers in line with the tax paid by them during the 1<sup>st</sup> quarter of 2017-18 as detailed below:

Tax paid during 1 <sup>st</sup> quarter of 2017-18	₹ 44,45,93,276
Probable tax liability during next three quarters in 2017-18 and 1 <sup>st</sup> three quarters of 2018-19	₹ 2,66,75,59,656

It was evident from above that non-migration/registration of these eligible taxpayers under GST regime, coupled with inaction on the part of the tax/enforcement authorities, who failed to detect these eligible unregistered dealers may result in non-payment of potential GST to the tune of ₹ 266.76 crore. Besides, penalty under Section 122 of BGST Act 2017 is also leviable.

The Department did not intimate any action taken on these errant dealers.

**Recommendation: The Department should examine the reason for non-migration of existing potential dealers to GST and initiate proceedings under GST for levy of tax as well as penalty.**

#### **2.3.10.2 Registration of potential taxpayers and Enforcement measures against potential/non-migrated dealers**

**The Department did not collect statistics and relevant information as per Section 150 and 151 of BGST Act and did not undertake any survey and other enforcement measures as per rule 16 of BGST Rules to identify potential and eligible dealers during 2017-18 to augment the tax base of the GST.**

Section 150 and Section 151 of Bihar GST Act, 2017 provides for collection of statistics and relevant information to identify potential and eligible dealers to augment the tax base of the GST. Rule 16 of Bihar GST Rules prescribes the proper officer to register such person who is liable to registration under the Act in pursuance to any survey but has failed to apply for registration.

Audit observed during audit of office of the Commissioner State tax that neither any survey/inspection was done nor efforts were made to collect statistics and relevant information to identify potential and eligible dealers such as architects, doctors, chartered accountants, lawyers, coaching institutes, nursing homes, travel agents, micro, small, medium enterprises, etc. engaged in supply of goods and services. Audit also observed that 59,493 out of 2,35,563 existing dealers (25 per cent) did not migrate/get registered under GST. It indicates slackness of the department towards augmenting their tax-base under GST.

In reply, the Department accepted (February 2019) the audit observation that exercise of tax audit, inspection or survey to identify eligible but non migrated dealers and other potential dealers was not contemplated.

**Recommendation: The Department should initiate process to detect un-registered and potential dealers by conducting survey and other enforcement measures and examine the reason for non-registration under GST.**

### **2.3.10.3 Non-involvement of tax authority in migration of existing taxpayers into GST**

Rule 24 of BGST Rules provides for proper officer to vet the application for registration as well as attached documents and issue a Show Cause Notice (SCN) on discrepancies, if any.

Audit requested the Commissioner, State Tax to intimate cases where tax authorities did not verify the specified information and documents furnished by the taxpayers for migration and deemed registrations were granted under Rule 24 (3A).

In reply, the Department stated (January 2019) that the bulk of migrated dealers had completed migration before 01.07.2017 (beginning of migration – November 2016) and during this period facility to verify and validate documents furnished was not made available at the backend. The Department further stated (February 2019) that the provisional registrations have been made inactive of such taxpayers who have not completed the enrolment procedure for migration by GSTN. The applications which were complete were approved by GSTN from backend.

This also confirms non-involvement of tax authorities in the procedure of migration.

### **2.3.10.4 Existing dealers getting new registration instead of migration into GST**

**12,746 taxpayers already registered under existing tax regime, were allowed new registration into GST instead of migration.**

Scrutiny of VR-I<sup>11</sup> data as obtained from VATMIS and data of existing taxpayers and their cross-matching with the data of new registration under GST (as provided by the Department), revealed that out of 1,96,861 new registration of taxpayers under GST regime (as on 10 September 2018), 12,746 taxpayers were such who were already registered under existing tax (VAT) regime, but instead of migration they were allowed for new registration into GST. It also indicates that IT system of GSTN was not integrated with VATMIS to keep a check on existing dealers getting new registration instead of migration. Moreover, filling of TIN of existing Acts in GST TRAN-1 on the GST portal was not made mandatory, as a result the intended checks were not exercised.

In reply, the Department stated (February 2019) that due to system glitches and in the absence of information, dealers took new registration. It was further stated that there was no mechanism on GST portal also to prevent new registration to existing taxpayers.

The fact, however, remains that new registration by the existing dealers is also fraught with risk that any un-paid tax liability of the existing Acts cannot be linked with the new registration, which may result in non-realisation of arrears of tax, if any.

<sup>11</sup> VR-I contains details of dealers alongwith their PAN.

### **2.3.10.5 Migration of cancelled taxpayers under existing laws into GST**

**Registrations of 401 dealers were cancelled in the existing laws despite that they migrated into GST regime.**

Scrutiny of VR-I (containing dealers' details registered under existing Act) data procured from the VATMIS and database of 1,63,324 migrated taxpayers as on 31.01.2019 revealed that 401 taxpayers were such, whose registration status was shown as cancelled between February 2011 and June 2017 (i.e. before roll out of GST w.e.f. 1 July 2017) on the VATMIS under the existing Act, but were allowed to migrate into GST regime.

It also indicates that the VATMIS data was not integrated with GST portal regarding registration to keep a check and detect such migratory irregularities so that the cancelled dealers could not migrate. The proper officers of the Department also failed to verify the documents submitted by the dealers to detect this irregularity.

In reply, the Department accepted (February 2019) that 401 cancelled dealers of existing Act have migrated into GST and the cases were being verified.

### **2.3.11 Transitional Input Tax Credit**

As per Section 140 of the BGST Act 2017 read with rule 117 of BGST Rules 2017, a registered person, other than a person registered as composition dealer under Section 10, was:

- a) entitled to carry forward the un-availed amount of ITC of the pre-GST period (1<sup>st</sup> quarter of 2017-18) to the GST period.
- b) entitled to carry forward un-availed ITC in respect of capital goods not carried forward in the return for the 1<sup>st</sup> quarter of 2017-18.
- c) entitled to carry forward credit of VAT/ET in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on which credit was not claimed in pre-GST period and the taxpayers are eligible for ITC on such inputs under GST as prescribed under Section 140(3) to 140(6) of BGST Act 2017.

In order to claim the above credits, declaration in GST TRAN-1 and GST TRAN-2 was required to be filed on the common portal.

Further, the taxpayers were entitled to claim transitional credit under GST in the following conditions: (i) the credit was admissible as ITC under GST, (ii) the dealer had furnished all the returns required under the existing Acts for the period of six months prior to 1<sup>st</sup> July 2017 (iii) the said amount of credit did not relate to goods manufactured and cleared under such exemption notifications as were notified by the State Government.

### **Status of dealers claiming transitional ITC**

Details of dealers claiming transitional ITC under GST are detailed below:

- **Claim through GST TRAN-1**

Details of transitional ITC claimed by dealers through GST TRAN-1, as per the information made available by the CTD<sup>12</sup>, are detailed in **Table 2.7**:

**Table 2.7**  
**Details of claims by all dealers of the State through TRAN-1**  
(₹ in crore)

Jurisdiction	No. of dealers	Amount of CGST credit	Amount of SGST credit	Total
Central Tax authority	1,471	297.94	110.55	408.50
State Tax authority	3,146	367.06	130.05	497.11
<b>Total</b>	<b>4,617<sup>13</sup></b>	<b>665.00</b>	<b>240.60</b>	<b>905.61</b>

Further, the details of claim of transitional ITC by 3,146 dealers under the jurisdiction of State Tax authorities are detailed in **Table 2.8**:

**Table 2.8**  
**Details of claims by dealers falling under State Tax Authorities**  
(₹ in crore)

Particulars	No. of dealers	Amount of CGST credit	Amount of SGST credit	Total
Dealer claiming only CGST credit	1,187	206.51	NIL	206.51
Dealers claiming only SGST credit	1,510	NIL	42.84	42.84
Dealers claiming both credits	434	160.55	87.21	247.76
Dealers claiming 'Nil' credit	15	NIL	NIL	NIL
<b>Total</b>	<b>3,146</b>	<b>367.06</b>	<b>130.05</b>	<b>497.11</b>

- **Claim through GST TRAN-2**

As per proviso to Section 140(3) of BGST Act 2017 and rule 117(4) of BGST Rules 2017, if a registered person, other than a manufacturer or supplier of services, is not in possession of an invoice or any other document evidencing payment of tax in respect of inputs, he shall be allowed to avail ITC on goods held in stock on the appointed day by filing declarations in GST TRAN-2.

The Department did not furnish details of the dealers claiming transitional ITC in GST TRAN-2 despite request by Audit (August 2018). The Department replied (February 2019) that such data of claim of transitional ITC through GST TRAN-2 was not provided by the GSTN.

### 2.3.11.1 Inadequate monitoring of verification process of transitional ITC claim under GST

**Instructions of the CST to conduct verification of transitional ITC in a time-frame were not fully complied by the field JCSTs as only 24 per cent cases were verified by them indicating inadequate monitoring.**

Rule 121 of the BGST Rules 2017 provides that the amount of transitional credit may be verified and proceedings under sections 73 or 74 shall be initiated in respect

<sup>12</sup> The Department stated that this data was provided by the GSTN as dump data through Secure File Transfer Protocol (SFTP).

<sup>13</sup> Besides 4,617 dealers, three dealers had claimed SGST credit of ₹ 2.98 lakh but name of the dealers, administrative jurisdiction etc. were not available in the database.

of any credit wrongly availed. Thus, the verification of the claims of transitional ITC was not made mandatory in the BGST Act/Rules, 2017. Therefore, CST, Bihar issued instruction in January 2018 to all the field JCSTs to conduct verification of transitional claims of ITC of central taxes (CGST) and the state taxes (SGST) by February 2018 by giving priority to larger claims of transitional ITC.

Audit of 49 circles out of 50 circles revealed that out of total 1,932 cases of claims of transitional ITC of SGST, the AAs verified (till October 2018) claims of transitional ITC in 466 cases (24 per cent) consisting of 441 cases of transitional ITC claims of less than ₹ 10 lakh and 25 cases of more than ₹ 10.00 lakh. This was contrary to departmental instruction of January 2018 wherein field JCSTs were instructed to give priority to verification of high money value claims of transitional ITC. Audit also noticed that in 19 circles<sup>14</sup>, verification of transitional claims was not done at all by the AAs.

Further, the Department did not verify SGST claims of the dealers falling under the jurisdiction of Central Tax Authorities till October 2018.

Non-adherence of the instructions of the CST and inadequate verification of transitional ITC claims indicated that monitoring of the verification process of transitional ITC claims by the higher tax authorities was not ensured.

In reply, the Department stated (February 2019) that regular monitoring of the verification process is done at the Headquarter level and a format is also prescribed by the Department to obtain the result of verification.

Reply of the Department is factually incorrect as the Department did not prescribe any periodical MIS to monitor the verification process.

#### **2.3.11.2 Provision of ITC under VAT affecting transitional claim of ITC under GST**

**Excess payment of VAT was being carried forward as ITC as incorrectly contemplated in VAT return prescribed by the Department which was subsequently incorrectly claimed as transitional ITC under GST.**

Audit observed that an amendment in the form of quarterly and annual return under VAT was made in June 2016 which enabled the dealers to carry forward any amount of VAT paid in excess of the liability to the next quarter/year as ITC carry forward, which was beyond the intent and content of provisions of section 2(r) of BVAT Act and rule 12 of BVAT Rules 2005. Subsequent to the amendment in the format of returns, the amount of VAT paid beyond the VAT liability admitted by the dealers was claimed/shown as ITC carry forward to next quarter/year which ultimately resulted into incorrect carry forward of those ITC as transitional ITC under GST as discussed in **paragraph 2.3.11.8**.

---

<sup>14</sup> Bhagalpur, Danapur, Darbhanga, Gandhi Maidan, Jamui, Lakhisarai, Madhepura, Madhubani, Munger, Nawada, Patliputra, Patna Central, Patna City East, Patna City West, Patna North, Patna West, Purnea, Saharsa and Sasaram.

In reply, the Department stated (February 2019) that in accordance with section 16 of the Act, the dealer was entitled to carry forward any excess of input tax and the amendment was made to the return necessitated by virtue of the fact that in certain cases this substantive right of the taxpayer was being affected.

The reply of the Department is not acceptable as payment of VAT cannot be treated as ITC as per the definition of ITC given in the BVAT Act/Rules 2005. In case of excess payment the dealer's right is well protected as he can claim refund of such excess payment of taxes rather than claiming it as ITC carry forward.

### Compliance issues

**The IT system of GST was not integrated with the VATMIS which resulted into non-migration of legacy data from VAT to GST system facilitating the dealers to claim irregular transitional ITC. Irregular claims of transitional ITC of ₹ 42.79 crore by 95 dealers out of 484 test checked dealers were detected by audit.**

The transfer of balance VAT credit to GST period was conditional. The IT system of GST was also not integrated with the VATMIS which resulted into non-migration of legacy data from VAT to GST system. This facilitated the dealers to claim irregular transitional credit. Hence, the whole process of credit transfer was fraught with the risk of incorrect claim of transitional ITC and required immediate verification.

Audit examined GST TRAN-1 and returns for the last six months pertaining to pre-GST period of 484 dealers who had claimed transitional ITC of more than ₹ 10 lakh. Details of the cases of transitional SGST claims under State Tax Authority, cases examined by the Department, cases examined by Audit and results thereof are detailed below:

**Table 2.9**

	No. of cases	Amount (₹ in crore)
Transitional ITC claims made by dealers under SGST through TRAN-1 in the State	1,944 cases	130.05
Department examined	466 cases (441 cases < ₹10 lakh & 25 cases > ₹10 lakh)	29.27
Audit examined transitional SGST credit	484 cases (> ₹10 lakh) including 25 cases (> ₹10 lakh) examined by AAs	110.28
Irregularities observed by Audit	95 cases (In one out of 25 cases which were examined by AAs, audit found irregularities.)	42.79

Irregular claims of transitional ITC of ₹ 42.79 crore by 95 dealers are discussed in paragraph 2.3.11.3 to 2.3.11.9.

### **2.3.11.3 Tax Deducted at Source (TDS) claimed as transitional ITC in TRAN-1 under GST**

**Eighteen dealers of 10 circles had incorrectly claimed TDS of ₹ 16.40 crore as transitional ITC in GST TRAN-1.**

Audit test check of GST TRAN-1 and last quarterly/annual returns of VAT period and payment details etc. during August to October 2018 revealed that 18 dealers of 10 circles<sup>15</sup> had claimed transitional ITC of ₹ 16.40 crore in table 5 (C) of TRAN-1. These claims pertained to TDS and not to any ITC but was claimed as ITC. Thus, these dealer incorrectly claimed ITC of ₹ 16.40 crore and therefore liable for payment of tax of ₹ 16.40 crore besides leviable interest and penalty as per the provisions of the Act *ibid*.

After this was pointed out, the AAs of Patliputra and Patna Special circles raised (October 2018 to February 2019) demand of ₹ 7.03 crore including interest and penalty in six cases. In one case the AA, Patliputra circle incorrectly allowed (November 2018) partial claim of transitional ITC which actually pertained to TDS which is not acceptable as per provisions of the Act *ibid*.

Reply of the Department was still awaited (September 2019).

### **2.3.11.4 Excess claim of transitional ITC in TRAN-1 in comparison to ITC carried forward in the last return**

**Forty four dealers of 21 circles had claimed excess transitional ITC of ₹ 11.17 crore in GST TRAN-1 in comparison to the last return of VAT.**

Audit test check of GST TRAN-1 and last quarterly/annual returns of VAT period and payment details etc. during August to October 2018 revealed that 44 dealers of 21 circles<sup>16</sup> had claimed transitional ITC of ₹ 12.47 crore in table 5(C) of TRAN-1 though seven dealers had shown carry forward of ₹ 1.30 crore and 37 dealers had not shown any amount of carry forward in their last returns of VAT as required under section 140(1) of BGST Act, 2017. Thus, these dealers claimed excess transitional ITC of ₹ 11.17 crore and hence they were liable for levy of interest and penalty also as per the provisions of the Act *ibid*.

After this was pointed out, the AAs of Danapur and Patliputra circles raised (November and December 2018) demand for ₹ 1.44 crore including interest and penalty in three cases. In one case, the AA of Pataliputra circle partially allowed (October 2018) the claim due to excess payment of ET which is not acceptable as it was contrary to provisions of the Act *ibid*. In another case, the AA of Patliputra circle partially allowed (December 2018) the claim as the dealer had reversed the credit of CGST of ₹ 1.01 crore out of total claim of ₹ 2.12 crore and further allowed claim of ₹ 1.11 crore stating that it was balance ITC to be carried forward as transitional

---

<sup>15</sup> Biharsharif, Motihari, Munger, Patliputra, Patna Central, Patna North, Patna South, Patna Special, Patna West and Shahabad (Ara).

<sup>16</sup> Begusarai, Danapur, Forbesganj, Gaya, Kadamkuan, Katihar, Khagaria, Kishanganj, Madhepura, Muzaffarpur West, Nawada, Patliputra, Patna Central, Patna City East, Patna City West, Patna South, Patna West, Saharsa, Samastipur, Sasaram and Shahabad.

ITC which is not acceptable as it was contrary to the provisions of the Act *ibid* as the dealer had not claimed any ITC carried forward in the last return.

Reply of the Department was still awaited (September 2019).

#### **2.3.11.5 Claim of transitional ITC without filing the returns for last six months**

**Four dealers of four circles had claimed transitional ITC of ₹ 59.16 lakh in GST TRAN-1 though they had not filed the returns of last six months.**

On examination of GST TRAN-1 and the return profile of the dealer pertaining to VAT period in selected circles, Audit observed that four dealers of four circles<sup>17</sup> had claimed transitional ITC of ₹ 59.16 lakh in table 5-C of GST TRAN-1 though they had not filed the returns of last six months under the existing laws. Thus, these dealers incorrectly claimed ITC of ₹ 59.16 lakh and therefore they were liable for payment of tax of ₹ 59.16 lakh besides leviable interest and penalty as per the provisions of the Act *ibid*.

After this was pointed out, the AA of Patna Special circle raised (December 2018) demand of ₹ 15.03 lakh along with interest and penalty in one case.

Reply of the Department was still awaited (September 2019).

#### **2.3.11.6 Incorrect claim of transitional ITC on closing stock**

**Six dealers of five circles had incorrectly claimed transitional ITC of ₹ 3.61 crore in GST TRAN-1 on closing stock.**

On examination of GST TRAN-1 declaration of the dealers in selected circles, Audit observed in six cases of five circles<sup>18</sup> that the dealers had claimed ITC brought forward of ₹ 3.61 crore in table 7(c) of the GST TRAN-1. Thus, the dealers intended to carry forward from VAT period to GST period their unadjusted amount of VAT/ET paid on inputs supported by invoices/documents evidencing payment of tax carried forward to electronic credit ledger as SGST under sections 140(3), 140(4)(b) and 140(6) of BGST Act, 2017.

However, during examination of quarterly return of VAT/ET for the first quarter of 2017-18, Audit observed that the dealers' claims were incorrect in light of facts and figures<sup>19</sup> mentioned in the returns. Thus these dealers incorrectly claimed ITC of ₹ 3.61 crore and therefore they were liable for payment of tax of ₹ 3.61 crore besides leviable interest and penalty as per the provisions of the Act *ibid*.

After this was pointed out, the AA of Patna Special circle partially raised (January 2019) demand of ₹ 67.69 lakh along with interest and penalty in one case.

Reply of the Department was still awaited (September 2019).

<sup>17</sup> Motihari, Muzaffarpur West, Patna Special and Shahabad (Ara).

<sup>18</sup> Gandhi Maidan, Patliputra, Patna North, Patna Special and Shahabad (Ara).

<sup>19</sup> Same amount of ITC claimed in table 5(C) and 7(C) though there was no case of stock, in spite of availing ET set off on the whole amount of ET payment, the tax paid on balance stock was carried forward as ITC in TRAN-1 by the dealer etc.



### **2.3.11.7 Incorrect claim of transitional ITC by carrying forward the ITC beyond two years**

**A dealer had incorrectly claimed transitional ITC in GST TRAN-1 for ₹ 11.80 lakh by carrying forward the ITC beyond two years.**

Audit observed in one case of Patna South circle that the dealer had claimed transitional ITC in GST TRAN-1 in table 5(c) for ₹ 11.80 lakh by carrying forward the ITC beyond two years which was incorrect in light of second proviso to section 16(1) of BVAT Act, 2005 which provides that no excess of ITC shall be carried forward for adjustment against output tax beyond a period of two years from the end of the financial year in which such excess arose.

Thus, the dealer incorrectly claimed ITC of ₹ 11.80 lakh and therefore liable for payment of tax of ₹ 11.80 lakh besides leviable interest and penalty as per the provisions of the Act *ibid*.

Reply of the Department was still awaited (September 2019).

### **2.3.11.8 Excess payment of VAT claimed as transitional ITC**

**Seven dealers of seven circles had incorrectly claimed transitional ITC of ₹ 3.71 crore in GST TRAN-1 due to excess payment of VAT made up-to first quarter of 2017-18.**

Audit test check of GST TRAN-1 and last quarterly/annual returns of VAT period and payment details etc. during August to October 2018 revealed that seven dealers of seven circles<sup>20</sup> had incorrectly claimed transitional ITC of ₹ 3.71 crore in table 5-C of GST TRAN-1 due to excess payment of VAT made up-to first quarter of 2017-18 though the dealers were eligible for carry forward of ITC only. Thus, these dealers incorrectly claimed ITC of ₹ 3.71 crore and therefore they were liable for payment of tax of ₹ 3.71 crore besides leviable interest and penalty as per the provisions of the Act *ibid*.

After this was pointed out, the AA of Patliputra circle raised (November 2018) demand of ₹ 13.82 lakh including interest and penalty in one case.

Reply of the Department was still awaited (September 2019).

### **2.3.11.9 Incorrect claim of transitional ITC due to other reasons**

**Fifteen dealers of eight circles had incorrectly claimed transitional ITC of ₹ 7.20 crore in GST TRAN-1.**

Audit test check of declaration in GST TRAN-1 and last quarterly/annual returns of VAT period and payment details etc. during August to October 2018 revealed that 15 dealers of eight circles<sup>21</sup> had claimed transitional ITC of ₹ 7.20 crore in different

---

<sup>20</sup> Aurangabad, Patliputra, Patna City East, Patna North, Patna South, Patna West and Sasaram.

<sup>21</sup> Danapur, Muzaffarpur East, Muzaffarpur West, Patliputra, Patna Central, Patna Special, Patna West and Sasaram.

tables of GST TRAN-1 but these claims were incorrect due to various reasons<sup>22</sup>. Thus, these dealers incorrectly claimed ITC of ₹ 7.20 crore and therefore they were liable for payment of tax of ₹ 7.20 crore besides leviable interest and penalty as per the provisions of the Act *ibid*.

After this was pointed out, the AAs of Danapur, Patliputra and Patna Special circles raised (November 2018 to June 2019) demand of ₹ 1.86 crore including interest and penalty in four cases. In one case, the AA of Patliputra circle partially allowed (May 2019) the claim as the dealer had reversed the credit from credit ledger.

Reply of the Department was still awaited (September 2019).

**Recommendation: The Department should endeavor for verification of all transitional ITC claims and develop a robust IT infrastructure with proper checks, controls and validations to auto detect the cases of incorrect/irregular claims.**

### 2.3.12 Impact of Audit

**After pointed out by Audit, the Department corrected the registration status of dealers, issued circulars for recovery and reversal of wrongly availed credits, non-admissibility of disputed and blocked credit and made online issue of DRCs operational.**

#### • Registration of dealers under two categories having one PAN

Under Section 10 of BGST Act, 2017, a dealer is required to be either in Composition Scheme<sup>23</sup> or Regular Scheme if he possesses more than one GSTIN on one PAN. In contravention to this provision, 148 dealers had opted for composition scheme at one GSTIN and regular scheme at the other GSTIN. 54 out of these 148 dealers have filed return of regular taxpayer (GSTR 3B) and composition taxpayer (GSTR 4) for a common period which confirms that they were regular and composition taxpayer for that period.

The acceptance and generation of registration under two categories (composition/regular) to the taxpayers having same PAN on the GSTN portal contrary to the aforesaid provision of the Act, itself indicates that the provision was not properly mapped. As a result the system did not initially filter this irregularity. The dealer may transfer a part of his turnover of regular scheme to the composition scheme to avail the undue benefits of composition scheme by paying tax at a fixed rate.

In reply, the Department stated (February 2019) that at present no taxpayer is having registration under two categories, i.e. regular as well as composition taxpayers on the same PAN. The information regarding their turnover and details thereof are being sought from GSTN and their eligibility will be ascertained and action permitted by law will be taken.

<sup>22</sup> The dealers were not eligible for claiming the transitional credit, incorrect ITC brought forward in the last return and claimed in TRAN-1, ITC disallowed by the AA in previous year claimed as transitional ITC, no sale and purchase admitted from 2014-15 to 2017-18 (1<sup>st</sup> quarter) nor any tax deposited but transitional ITC claimed in TRAN-1 and ITC carried forward was itself incorrect.

<sup>23</sup> The taxpayer who opts this scheme has to pay a fixed rate of tax, instead of rate applicable on goods or services, subject to fulfillment of prescribed conditions.

- **Procedure for recovery/reversal of wrongly availed transitional ITC.**

CBIC issued circular (September, 2018) and prescribed the processes for recovery/reversal of wrongly availed CENVAT credit under existing Acts and related interest, penalty or late fee payable arising after any appeal, revision or review conducted before or after 1<sup>st</sup> July 2017 in light of the provisions of Sections 142(6), (7) and (8) of the CGST Act, 2017 and also prescribed processes for recovery/reversal of inadmissible transitional credit through table 4(B)(2) of Form GSTR 3-B. However, the Commercial Taxes Department did not prescribe any such mechanism for reversal of the wrongly availed credit.

After this was pointed out, the Department issued a circular on 11<sup>th</sup> February 2019 and prescribed the processes for recovery/reversal of the wrongly availed credit under the existing law and inadmissible transitional credit in table 4(B)(2) of GSTR-3B.

- **Non-utilisation of disputed credit carried forward and non-transition of blocked credit**

The CBIC issued Circular in February 2018 regarding non-admissibility of disputed credit<sup>24</sup> and blocked credit<sup>25</sup> and in case it is already utilised, recovery thereof with penalty and interest as per the provision of the CGST Act 2017. However, no such procedure was prescribed by the CTD for recovery of such incorrect availing of disputed credit and blocked credit.

After this was pointed out, the Department issued a similar circular on 11<sup>th</sup> February 2019.

- **Demand and Recovery**

Audit observed that System of on-line determination of tax, issuance of notice/demand in DRCs as per rule 142 of BGST Rules, 2017 was not operative (except DRC-7) and was being issued in off-line mode.

In reply, the Department stated (February 2019) that on-line forms in DRC-01 to DRC-08 are functional.

### **2.3.13 Conclusion**

To sum up, the Department did not re-assess the workload as well as the sanctioned strength of the Department after GST implementation in the light of increase in the number of dealers and redundancies of work in computerised environment. State Bench and Area Bench of the GST Tribunal was also not constituted.

Survey and inspection was not conducted and statistics and information was not collected to identify eligible taxpayers who did not migrate or got registered under GST. As a result, 59,493 dealers (25.26 *per cent*) out of 2,35,563 existing dealers did

<sup>24</sup> **Disputed Credit** – Any ITC of VAT period which is inadmissible after any order by the AA or by Appellate Authority will not be carried forward to GST period as transitional ITC.

<sup>25</sup> **Blocked credit** – Credit carried forward in the last quarterly return of VAT which was eligible under VAT but not eligible under the GST will not to be carried forward to the GST period as transitional ITC.

not migrate till October 2018. This included 726 existing dealers having turnover more than the threshold limit (₹ 20 lakh).

Bulk of migrated dealers were deemed registered as the facility to verify and validate documents furnished by the dealers, was not made available at the backend nor was it made mandatory even though it was one-time exercise.

Non-integration of IT system of GST with VATMIS led to new registration under GST by the existing dealers and dealers cancelled under existing Acts also migrating to GST. Moreover, this also facilitated irregular claim of transitional ITC.

Out of ₹ 130.05 crore of SGST transitional ITC claims of the dealers falling under jurisdiction of state tax authorities, audit examined claims of ₹ 110.28 crore of which ₹ 42.79 crore (39 per cent) was detected as incorrect transitional claims. Such high percentage of incorrectly claimed transitional ITC itself indicates the risk inherent to the process. Hence, the Department should verify transitional ITC claims of the rest of the assesses to ensure that the provisions governing transitional ITC claims were properly complied.

## Other observations of Compliance Audit

### 2.4 Suppression of turnover

**The AAs did not scrutinise returns of the dealers to detect suppression of turnover of ₹ 32.13 crore which resulted in under-assessment of ₹ 6.09 crore including leviable penalty and interest.**

Under the BVAT Act, 2005, in case of concealment, omission or failure to disclose correct sale/purchase, the AAs are empowered to impose penalty at three times of the tax payable besides tax and interest on the escaped turnover. Further, as per section 25 (1) of the BVAT Act, the AAs are required to scrutinise every quarterly and annual return as per the six checklists provided therein under clause (a) to (f).

#### 2.4.1 Suppression of purchase turnover

Audit test check of assessment records in six commercial taxes circles<sup>26</sup> between August 2016 and November 2017 revealed that eight dealers (self-assessed) out of 729 test checked dealers (number of registered dealers-35,001) had actually purchased goods of ₹ 136.14 crore during the period 2013-14 to 2015-16 as shown in their Tax Audit Report<sup>27</sup> (TAR), information of opening stock and closing stock contained in the annual return and *savidha* details. They, however, disclosed purchases of ₹ 117.40 crore only in their annual return thereby suppressing purchases of goods worth ₹ 18.74 crore. The AAs did not scrutinise the returns of the dealers to detect suppression of purchases turnover of ₹ 18.74 crore. This resulted in under-assessment of tax of ₹ 2.47 crore including penalty of ₹ 1.71 crore and leviable interest of ₹ 19.16 lakh.

<sup>26</sup> Biharsharif, Muzaffarpur East, Muzaffarpur West, Patna City East, Patna Special and Saran.

<sup>27</sup> TAR- Every dealer having gross turnover of ₹ One crore and above is required to submit TAR certified by a Chartered Accountant before the stipulated date.

After this was pointed out, the concerned AAs accepted the audit observations between January 2017 and April 2019 and raised demand for ₹ 1.71 crore, out of which recovery of ₹ 31.10 lakh was made in one case of Patna special circle. However, the AA of Muzaffarpur west circle did not imposed penalty in two cases, though, as per provision of Section 31(2) of BVAT Act penalty was leviable. Recovery in the remaining accepted cases are awaited (September 2019).

The matter was reported to the Department (March 2017-November 2018); their reply was still awaited (September 2019).

#### **2.4.2 Suppression of sales turnover**

Audit test check of assessment records in four commercial taxes circles<sup>28</sup> between October 2016 and February 2018 revealed that five dealers (self-assessed) out of 664 test checked dealers (no. of registered dealers-20,387) had actually sold goods of ₹ 100.60 crore during the period 2014-15 and 2015-16 as shown in their Tax Audit Report (TAR), trading and profit & loss account and *Suvidha* details. They, however, disclosed sales of ₹ 87.21 crore only in their annual return thereby suppressing sales of goods worth ₹ 13.39 crore. The AAs did not scrutinise the returns of the dealers to detect suppression of sales turnover of ₹ 13.39 crore. This resulted in under-assessment of tax of ₹ 3.62 crore including leviable penalty of ₹ 1.99 crore and interest of ₹ 33.49 lakh.

After this was pointed out, the concerned AAs accepted the audit observations between August 2017 and April 2019 and raised demand for ₹ 2.82 crore. However, the AA of Danapur circle did not impose penalty, though, as per provision of Section 31(2) of BVAT Act penalty was leviable. Recovery in these accepted cases are awaited (September 2019).

The matter was reported to the Department (March 2017-November 2018); their reply was still awaited (September 2019).

Similar observations were pointed out in the Audit Reports for the years 2011-12 to 2016-17 highlighting the system deficiencies and failure of AAs to effectively scrutinise dealers' returns to detect short levy of tax of ₹ 638.82 crore from 163 dealers. However, the lapses/irregularities continue to recur.

#### **2.5 Short levy of tax due to application of incorrect rate of tax**

**The AAs did not scrutinise the returns of the dealer to detect application of incorrect rate of tax which resulted in short levy of tax of ₹ 4.70 crore including leviable interest.**

The BVAT Act, 2005, requires the AAs to scrutinise quarterly as well as annual returns to ensure application of correct rate of tax. The Act further provides for levy of interest at the rate of one and a half *per cent* per month on the amount of tax found payable subsequent to scrutiny.

---

<sup>28</sup> Danapur, Muzaffarpur West, Patliputra and Patna Central.

Audit test check of assessment records in six commercial taxes circles<sup>29</sup> between October 2016 and January 2018 revealed that nine dealers (self-assessed) out of 733 test checked dealers (number of registered dealers-42,930) assessed their tax liability at the lower rate of zero to five *per cent* on sale of various goods valued at ₹ 65.55 crore instead of the correct rate of one to 13.5 *per cent* during 2013-14 to 2015-16. The AAs did not scrutinise the returns of the dealers, to detect the application of incorrect rate of tax though they were required to scrutinise every return to ascertain correct application of rates of taxes. Thus failure of AAs in detecting incorrect application of rates of taxes resulted in short levy of tax of ₹ 4.70 crore including interest of ₹ one crore as detailed in **Annexure-1**.

After this was pointed out, the AAs of three<sup>30</sup> circles accepted the cases of five dealers and raised demand of ₹ 1.13 crore with update interest out of which recovery of ₹ 32.45 lakh was made in one case. Recovery in the accepted cases and replies in the remaining cases was awaited (September 2019).

The matter was reported to the Department (April 2017-November 2018); their reply was still awaited (September 2019).

The Audit Reports for the year 2011-12 to 2016-17 had highlighted application of incorrect rates of tax and failure of AAs to effectively scrutinise dealers' returns to detect short collection of tax of ₹ 125.75 crore from 149 dealers. However, similar lapses/irregularities continue to persist, indicating that the Department did not take corrective measures to prevent recurring leakage of revenue.

## 2.6 Input Tax Credit

**Due to non-scrutiny of returns and absence of a system of cross-verification of purchase and sales figures of the dealers, there was excess/incorrect availing of ITC of ₹ 73.80 crore including penalty and interest.**

As per section 16 of the BVAT Act, a registered dealer shall claim input tax credit (ITC), if he purchases any input within the State of Bihar from another registered dealer after paying him tax under section 14 or section 4 of the Act, and makes either within the State or interstate sales of such goods or consumes them in the manufacture of goods (other than Schedule-IV goods) for sale in the State or outside the State. Further, Section 31 (2) of the Act empowers the Assessing Authority to impose interest besides penalty equivalent to three times of the tax payable for incorrect claim of ITC.

Further, clause (f) of sub-section (1) of Section 25 of the BVAT Act, empowers the Assessing Authority to scrutinise every return filed under sub-sections (1) and (3) of Section 24 to ascertain that information and evidence, as may be prescribed to support claims of ITC have been furnished in such manner as may be prescribed.

### 2.6.1 Irregular/excess claim of Input Tax Credit

Audit test check of assessment records in five commercial taxes circles<sup>31</sup> revealed that during 2014-15 and 2016-17, six dealers (self-assessed) out of 658 test-checked

<sup>29</sup> Gandhi Maidan, Muzaffarpur West, Patna North, Patna Special, Patna South and Sasaram.

<sup>30</sup> Muzaffarpur West, Patna north and Patna special.

<sup>31</sup> Ara, Danapur, Muzaffarpur East, Patna North and Sasaram.

dealers (number of registered dealers 41,700) availed ITC of ₹ 2.55 crore on purchase of goods worth ₹ 40.45 crore as against their admissible entitlement of ₹ 1.93 crore. However, the AAs did not scrutinise the returns in violation of the provision of Section 25 of the BVAT Act to verify ITC claims and detect incorrect availing of ITC on various inadmissible items (such as auto parts, tyres, battery, lubricants etc.). As a result, tax of ₹ 2.65 crore including penalty of ₹ 1.86 crore and interest of ₹ 17.08 lakh was not levied by the AAs.

After this was pointed out, the AAs of Danapur and Patna North circle accepted the case of three dealers and raised demand of ₹ 64.89 lakh out of which ₹ 50,000 was recovered. The AA of Danapur circle raised demand for ₹ 3.82 lakh excluding interest and penalty. However, as per provision of Section 31(2) of BVAT Act interest and penalty was leviable. Recovery in the accepted cases and replies in the remaining cases was awaited (September 2019).

The matter was reported to the Department (May 2017-January 2019); their reply was still awaited (September 2019).

### **2.6.2 Excess claim of ITC on inflated purchases**

Audit test check of assessment records in 39 commercial taxes circles<sup>32</sup> revealed that 88 dealers (self-assessed) out of 2,966 test-checked dealers (no. of dealers registered 2,16,935) had disclosed purchase of goods worth ₹ 941.74 crore during years 2014-15 and 2016-17 and claimed ITC of ₹ 97.78 crore thereon, though their actual purchases were ₹ 801.88 crore enabling ITC admissibility of ₹ 81.30 crore only. Thus the dealers had claimed excess ITC of ₹ 16.48 crore by inflating purchases worth ₹ 139.86 crore in the returns which was revealed on cross-verification of purchase disclosed by the purchasing dealers in their returns/TAR with the sales disclosed by the selling dealers in their returns/TAR. However, the AAs failed to scrutinise the returns and verify ITC ledger on VATMIS<sup>33</sup> to detect the inflated purchase and incorrect/excess ITC claim of ₹ 16.48 crore, which may result in short levy of tax of ₹ 71.15 crore including leviable penalty of ₹ 49.45 crore and interest of ₹ 5.21 crore. Therefore, the Department needs to investigate the difference between purchase and sale value to ascertain the defaulter dealer and reason for such difference for levy of tax of ₹ 71.15 crore including leviable interest and penalty.

After this was pointed out, the AAs of Motihari and Muzaffarpur West circle accepted the audit observation in one and four cases respectively and raised demand of ₹ 1.02 crore. Recovery in the accepted cases and replies in the remaining cases was awaited (September 2019).

The matter was reported to the Department (April 2017-January 2019) and reply was still awaited (September 2019).

---

<sup>32</sup> Aurangabad, Bagha, Barh, Begusarai, Bettiah, Bhabhua, Bhagalpur, Buxar, Darbhanga, Forbesganj, Gaya, Hajipur, Jamui, Jhanjharpur, Katihar, Khagaria, Kishanganj, Lakhisarai, Madhepura, Madhubani, Motihari, Munger, Muzaffarpur East, Muzaffarpur West, Patna Central, Patna North, Patna South, Patna Special, Patna West, Purnea, Raxaul, Saharsa, Samastipur, Saran, Sasaram, Shahabad, Sitamarhi, Siwan and Teghra.

<sup>33</sup> Value Added Tax Management Information System.

The Audit Reports for the years 2011-12 to 2016-17 had highlighted the absence of system of cross verification of ITC resulting into their incorrect claim by dealers and failure of AAs to effectively scrutinise dealers' returns to detect incorrect ITC leading to short collection of tax of ₹ 216.07 crore from 126 dealers. However, the Department did not take appropriate measures to put in a system to ensure verification of ITC despite assurance of the Principal Secretary in 2015 to develop ITC ledger for verification of ITC in the VATMIS. As a result, the irregularities continued to recur.

## **2.7 Short levy of tax due to incorrect adjustment of entry tax towards payment of VAT**

**Availing of incorrect adjustment of entry tax towards payment of VAT remained undetected by the AAs due to non-scrutiny of returns by them which resulted in short levy of VAT of ₹ 1.74 crore including leviable interest.**

Under the provisions of BTEG Act, 1993 adjustment of entry tax paid by a dealer on purchase of scheduled goods<sup>34</sup> towards his VAT liability is not admissible in various circumstances such as (i) the goods imported were not re-sold, (ii) the rate of VAT was less than the rate of ET, and (iii) the manufacturer did not belong to small, medium or sick industries category. Further, the liability of CST is not adjustable from the entry tax.

Audit test check of assessment records in two commercial taxes circles<sup>35</sup>, between November 2017 and January 2018 revealed that three dealers (self-assessed) out of 463 test checked dealers (number of registered dealers-12,373) had availed entry tax adjustment of ₹ 45.43 crore towards their VAT liability during the year 2015-16. However, the dealers were eligible for adjustment of entry tax of ₹ 44.06 crore only because they were not fulfilling the criteria<sup>36</sup> prescribed for availing of adjustment of entry tax. The AAs did not scrutinise the returns of the dealers in violation of the provisions of the BVAT Act, to detect incorrect adjustment of entry tax. Thus, incorrect adjustment of entry tax towards payment of VAT resulted in short payment of VAT of ₹ 1.74 crore including interest of ₹ 37.32 lakh.

After this was pointed out, AA Patna Special circle stated in February 2018 that notice of demand for ₹ 1.38 crore issued in February 2018 in one case, out of which recovery of ₹ 47.47 lakh was made. Recovery in the accepted cases and replies in the remaining cases was awaited (September 2019).

The matter was reported to the Department (July-November 2018); their reply was still awaited (September 2019).

The Audit Reports for the years 2012-13 to 2016-17 had highlighted non-observance of these provisions by dealers and failure of AAs to effectively scrutinise dealers' returns to detect those lapses/irregularities leading to short collection of tax of

<sup>34</sup> Goods mentioned in the schedule attached to the BTEG Act, 1993 on which entry tax is leviable at different rates prescribed in the schedule.

<sup>35</sup> Patna Special and Patna South.

<sup>36</sup> (i) The goods imported should must be re-sold. (ii) The rate of VAT should be more than the rate of ET on the commodity imported/sold.



₹ 92.88 crore from 135 dealers. However, the Department did not take appropriate measures, resulting in recurrence of similar lapses/ irregularities.

## 2.8 Short levy of tax due to incorrect availing/claim of deduction

**The AAs failed to detect availing of inadmissible deductions by works contractors due to non-scrutiny of returns by them which resulted in short levy of tax of ₹ 1.05 crore.**

The BVAT Act, 2005 and Rules, 2005 stipulate that a works contractor is entitled for deduction on the items of labour/services and other charges enumerated therein.

Audit test check of assessment records and other documents such as returns, profit and loss accounts and TAR in Patna South commercial taxes circle in February 2018 revealed that two works contractors (self-assessed) out of 100 test checked dealers (number of registered dealers-10,680) had availed deductions of ₹ 22.02 crore towards labour and services during the period 2015-16 though they were eligible for deduction of ₹ 9.80 crore only. These dealers actually, availed deductions towards entire amount of expenditure incurred towards establishment cost and profit earned by them though they were entitled for deduction towards establishment cost and profit on proportional basis only i.e. which was relatable to labour and services only. The AAs, however, did not scrutinise the returns/records of the dealer in violation of the provisions of the BVAT Act. As such they did not detect the claims of deductions availed on inadmissible items, not provided in the Act *ibid*. This resulted in short levy of tax of ₹ 1.05 crore calculated<sup>37</sup> on the material component value of ₹ 12.22 crore arrived at by apportioning those inadmissible deductions.

The matter was reported to the Department (August -November 2018); their reply was still awaited (September 2019).

The Audit Reports for the years 2012-13 to 2016-17 had highlighted non-observance of these provisions by dealers/works contractors and failure of the AAs to effectively scrutinise dealers' returns to detect short collection of tax of ₹ 34.40 crore from 84 dealers. However, similar lapses/irregularities continue to persist, indicating that the Department did not take corrective measures to prevent their recurrence.

## 2.9 Short levy of tax on Rental charges of electric meter

**The AAs made short levy of VAT of ₹ 20.98 crore including interest on the rental charges of electric meter.**

The BVAT Act, 2005 provides that "sale" includes a transfer of the right to use any goods for any purpose for cash, deferred payment or other valuable consideration.

<sup>37</sup> Calculation:

(Amount in ₹)

Sl. No.	Name of the dealer	Period	Amt. of deduction claimed	Allowable deduction	Excess deduction	Tax
1	M/s Mother India Construction Pvt. Ltd. /10120984075	2015-16	107032366	41843829	65188537	5229131
2	M/s Dayanand Prasad Sinha & Company/ 10129324057	2015-16	113162689	56110782	57051907	5284747
<b>Total</b>			<b>220195055</b>	<b>97954611</b>	<b>122240444</b>	<b>10513878</b>

Audit test check of assessment records and annual accounts of two dealers (self-assessed) who were engaged in distribution of power/electricity out of 143 test checked dealers (number of registered dealers-898) in Patna Special circle in October 2017 revealed that they had received meter rent of ₹ 121.51 crore from their consumers during 2015-16. However, they did not account the meter rental proceeds into their returns though, it was includible in the GTO as per the provision of Act *ibid*. As a result the dealers did not admit/pay any VAT on such turnover of rental proceeds. This remained undetected by the AAs due to non-scrutiny of returns by them which resulted into short levy of tax ₹ 20.98 crore<sup>38</sup> including interest.

After this was pointed out, the DCCT Patna Special circle accepted these cases between November 2017 and January 2018 and raised demand for ₹ 21.36 crore with update interest and made the recovery (April 2019).

The matter was reported to the Department (July - November 2018); their reply was still awaited (September 2019).

Similar observations were pointed out in the Audit Reports for the years 2015-16 and 2016-17 highlighting the system deficiencies and failure of AAs to effectively scrutinise dealers' returns to detect short levy of tax on rental charges of electric meter of ₹ 5.74 crore from four dealers. However, the lapses/irregularities continue to recur.

## 2.10 Non/Short payment of admitted tax and interest

**Assessing Authorities did not scrutinise the returns of the dealers to detect short/delayed payment of admitted tax, which resulted in short realisation of tax of ₹ 20.15 crore and non-levy of interest of ₹ 1.57 crore.**

The BVAT Act, 2005 stipulates payment of tax by every dealer on or before 15<sup>th</sup> of the following month failing which, he is required to pay interest at the rate of one and a-half *per cent* per month. AAs were required to scrutinise quarterly as well as annual returns to ensure payment of tax and interest.

- Audit test check of records in 36 commercial taxes circles<sup>39</sup> between March 2016 and October 2018 revealed that 92 dealers (self-assessed) out of 3,132 test-checked dealers (no. of registered dealers- 2,01,331) had paid tax of ₹ 298.43 crore only against the admitted tax of ₹ 314.59 crore shown in their returns during the years 2013-14 to 2017-18. Thus, there was short payment of admitted tax of ₹ 16.16 crore.

<sup>38</sup> Calculation:

(Amount in ₹)

Sl. No.	Name of the dealer	Period	Meter rent Collected	Tax	Interest	Total
1	M/s North Bihar Power Distribution Co. Ltd./10011248088	2015-16	710284699	95888434	27328204	123216638
2	M/s South Bihar Power Distribution Co. Ltd./10011238081	2015-16	504804646	68148627	18400129	86548756
<b>Total</b>			<b>1215089345</b>	<b>164037061</b>	<b>45728333</b>	<b>209765394</b>

<sup>39</sup> Aurangabad, Begusarai, Bettiah, Bhabhua, Bhagalpur, Biharsharif, Danapur, Darbhanga, Forbesganj, Gandhi Maidan, Gaya, Gopalganj, Hajipur, Jamui, Kadamkuan, Katihar, Khagaria, Lakhisarai, Madhepura, Motihari, Muzaffarpur East, Muzaffarpur West, Nawada, Patliputra, Patna Central, Patna City East, Patna North, Patna South, Patna Special, Patna West, Purnea, Raxaul, Saharsa, Samastipur, Sasaram and Siwan.

Though the AAs were required to scrutinise the returns and see the evidence of payment of tax and accordingly issue notice to the dealers, but no scrutiny was done by them which also indicates control weaknesses in the Department. Thus non-scrutiny of returns by the AAs resulted in short payment of admitted tax of ₹ 20.15 crore including leviable interest of ₹ 3.99 crore.

After this was pointed out, the AAs accepted the audit observation in respect of one dealer each of Bettiah, Muzaffarpur East, Patna City East, Patna Special, two dealers each of Biharsharif, Danapur, Kadamkuan, Muzaffarpur West, Patliputra, Patna Central, Patna South circles and five dealers of Patna North circle between July 2017 and July 2019 and raised demand of ₹ 5.45 crore, out of which recovery of ₹ 87.87 lakh was made in one case of Muzaffarpur West, two cases of Danapur and four cases of Patna North circle. Recovery in the accepted cases and replies in the remaining cases was awaited (September 2019).

The matter was reported to the Department (October 2016-January 2019); their reply was still awaited (September 2019).

- Audit test check of assessment records in 15 commercial taxes circles<sup>40</sup> between May 2017 and October 2018 revealed that 33 dealers (self-assessed) out of 1,704 test-checked dealers (no. of registered dealers- 97,200) had paid their admitted tax with a delay ranging from one to 730 days during the period 2015-16 to 2017-18. But no interest was paid by them though these dealers were liable to pay interest of ₹ 1.57 crore. The AAs did not scrutinise the returns of the dealers to detect the delayed payment and therefore did not levy interest for such delayed payment of tax in violation of the provisions of the Act *ibid*. This resulted in non-levy of interest amounting to ₹ 1.57 crore.

After this was pointed out, the AAs accepted the audit observation in respect of one dealer of Gandhi Maidan and Patna City West, two dealers of Sasaram and three dealers each of Patna North and Patna Special circles between January 2018 and June 2019 and raised demand for ₹ 44.45 lakh, out of which recovery of ₹ 24.30 lakh was made in one case of Patna City West and two cases each of Patna North and Patna Special circles. Recovery in the accepted cases and replies in the remaining cases was awaited (September 2019).

The matter was reported to the Department (September 2017-January 2019) and reply was still awaited (September 2019).

The Audit Reports for the years 2011-12 to 2016-17 had highlighted similar non-observance of these provisions by dealers and failure of the AAs to effectively scrutinise the dealers' returns to detect short/non-payment of admitted tax and interest thereon of ₹ 80.79 crore in 252 cases. However, the lapses/irregularities continue to persist, indicating that the Department did not take corrective measures to prevent their recurrence and leakage of revenue.

---

<sup>40</sup> Ara, Bhabhua, Biharsharif, Gandhi Maidan, Gaya, Hajipur, Madhepura, Motihari, Patna Central, Patna City West, Patna North, Patna Special, Saharsa, Samastipur and Sasaram.

## **B: Entry Tax**

### **2.11 Non/Short levy of Entry Tax**

**Assessing Authorities did not scrutinise the returns of the dealers to detect the non/short levy of entry tax of ₹ 3.43 crore.**

The BVAT Act, 2005, and the BTEG Act, 1993, empower the AAs to levy tax on turnover escaping tax for any reason viz., concealment, omission, non-disclosure etc., besides interest and penalty equivalent to three times the tax payable on escaped turnover. The Acts *ibid* further requires the AA to scrutinise quarterly and annual returns as per the six checklists provided under Section 25(1) (a) to (f) of the BVAT Act, 2005.

Audit test check of assessment records in seven commercial taxes circles<sup>41</sup> between February 2016 and February 2018 revealed that nine dealers (self-assessed) out of 941 test checked dealers (number of registered dealers-46,425) had imported scheduled goods worth ₹ 79.21 crore during the years 2013-14 to 2015-16 on which entry tax of ₹ 4.21 crore was payable. However, they actually admitted/paid entry tax of ₹ 78.38 lakh only. The Assessing Authorities did not scrutinise the returns of these dealers to detect short levy of entry tax of ₹ 3.43 crore.

After this was pointed out, the AAs accepted the audit observation in respect of one dealer each of Muzaffarpur West, Patna City East and Patliputra circles between August 2017 and April 2019 and raised demand of ₹ 2.91 crore, out of which recovery of ₹ 4.32 lakh was made in one case of Patna City East circle. Recovery in the accepted cases and replies in the remaining cases was awaited (September 2019).

The matter was reported to the Department (April 2017-November 2018) and reply was still awaited (September 2019).

Similar observations were pointed out in the Audit reports for the year 2015-16 and 2016-17 highlighting non-observance of these provisions by dealers and failure of the AAs to effectively scrutinise the dealers' returns to detect underassessment of tax of ₹ 931.24 crore in 17 cases. However, the lapses/irregularities continue to persist, indicating that the Department did not take corrective measures to prevent their recurrence and leakage of revenue.

### **2.12 Short/non-payment of admitted entry tax and interest**

**Assessing Authorities did not scrutinise the returns of the dealers to detect short/delayed payment of admitted entry tax, which resulted in short realisation of entry tax of ₹ 1.33 crore and non-levy of interest of ₹ 3.44 crore.**

The BVAT Act, 2005 and the BTEG Act, 1993, stipulates payment of tax, by every dealer on or before 15<sup>th</sup> of the following month failing which he is required to pay interest at the rate of one and a-half *per cent* per month. The AAs were required to scrutinise quarterly as well as annual returns to ensure payment of tax and interest.

<sup>41</sup> Hajipur, Muzaffarpur West, Patliputra, Patna City East, Patna South, Saharsa and Sasaram.

- Audit test check of assessment records in two Commercial Taxes circles<sup>42</sup> between November 2017 and January 2018 revealed that two dealers (self-assessed) out of 243 test checked dealers (number of registered dealers-11,578) had admitted their entry tax liability worth ₹ 27.78 crore during the year 2015-16 against import of goods of ₹ 472.77 crore in their returns, but they actually paid entry tax of ₹ 26.76 crore only. The AAs did not scrutinise returns of the dealers to detect short payment of entry tax admitted in their returns, despite expiry of the time limit prescribed for scrutiny of returns, in violation of the provisions of the Act *ibid*. Thus failure of the AAs in detecting the short payment of entry tax resulted in short realisation of admitted entry tax of ₹ 1.33 crore including leviable interest.

After this was pointed out, the AA accepted the audit observation in respect of one dealer of Patna Special circle in August 2018 and raised demand of ₹ 65.96 lakh, while the remaining AAs concerned stated between November 2017 and January 2018 that the matter would be examined. Recovery in the accepted cases and replies in the remaining cases are awaited (September 2019).

The matter was reported to the Department (July-November 2018) and reply was still awaited (September 2019).

- Audit test check of assessment records in nine commercial taxes circles<sup>43</sup> between June 2017 and February 2018 revealed that 15 dealers (self-assessed) out of 1,281 test checked dealers (no. of registered dealers-46738) had paid their admitted entry tax with a delay ranging from two to 522 days during the period 2015-16. But no interest was paid by them though there was liability of interest of ₹ 3.44 crore. The AAs did not scrutinise the returns of the dealers to detect the delayed payment and therefore they did not levy interest for such delayed payment of entry tax in violation of the provisions of the Act *ibid*. This resulted in non-levy of interest amounting to ₹ 3.44 crore.

After this was pointed out, the AAs accepted the audit observations in respect of one dealer of Chhapra, two dealers of Patliputra and five dealers of Patna Special Circle between February 2018 and April 2019 and raised demand for ₹ 2.12 crore, out of which recovery of ₹ 2.62 lakh was made in one case of Patna Special circle. The remaining AAs stated between July 2017 and February 2018 that cases would be examined. Recovery in the accepted cases and replies in the remaining cases are awaited (September 2019).

The matter was reported to the Department (November 2017-November 2018); their reply was still awaited (September 2019).

Similar observations were pointed out in Audit reports for the years 2011-12 to 2016-17 highlighting non-observance of these provisions by dealers and failure of the AAs to effectively scrutinise the dealers' returns to detect short/non-payment of tax and interest of ₹ 240.77 crore in 40 cases. However, the lapses/irregularities continue to persist, indicating that the Department did not take corrective measures to prevent their recurrence and leakage of revenue.

---

<sup>42</sup> Patna Special and Patna South

<sup>43</sup> Chhapra, Gandhi Maidan, Motihari, Muzaffarpur West, Patliputra, Patna Central, Patna Special, Purnea and Saharsa

## C: Electricity Duty

### 2.13 Short levy of Electricity duty

**Assessing Authority levied electricity duty of ₹ 12.21 crore only against leviable duty of ₹ 16.64 crore on sale of electrical energy of ₹ 277.30 crore to distribution franchisees, which led to short realisation of electricity duty of ₹ 4.43 crore.**

Section 3(1) and section 4 of the Bihar Electricity Duty Act, 1948, provides for levy and payment of electricity duty, to the State Government at prescribed rates, either on the units or on the value of energy consumed or sold by him. Further, section 6C(1) of the Bihar Electricity Duty Act, 1948, provides that if the prescribed authority is satisfied that reasonable ground exist to believe that any units of energy of an assessee escaped assessment or any unit of energy has been under assessed the prescribed authority, reassess the assessee for such escaped units of energy.

Audit test check of assessment records in Patna Special commercial taxes circle, in October 2018 revealed that a licensee M/s South Bihar Power Distribution Company Limited who was engaged in distribution of electricity, had disclosed his liability of electricity duty at ₹ 117.02 crore only in his annual return for the period 2015-16. However, on the examination of annual accounts and other relevant records it was observed that the licensee's liability to pay electricity duty was worth ₹ 117.22 crore on the energy charge of ₹ 3,202.37 crore which includes electrical energy of ₹ 277.30 crore sold to distribution franchisees. On scrutiny of the assessment order audit observed that electricity duty of ₹ 12.21 crore only was levied by the AA on sale of energy of ₹ 277.30 crore to distribution franchisees while doing assessment in August 2018. But actually electricity duty of ₹ 16.64 crore was leviable at the rate of six *per cent* on the electrical energy of ₹ 277.30 crore sold to the distribution franchisees. Thus lack of due diligence by the AA resulted into short levy of electricity duty of ₹ 4.43 crore.

After this was pointed out, the AA stated in October 2018 that the matter shall be examined and appropriate order shall be passed as per the provision of law. We await further reply in the case (September 2019).

The matter was reported to the Department (October 2018-November 2018) and reply was still awaited (September 2019).

Similar observations were pointed out in the Audit Reports for the year 2015-16 highlighting the failure of AAs to effectively scrutinise licensee's returns to detect short levy of electricity duty of ₹ 70.55 lakh from one case. However, the lapses/irregularities continue to recur.

The errors/omissions pointed out are on the basis of a test audit. The Department/Government may, therefore, undertake a thorough review of all units to check whether similar errors/omissions have taken place elsewhere and, if so, to rectify them; and to put a system in place that would prevent such errors/omissions.



**CHAPTER 3**  
**REVENUE AND LAND**  
**REFORMS**





## CHAPTER 3: REVENUE AND LAND REFORMS

### 3.1 Tax administration

The Revenue and Land Reforms Department acquires and alienates land and levies and collects land revenue in Bihar. The Collector is responsible for the land acquisition who is assisted by the District Land Acquisition Officer (DLAO).

The Principal Secretary-cum-Commissioner is the administrative head and assisted by three Directors and Special Secretary, Joint Secretary, Deputy Secretary at the Headquarters level. The Divisional Commissioners, Collectors, Additional Collectors, District Land Acquisition officers (DLAO), Deputy Collectors and Circle Officers are responsible to carry out the work at the field level. Circle officers are responsible for maintenance of land records and collection of land revenue.

### 3.2 Results of audit

Audit test checked records of 76<sup>1</sup> out of 824 units of the Revenue and Land Reforms Department involving transactions worth ₹ 3,637.51 crore during 2017-18. Audit scrutiny revealed non/short levy of establishment charges, short/non-levy of additional compensation, non-remittance of revenue into Government account and other irregularities involving ₹ 775.25 crore in 755 cases.

The Department accepted short levy, short realisation and other deficiencies of ₹ 950.60 crore in 178 cases. Out of these, 93 cases involving ₹ 426.81 crore were pointed out during 2017-18 and the rest during earlier years. The Department reported recovery of ₹ 4.96 crore in three cases. The replies in the remaining cases of 2017-18 and those of earlier years are awaited (September 2019).

Three paragraphs involving irregularities worth ₹ 318.91 crore have been illustrated in this chapter.

### 3.3 Non-remittance of establishment charges into the Consolidated Fund of the State

**Five DLAOs failed to remit establishment charges of ₹ 299.65 crore into the Consolidated Fund of the State though the fund was available with them.**

Instruction (May 2006) of the Joint Secretary of the Revenue and Land Reforms Department read with Bihar Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (BRFCTLARR) Rules, 2014 provides for collection of establishment charges at the prescribed rates in four<sup>2</sup> slabs ranging between 20 *per cent* to 35 *per cent* from the land requiring body and to deposit in Government account under Land Revenue head.

<sup>1</sup> Circle offices-31, District Land Acquisition Offices-23, Office of the Deputy Collector Land Reforms-2, Office of the Additional Collectors-19, Survey and settlement office-01

<sup>2</sup> Rate of establishment charges: 20 *per cent* if compensation amount is more than ₹ 15 lakh, 25 *per cent* if compensation amount is more than ₹ 10 lakh but less ₹ 15 lakh, 30 *per cent* if compensation amount is more than ₹ five lakh and less than ₹ 10 lakh and 35 *per cent* if compensation amount is less than ₹ five lakh

Audit examination of records of 16 land acquisition projects out of 49 projects in five land acquisition offices<sup>3</sup> (test-checked DLAOs-23) revealed that ₹ 2,081.48 crore was received from requiring bodies for acquisition of land pertaining to 16 projects<sup>4</sup> during the period between April 2005 and August 2018. The leviable establishment charges proportionate to the acquisition costs already received in these projects, was ₹ 582.14 crore. However, the concerned DLAOs remitted ₹ 282.49 crore only and establishment charges of ₹ 299.65 crore was not remitted into the concerned revenue head under the Consolidated Fund of the State in violation of the Bihar Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014, and an amount of ₹ 73.82 crore was lying in PD account<sup>5</sup> and ₹ 64.33 crore was lying in saving accounts operated in banks. Keeping establishment charges in PD account and bank accounts instead of remitting them into the Consolidated Fund of the State is in violation of the Bihar Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014. Further, this is also fraught with risk of fraud and misappropriation.

The concerned DLAOs did not prepare project-wise account of establishment charges and in its absence did not ensure receipt of funds and remittance of establishment charges into concerned revenue head under the Consolidated Fund of the State. Further, neither District Collectors nor Director of land acquisition who were supervisory officer of the DLAO at district level and Department level respectively exercised due monitoring to ensure remittance of establishment charges in Government account. Thus, the DLAOs failed in getting the amount of establishment charges of ₹ 299.65 crore remitted into the Consolidated Fund of the State, as detailed in **Annexure-2**.

On further verification, Audit observed that DLAO Bhabhua remitted (February 2018) ₹ 1.03 crore and ₹ 3.93 crore in case of NH-30 and NH-2 respectively. DLAO Bhojpur stated (February 2018) that in case of 11 out of 45 *mauja* requisitioning body requested to stop (April 2017) the acquisition of land and did not transfer compensation amount and hence establishment charge was not remitted. Reply of the DLAO was out of context as our observation pertained to the remaining 34 *mauja* (excluding these 11 *mauja*) in respect of which compensation amount was already received. Replies from the remaining three DLAOs<sup>6</sup> is awaited.

The matter was reported to the Department (August 2017 and April 2018); their reply was still awaited (September 2019).

---

<sup>3</sup> Bhabhua, Bhojpur, Nawada, Patna and Vaishali

<sup>4</sup> Construction of SH-81 Sakadi Nasrigunj, Kudra Bhabhua path ki 20 km ke antim chhor per bypass, 4-laning of Mohania-Ara (Section of NH-30) Project under PPP mode, NH-2 ke 6 lane ka chaurikaran, NH-82 Gaya-Hisua Biharsharif section, SH-83 Baghi-Bardiha Barbiga Path, Power sub-station 220/132 KV Grid, Solid Sewage treatment, Railway overbridge approach road (Kankarbagh), Railway overbridge near Patna Sahib, NH-83 Patna Gaya Dobhi four lane, NH 98 Anisabad Arval four lane NHAI, NH 31 Bakhtiyarpur Khagaria four lane, SH-78 Bihta Sarmera highway, Police thana bhawan nirman and 132/133 KV grid sub-station.

<sup>5</sup> Personal Deposit (PD) account is part of public account opened by the DLAO as per the provision of the Bihar treasury code, 2011

<sup>6</sup> Nawada, Patna and Vaishali.

**Recommendation:** The Department should ensure that the amount of establishment charges realisable, realised and kept in PD/bank accounts are reconciled and the balance amount is remitted into the Consolidated Fund of the State without further delay and responsibility is fixed on the erring DLAOs who inordinately delayed deposit of establishment charges into the Consolidated Fund of the State.

### 3.4 Non-realisation/remittance of revenue on alienation/transfer of Government land

**Due to non-adherence of the sanction order by the Additional Collector/Circle Officer, the Government was deprived of revenue of ₹ 16.01 crore.**

The Bihar Government Estates (*Khasmahal*) Manual, 1953 and instruction (12 March 1991) of the Commissioner-cum-Secretary of the Revenue and Land Reforms Department stipulates that the transferee Department/Public Sector Undertakings (PSUs) is liable to pay the *Salami*<sup>7</sup> along-with accumulated value of annual rent at the rate of two to five *per cent* of *Salami* for 25 years on transfer/alienation of Government land.

- In two districts (Bhojpur and Vaishali) out of 23 test-checked districts, Audit observed (between July and September 2017) that 4.16 acres of Government land was transferred in September 2015 by the Additional Collector/Circle Officer to PSUs<sup>8</sup> without realising *Salami* and accumulated value of rent on land. Though, as per the sanction order these proceeds were realisable before transfer of the land. Thus, due to non-adherence of the aforesaid sanction order by the Additional Collector/Circle Officer and absence of monitoring mechanism by superior authority the Government was deprived of revenue of ₹ 14.97 crore<sup>9</sup>.
- Audit observed (August 2017) in District Land acquisition Office, Vaishali that 5.85 acres of Government land was transferred between March 2010 and May 2011 to National Highway Authority for construction of NH-77. The cost of these land as per approved estimates was ₹ 1.04 crore and the cost of entire project was ₹ 172.95 crore involving 116.80 acres of land. The NHAI transferred ₹ 164.20 crore between June 2010 and June 2016 to the DLAO for this project. Out of this, ₹ 12.90 crore was lying in saving bank account since 2016, however, the DLAO did not remit the cost of Government land worth ₹ 1.04 crore into Government account despite availability of funds. As a result, the Government deprived of the revenue worth ₹ 1.04 crore.

In reply, the DLAO Vaishali stated (December 2018) that the nature of Government land was under scrutiny. The reply is not acceptable as nature of the government

<sup>7</sup> *Salami* denotes market value of land.

<sup>8</sup> Bihar State power transmission Company Ltd. and South Bihar Power transmission Co. Ltd.

<sup>9</sup>

(₹ in crore)

Name of District	Number of Projects	Area of land (in acres)	Total of <i>salami</i> and rent	Remarks
Bhojpur	1	0.50	0.15	Government land transferred to PSUs without realisation of <i>Salami</i> and accumulated value of rent on land.
Vaishali	1	3.66	14.82	
<b>Total</b>	<b>2</b>	<b>4.16</b>	<b>14.97</b>	

land was GM Aam/khas which was already available in the *mauja*-wise estimate of the project.

The matter was reported to the Department (September and December 2017); their reply was still awaited (September 2019).

### 3.5 Excess realisation of contingency charges

**Three DLAOs had collected excess contingency charge of ₹ 3.25 crore from requiring bodies.**

As per Government resolution issued (February 2007) under Bihar Land Acquisition Act, 1894, the requisitioning authority shall pay the contingency charges<sup>10</sup> at the rate of 0.5 *per cent* of the estimated cost of the land to be acquired for the project subject to a maximum of ₹ two lakh which was revised (2014) to ₹ five lakh keeping rate intact as 0.5 *per cent* of compensation amount.

Audit scrutinised (between August and December 2017) the estimates of cost of land acquisition of 10 projects in the three District Land Acquisition Offices<sup>11</sup> out of 23 test checked districts and observed that the DLAOs had collected the contingency charge of ₹ 3.69 crore from the requisitioning body as per the *mauja*-wise estimates prepared separately by them rather than for the entire project in violation of the provision of the Act *ibid*. Actually, these projects attracted contingency charge ₹ 44 lakh only by limiting up to a maximum of ₹ two lakh or ₹ five lakh for entire project. The estimates were approved by the competent authority, however, none of them exercised checks to detect incorrect levy of contingency charge which resulted in excess realisation of contingency charge of ₹ 3.25 crore.

The matter was reported to the Government/Department in December 2018; their reply was still awaited (September 2019).

The errors/omissions pointed out are on the basis of a test audit. The Department/Government may, therefore, undertake a thorough review of all units to check whether similar errors/omissions have taken place elsewhere and, if so, to rectify them; and to put a system in place that would prevent such errors/omissions.

---

<sup>10</sup> Contingency charge is levied for the purpose of rehabilitation, survey, monitoring, stationary and other contingent expenses including vehicle and outsourcing of computer, computer operator, Amin, draftsman.

<sup>11</sup> Patna, Samastipur and Vaishali

**CHAPTER 4**  
**TAXES ON VEHICLES**



## CHAPTER 4: TAXES ON VEHICLES

### 4.1 Tax administration

The Transport Department levies and collects taxes on vehicles in the State, in terms of the Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules, 1989, Bihar Motor Vehicles Taxation (BMVT) Act, 1994 and BMVT Rules, 1994. The Department is headed by the Principal Secretary at the Government level and by the State Transport Commissioner (STC) at the apex level of the Department. The STC is assisted by two Joint State Transport Commissioners at the headquarters. The State is divided into nine Regional Transport Authorities<sup>1</sup> (RTAs) and 38 District Transport Offices. Motor Vehicle Inspectors (MVIs) assist them. The main function of the RTAs is to issue road permits to the vehicles and the responsibility of registration of motor vehicles, levy and collection of taxes, fees and grant of driving licences are assigned to the District Transport Officers (DTOs) in the State.

### 4.2 Results of audit

Audit test checked records of 23<sup>2</sup> out of 48 units of the Transport Department during 2017-18. A total of 6,92,549 vehicles were registered and 2,80,822/6,992 licenses/permits issued in these test-checked units. Out of that, Audit scrutiny of 2,70,491 registered vehicles, 22,057 licenses and 1,954 permits revealed non/short realisation of taxes and road safety cess, leviable taxes not realised from transport vehicles, and other irregularities involving ₹ 43.58 crore in cases of 56,261 vehicles (312 observations) as shown in **Table-4.1**.

Sl. No.	Categories	No. of observations	Amount
1.	Non/short realisation of motor vehicle taxes	29	10.41
2.	Non-realisation of One Time Tax (OTT)	101	11.89
3.	Non-levy of fees/fines/cess/penalties	93	11.44
4.	Others	89	9.84
<b>Total</b>		<b>312</b>	<b>43.58</b>

The Department accepted (between April 2017 and July 2019) short levy, short realisation and other deficiencies of ₹ 14.54 crore in 85 cases. Out of these 85 cases, 24 cases involving ₹ 2.49 crore were pointed out during 2017-18 and the rest during earlier years. The Department reported recovery of ₹ 12.12 lakh in one case. The replies in the remaining cases of 2017-18 and those of earlier years are awaited (September 2019).

<sup>1</sup> Bhagalpur, Darbhanga, Chhapra, Gaya, Munger, Muzaffarpur, Patna, Purnea and Saharsa.

<sup>2</sup> DTOs -19, RTAs-3 and Office of STC.



### 4.3 Short/non-levy of road safety cess from one time tax paying vehicles

**Road safety cess (RSC) from 12,865 commercial vehicles was realised at the rate of one per cent of OTT paid instead of one per cent of sales value due to issuance of amendment notification contrary to the approval of the Transport/ Finance departments which resulted into short levy of RSC of ₹ 3.39 crore. Further due to delayed mapping of RSC in VAHAN, ₹ 21.89 lakh could not be realised from owners of 2,905 personalised vehicles.**

The Bihar Motor Vehicles Taxation (Amendment) Act, 1994 as amended from August 2016 provides for levy and collection of Road safety cess (RSC) from every vehicle liable to pay one-time tax (OTT) as per section 7(1) of the BMVT Act, at the rate of one per cent of value of such vehicle and from every vehicle other than a vehicle liable to pay OTT as per section 7(1) at the rate of one per cent of the annual tax payable under this Act.

#### 4.3.1 Irregular notification leading to short levy of Road safety cess from OTT paying commercial vehicles

Scrutiny of the file pertaining to above amendment notification revealed that the transport and Finance Department had approved for levy of RSC on all the OTT paying vehicles at the rate of one per cent of value of vehicle and from the vehicles paying annual tax at the rate of one per cent of annual tax. However, by virtue of above amendment notification OTT paying commercial vehicles, which is not covered under section 7(1) of the BMVT Act, were omitted from levy of RSC on the value of vehicles.

Audit scrutinised the VAHAN database in two District Transport Offices (East Champaran and Patna) and observed that 12,865 commercial vehicles (Three wheelers: 4,800; Light Goods Vehicle: 4,506; Taxi/Maxi: 1,984 and E-rickshaw: 1,575) were registered between 16 August 2016 and 20 December 2017 after payment of required OTT. As these vehicles had paid OTT, therefore applicable road safety cess should be one per cent of sale value of vehicles which arrives at ₹ 3.56 crore. However, road safety cess of ₹ 16.97 lakh only was realised at the rate of one per cent of OTT instead of one per cent of sales value of vehicles. Thus, issuance of notification contrary to the approved notes in files not only resulted into short levy of road safety cess of ₹ 3.39 crore<sup>3</sup> but also undue favour to the OTT paying commercial vehicles.

3

(₹ in crore)

Sl. No.	Name of the DTOs	Vehicles test checked	Defaulters vehicle	Period of registration	Sales value of vehicles	RSC leviable	RSC levied	RSC Short levied
1.	East Champaran	3,600	1,535	Between 16 August 2016 and 22 November 2017	37.90	0.38	0.02	0.36
2.	Patna	11,577	11,330	Between 16 August 2016 and 20 December 2017	318.20	3.18	0.15	3.03
<b>Total</b>		<b>15,177</b>	<b>12,865</b>		<b>356.10</b>	<b>3.56</b>	<b>0.17</b>	<b>3.39</b>

### 4.3.2 Non-levy of Road safety cess due to its delayed mapping in VAHAN

Audit scrutinised the registration and tax clearance table of VAHAN database in seven District Transport Offices<sup>4</sup> and observed (between May and September 2017) that 2,905 personalised vehicles had got registered between 16 August 2016 and 20 February 2017 after payment of required OTT. As these were the vehicles paying one time tax, therefore applicable road safety cess was one *per cent* of sale value of vehicles, which arrives at ₹ 21.89 lakh. However, the DTOs concerned did not ensure levy and payment of road safety cess manually during the period it was not mapped in VAHAN as road safety cess was mapped in VAHAN database with delay of 20 days and information of non-payments of road safety cess was available with them in VAHAN database.

Audit further observed that the Department had instructed (12 August 2016) the NIC in advance to make necessary changes in the VAHAN to give effect to the provision of levy of road safety cess once it was notified. The Principal Secretary also instructed its Road Safety cell to follow up with NIC to map it timely. However, neither NIC mapped it immediately after notification of road safety cess nor Road Safety Cell of the Department made any follow up with NIC despite instruction of the Principal Secretary. Thus due to delay in mapping and failure of the concerned DTOs to calculate road safety cess manually during the intervening period, revenue of ₹ 21.89 lakh could not be realised.

In reply, six DTOs stated (between May and September 2017) that notices of demand would be issued while DTO Araria stated (June 2017) that after receiving the instruction from Department road safety cess was being realised. However, reply was silent about non-realisation of road safety cess before receipt of instruction from the Department (30 August 2016).

The matter was reported to the Department in December 2018; their reply was still awaited (September 2019).

### 4.4 Assignment of registration mark to commercial tractor without realisation of one time tax

**Due to absence of requirement for payment of tax before registration of vehicle, applications of owners of 429 tractors for registration were accepted and processed to generate a registration mark in VAHAN without realising OTT of ₹ 2.78 crore including leviabale penalty.**

Section 7(8) of Bihar Motor Vehicles Taxation (BMVT) Act, 1994 as amended by Finance Act, 2014 provides that one time tax (OTT) for the life time shall be levied on tractors used or kept for use for other than agricultural purpose at the rate of 4.5 *per cent* of the cost of the vehicle excluding value added tax. Further, Section 23 of the Act *ibid* read with Rule 4 (2) of Bihar Motor Vehicles Taxation (BMVT) Rules, 1994 provides for levy of penalty ranging between 25 and 200 *per cent* of the tax due in case of non-payment of tax within due date.

<sup>4</sup> Araria, Begusarai, Gopalganj, Jehanabad, Madhepura, Purnea and Sheohar

Audit scrutinised (between April 2017 and January 2018) the registration and tax clearance table of *VAHAN* database in 13 District Transport Offices<sup>5</sup> and observed that out of 19,117 test checked motor vehicles, owners of 429 newly registered tractors used for other than agricultural purpose did not pay OTT between September 2014 and November 2017. Though no registration certificate was issued to them due to non-payment of applicable OTT, their application for registration were accepted and processed to generate a registration mark in *VAHAN* due to absence of requirement for payment of tax before processing for registration of vehicle. Audit observed that though the information of non-payment of OTT was available with the DTOs in *VAHAN* database, they neither levied penalty nor instituted certificate case to recover the OTT. This resulted in non-realisation of OTT of ₹ 2.78 crore including leviable penalty. Moreover, plying of these vehicles without proper registration certificate is also a matter of concern for road safety and security.

The matter was reported to the Department in December 2018. The Department reported recovery of ₹ 12.12 lakh from 39 vehicles. Replies in the remaining cases was still awaited (September 2019).

#### 4.5 Non-realisation of penalty for belated payment of OTT

**Five DTOs did not ensure levy and payment of penalty of ₹ 53.57 lakh manually, though information of belated payment of OTT was available in *VAHAN* database.**

Section 23 of the Bihar Motor Vehicles Taxation (BMVT) Act, 1994 read with Rule 4 (2) of Bihar Motor Vehicle Taxation (BMVT) Rules, 1994 provides for levy of penalty ranging between 25 and 200 *per cent* of the tax due in case of non-payment of tax within due date. This provision was mapped in *VAHAN*<sup>6</sup> software which was meant to develop the State Register of motor vehicles.

Audit scrutinised (between May 2017 and January 2018) the registration and tax clearance table of *VAHAN* database in five District Transport offices<sup>7</sup> and observed that owners of 185 vehicles<sup>8</sup> out of 2,310 test-checked vehicles made payment of their OTT with delay of 31 to 495 days between April 2015 and December 2017. Delayed payment of OTT attracts penalty as per the Rules *ibid* which was duly mapped in the *VAHAN-2* software. Despite that, neither the *VAHAN* auto-calculated the penalty and generated the tax token including penalty of ₹ 53.57 lakh nor the concerned DTOs ensured levy and payment of penalty manually, though information of belated payment of OTT was available in *VAHAN* database. Further, non-calculation of penalty by the *VAHAN* for belated payment of OTT despite its mapping points out the possibility of manual intervention, which resulted in non-levy of penalty of ₹ 53.57 lakh.

The matter was reported to the Department in December 2018; their reply was still awaited (September 2019).

---

<sup>5</sup> Begusarai, East Champaran, Gopalganj, Jehanabad, Khagaria, Madhepura, Muzaffarpur, Patna, Purnea, Sheohar, Sheikhpura, Siwan and Supaul

<sup>6</sup> An application developed for registration of vehicles and road tax clearance.

<sup>7</sup> Begusarai, Madhepura, Muzaffarpur, Patna and Sheohar

<sup>8</sup> 178 are Jeep/Taxi and 07 are Maxi/Cab

#### 4.6 Non-realisation of Motor vehicle tax

**Absence of mechanism for periodic review of VAHAN database by the DTOs to detect tax defaulter vehicles resulted in non-realisation of taxes of ₹ 1.90 crore (Road tax: ₹ 62.51 lakh; Green tax: ₹ 0.65 lakh and Road safety cess: ₹ 0.75 lakh) including penalty of ₹ 1.26 crore in 12 District Transport Offices.**

As per the BMVT Act, 1994, every owner of a registered commercial motor vehicle is required to pay their annual motor vehicle taxes to the taxing officer in whose jurisdiction the vehicle is registered. The Act *ibid* further provides for levy of road safety cess at the rate of one *per cent* of annual tax payable. The vehicle owner can pay the tax to the new taxing officer in case of change of residence/business, subject to the production of no objection certificate (NOC) from the previous taxing officer. Further, the taxing officer may exempt the vehicle owner from payment of tax. The BMVT Rules, 1994 provide that where the tax of a vehicle remains unpaid, the taxing officer may impose penalty at the rate of twice the taxes due, if delayed for more than 90 days.

Audit scrutinised registration data and tax clearance table of VAHAN database in 12 district transport offices<sup>9</sup> and observed that out of 1,56,144 registered commercial transport vehicles, owners of 656 out of 9,326 transport vehicles test-checked did not pay their motor vehicle taxes pertaining to the period between June 2014 and January 2018. In none of the cases, evidence<sup>10</sup> of non-plying of vehicles in the jurisdiction of DTOs concerned was found on record. However, the DTOs concerned did not generate the defaulters list from the VAHAN database or correspond with the vehicle owners or initiate any action for levy of penalty and institution of certificate case<sup>11</sup> to recover tax arrears despite the information of non-payment of tax by defaulters being available with them in VAHAN database. As a result, tax of ₹ 1.90 crore (Road tax: ₹ 62.51 lakh; Green tax: ₹ 0.65 lakh and Road safety cess: ₹ 0.75 lakh) including penalty of ₹ 1.26 crore remained unrealised.

In response to audit observation, DTO Gopalganj issued (November 2017) notices of demand to the defaulter owners of transport vehicles.

The matter was reported to the Department in December 2018; their reply was still awaited (September 2019).

<sup>9</sup> Begusarai, East Champaran, Gaya, Gopalganj, Jehanabad, Khagaria, Madhepura, Muzaffarpur, Patna, Purnea, Saran and Vaishali

<sup>10</sup> Such as change of addresses of the owners or surrender of documents for securing exemption from payment of tax as prescribed in Section 9 read with Section 17 of BMVT Act.

<sup>11</sup> Institution of certificate case: When the certificate officer is satisfied that any public demand payable to the Collector is due, he may sign a certificate in the prescribed form, stating the demand is due and shall cause the certificate to be filed in his office.

**Recommendation:**

**The Department should ensure that demand notice is issued on real-time basis to the tax defaulters as generated from the *VAHAN* database to ensure prompt payment of tax.**

The errors/omissions pointed out are on the basis of a test audit. The Department/Government may, therefore, undertake a thorough review of all units to check whether similar errors/omissions have taken place elsewhere and, if so, to rectify them; and to put a system in place that would prevent such errors/omissions.

**CHAPTER 5**  
**STAMPS AND**  
**REGISTRATION FEES**



## CHAPTER 5: STAMPS AND REGISTRATION FEES

### 5.1 Tax administration

The levy and collection of Stamps and Registration fees in the State is governed by the provisions of the Indian Stamp Act, 1899, the Registration Act, 1908, the Bihar Stamp Rules, 1991 and the Bihar Stamp (Prevention of Undervaluation of Instruments) Rules, 1995.

The Registration, Excise and Prohibition (Registration) Department is headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Secretary of the Registration Department. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. Further, there are nine Assistant Inspectors General at the divisional level. Thirty eight District Registrars (DRs), 38 District Sub-Registrars (DSRs), 83 Sub-Registrars (SRs) and 26 Joint Sub-Registrars (JSRs) at the districts/primary units are responsible for levy and collection of stamp duty and registration fees.

### 5.2 Results of audit

Audit test checked 10,265 (0.92 *per cent*) documents out of total 11,14,910 documents registered in 52<sup>1</sup> (34.21 *per cent*) out of total 152 units of the Registration Department during the year 2017-18. Revenue collected by the Registration Department during the year 2016-17 was ₹ 3,072.15 crore of which the audited units collected ₹ 1,551.26 crore. Audit observed short realisation and other irregularities involving ₹ 1,037.71 crore in 224 cases in these audited units alone, as detailed in **Table-5.1**.

<sup>1</sup> **DSR:** Araria, Aurangabad, Banka, Begusarai, Bhagalpur, Bhojpur (Ara), Darbhanga, Gaya, Lakhisarai, Madhubani, Munger, Muzaffarpur, Purnea, Sasaram, Saharsa, Samastipur, Saran (Chapra) Siwan and Sheohar. **IG, Registration, Bihar, Patna;** **SR:** Bahera (Darbhanga), Balia, Chakia (East Champaran), Danapur, Haweli Kharagpur (Munger), Hilsa (Nalanda), Jagdishpur (Bhojpur), Katra (Muzaffarpur), Khajauli (Madhubani), Mahua (Vaishali), Motipur (Muzaffarpur), Paru (Muzaffarpur), Patna City (Patna), Phulparas (Madhubani), Phulwarisarif (Patna), Piro (Bhojpur), Rajauli (Nawada), Simri-Bakhtiyarpur (Saharsa), Suryagadha (Lakhisarai), Tarapur (Munger), Udakishanganj (Madhepura), Sonepur (Saran) and Vikram (Patna); **DC Stamp:** Gaya, Madhubani, Nalanda, Nawada, Purnea, Saharsa, Sitamarhi, Patna and Hajipur (Vaishali).



<b>Table-5.1</b>			
(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
<b>1.</b>	<b>Audit of Computerisation in Registration Department</b>	<b>1</b>	<b>184.61</b>
2.	Blockage of Government revenue due to non-disposal of referred cases	66	34.40
3.	Short levy due to misclassification of documents	11	0.92
4.	Irregular grant of exemption	13	2.73
5.	Stock of stamps lying unutilised and become unfit to issue due to unrealistic assessment	2	773.97
6.	Non-submission of DC bills against AC bills	5	14.99
7.	Short realisation of Stamp Duty and Registration Fee	49	11.13
8.	Short realisation of Stamp duty on Security deposit in mining lease of sand <i>ghat</i>	3	7.63
9.	Loss of Stamp Duty and Registration fee	29	4.26
10.	Additional differential Stamp duty not realised	2	1.21
11.	Others	43	1.86
<b>Total</b>		<b>224</b>	<b>1,037.71</b>

The Department accepted (between April 2017 and July 2019) underassessment and other deficiencies *etc.* involving ₹ 54.10 crore in 482 cases. Out of these 482 cases, 150 cases involving ₹ 43.82 crore were pointed out during 2017-18. Further, the Department could recover ₹ 3.89 crore in 249 cases during April 2017 to July 2019. Recoveries in 233 accepted cases and replies in remaining cases of 2017-18 and those of earlier years were awaited (September 2019).

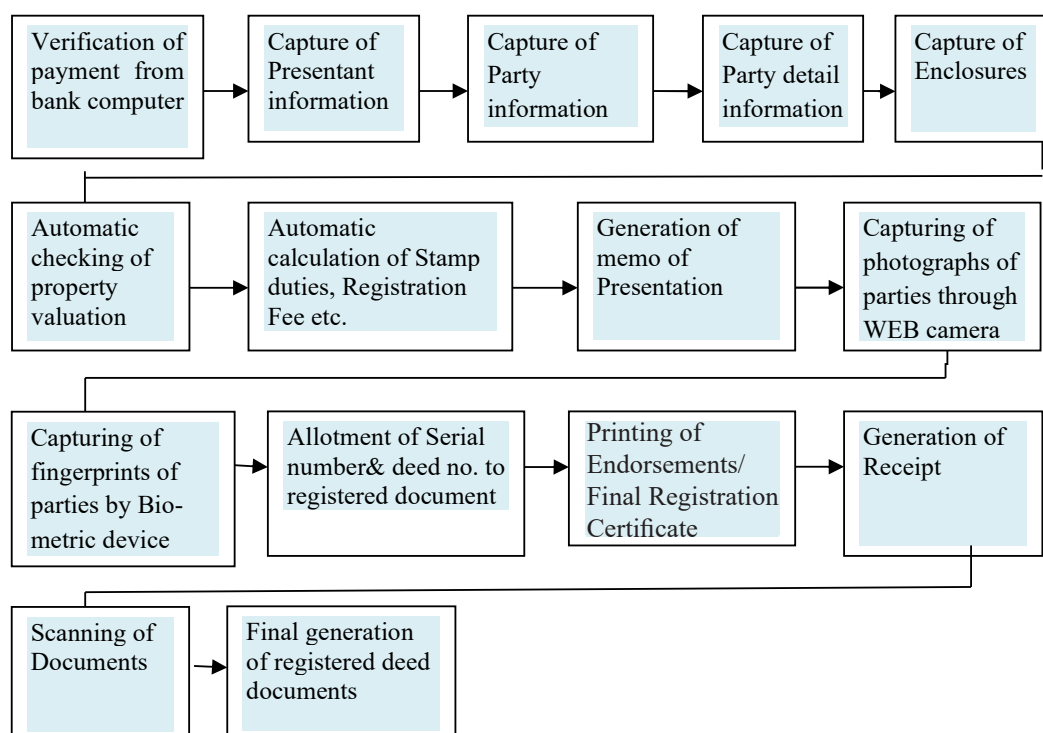
### **5.3 Audit of Computerisation in Registration Department**

#### **5.3.1 Introduction**

The Government of Bihar had decided (March 2005) to computerise all the registration offices in the State through System for Computerised Registration (SCORE) software which was initially developed by National Informatics Centre, Bihar and subsequently it was upgraded to SCORE-3 and SCORE-4 by M/s Infosystem and Solutions Limited and M/s IL&FS Limited respectively. Registration through SCORE software started since May-June 2006 in all the districts.

As per the Bihar Registration Rules, 2008, computerisation was carried out through the State level society namely Bihar Society for Computerisation of Registration Offices (BISCORE) and one each at the district level namely District Society for Computerisation of Registration Offices (DISCORE). All members of these societies were officials of the Registration Department. These societies were registered under the Societies Registration Act, 1860.

The BISCORE was responsible for providing computerised services ensuring smooth functioning of the computerised system of registration, preservation, maintenance of the software, guidance and supervision upto the district level. The Department got the software developed and provided it to the societies while the hardware for the system was hired by the DISCORE from the different vendors under the overall guidance of the BISCORE. The process flow of the registration is as follows:



(Source: Information furnished by the Registration Department, Government of Bihar)

### Scope of Registration

Section 17 of the Registration Act, 1908 prescribes documents which are required to be mandatorily registered. It includes (a) instrument of gift of immovable property, (b) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, (c) non-testamentary instruments transferring or assigning any decree or order of a court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property and (d) the documents containing contracts to transfer for consideration any immovable property. During 2013-14 to 2017-18, 52,80,428 documents were registered which are detailed in **Table 5.2:**

**Table 5.2**

Year	Number of documents registered	Stamp duty and registration fee realised (₹ in crore)
2013-14	10,98,524	2,868.94
2014-15	10,37,458	2,769.38
2015-16	11,03,174	3,171.23
2016-17	9,46,261	3,072.15
2017-18	10,95,011	3,596.94
<b>Total</b>	<b>52,80,428</b>	<b>15,478.64</b>

(Source: Information furnished by the Registration Department)

### **5.3.2 Organisational set up**

The Registration Department is under the overall administrative control of Principal Secretary, Registration Department at the Government level. The Inspector General of Registration (IGR) is the head of the Department. He is responsible for administration of the Act, rules and circulars/instructions issued by the Government/Department from time to time. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. The work of computerisation is overseen by an AIG at Headquarters level. The IT cell (established by vendor in June 2011) which is mainly manned by the outsourced persons was responsible for designing, implementing and maintaining SCORE in all the registration offices of Bihar. Further, there are one AIGs each in nine divisions. Thirty eight District Sub-Registrars (DSRs) and 86 Sub-Registrars (SRs) at the district/primary units are responsible for levy and collection of stamp duty and registration fees.

### **5.3.3 Objective of SCORE**

Main objectives of SCORE were as under:

1. Complete stoppage of manual registration for all types of documents.
2. Rapid replication of software solution to all registration offices.
3. Quick delivery of original registered deeds to parties.
4. Extensive use of state-of-art technologies like web camera, finger print scanners etc.
5. Simplification, transparency, accountability to be achieved through Business Process Re-engineering (BPR),
6. A software solution which incorporates technologies along with auto-calculation of stamp duties, additional stamp duties, registration fees and other miscellaneous fees based on Market value.
7. Generation of Index I, Index II, Index III, Index IV, daily fee book, monthly fee book, Finger print registers, non-encumbrance certificate, search and copy etc.
8. Technical support to all registration offices and timely incorporation of amended rules in the software solution.
9. Preservation of old records and current scanned documents.

SCORE was upgraded to SCORE-2, SCORE-3 and SCORE-4 with many additional features to facilitate better delivery mechanism to the stakeholders, however, its objectives remained the same.

Previously IT Audit of Computerisation of Registration Department was conducted in year 2009 which featured in the Audit Report (Revenue Receipts) for the year ended 31 March 2009. Highlights of the IT Audit were as under:

- User requirement specification was not properly assessed. As a result, manual intervention continued in the process of registration of the documents.

- Agreements made by the district level societies were not according to the best trade practices which facilitated recurring profitable source to vendors.
- Security policy was inadequate and made the computer systems vulnerable to manipulations or unauthorised deletions/modifications.
- Lack of input controls resulted in incomplete database and due to the deficient system design with regard to categorisation of the documents, identification of executants and prevention of double registration of the same property, the benefits of computerisation could not be achieved.

During 2008-09, SCORE-2 was in operation and the deficiencies highlighted above were related to it. Based on audit recommendations, SCORE-2 was upgraded (2012) to SCORE-3 with additional features such as authentication, log maintenance, mandatory fields as well as validations and checks. SCORE-3 was subsequently upgraded (February 2016) to SCORE-4 after incorporating integration of online payment gateways, online application for registration of documents and printing of documents through web portal.

#### **5.3.4 Audit Objectives**

The objectives of this audit was to evaluate and assess whether:

- the computerised system has achieved the intended objectives of Registration department and objective of computerisation;
- the necessary validations and controls were in place for ensuring the data integrity and security of information system and assets; and
- the internal control framework and monitoring mechanism were adequate and controls are in place for business continuity and disaster recovery plan

#### **5.3.5 Audit Criteria**

The audit criteria have been derived from the following sources:

The Indian Stamp (IS) Act, 1899; The Registration Act, 1908; The Income Tax Act, 1961; The Bihar Registration Rules, 2008; Bihar Stamp (Prevention of Undervaluation of Instrument) Rules, 1995; The Bihar Registration Manual and Bihar financial Rules; Bihar Treasury Code, 2011; Bihar Court Fee (Sales of stamps by Franking Machine) Rules, 2008; The National e-Governance Plan (NeGP); Information and Communication Technology (ICT) Policy 2011; Departmental instructions, circulars and executive orders made from time to time; and International Standard Organisation (ISO) 27001.

#### **5.3.6 Scope and Methodology**

Audit of Computerisation in Registration Department was conducted between April and October 2018 with the help of Computer Assisted Audit Techniques (CAATs). In course of audit of SCORE (including SCORE-3 and SCORE-4), the data from the period January 2013 to March 2018 was extracted from the dump data collected from data centre of the Registration Department and audit analysis was done.

The audit findings were further verified in nine DSRs offices<sup>2</sup> and four SRs offices<sup>3</sup> selected as per stratified random sampling basis using Interactive Data Extraction Analysis (IDEA) software. During audit, questionnaires and audit memos were issued to the Department and the selected offices. An entry conference was held on 5 September 2018 with Inspector General of Registration in which the objectives, scope and audit methodologies were discussed. An exit conference was held on 7 February 2019 with Additional Chief Secretary, Prohibition, Excise and Registration Department in which audit findings were discussed. Response of the Department has suitably been incorporated in the relevant paragraphs.

### 5.3.7 Status of achievement of objectives of SCORE

Status of achievement of objectives of SCORE are discussed in **Table 5.3**:

**Table 5.3**

Sl. No.	Objective of SCORE	Status of achievement of objectives
1.	Complete stoppage of manual registration for all types of documents.	All documents were being registered through SCORE and hence objective achieved.
2.	Rapid replication of software solution to all registration offices.	SCORE software were being used in all registry offices and hence objective achieved.
3.	Quick delivery of original registered deeds to parties.	Original registered deeds were being delivered on the date of registration and hence objective achieved.
4.	Extensive use of state of art technologies like web camera, finger print scanners, etc.	Web camera and finger print scanners were being used for registration of deeds and hence objective achieved.
5.	Simplification, transparency, accountability to be achieved through Business Process Re-engineering (BPR).	Non-filing of crucial fields such as area of land, period of lease, required for auto-calculation of duties and fees, were not entered in SCORE database indicating manual intervention ( <b>Paragraph No. 5.3.16</b> ). Further, gaps in system generated token number/deed number and duplication in system generated deed number/book deed number were noticed in audit ( <b>Paragraph No. 5.3.18 &amp; 5.3.19</b> ). These shortcomings indicate that desired transparency was not fully achieved.
6.	A software solution which incorporates technologies along with auto-calculation of stamp duties, additional stamp duties, registration fees and other miscellaneous fees based on Market value.	Crucial fields such as area of land, period of lease which were mandatorily required for auto-calculation of duties and fees were not entered in SCORE database in some cases, as detailed in <b>Paragraph No. 5.3.16</b> . This indicates that the objective of auto-calculation was not fully achieved.

<sup>2</sup> Arwal, Bhabhua, Gaya, Jehanabad, Khagaria, Nalanda, Patna, Purnea and Siwan,

<sup>3</sup> Barh, Danapur, Darauli and Rajgir

7.	Generation of Index I, II, III, IV, daily fee book, monthly fee book, finger print registers, non-encumbrance certificate, search and copy etc.	<ul style="list-style-type: none"> <li>• Daily fee book and monthly fee books generated through SCORE did not include receipts from fees for search of documents, inspection, issuance of certified copy of deeds, etc. <b>(Paragraph No. 5.3.22)</b>.</li> <li>• Non-encumbrance certificates were still being issued manually <b>(Paragraph No. 5.3.24)</b>.</li> </ul> <p>Hence, the objective not achieved so far.</p>
8.	Technical support to all registration offices and timely incorporation of amended rules in the software solution.	The vendor did not provide training to departmental officials on the features and usage of the SCORE application during the period covered in audit <b>(Paragraph No. 5.3.12)</b> . Hence, the objective was not fully achieved.
9.	Preservation of old records and current scanned documents.	Only 27 per cent of the deeds executed between April 2011 and March 2018 were found uploaded (upto March 2018) on SCORE database. Further, though six vendors were paid ₹ 23.94 crore for digitisation and uploading of 1,26,37,896 records pertaining to period 1995 to 2010, details of only 5,87,576 deeds were available in database and further pdf format of only 23 deeds were found uploaded (March 2018) as detailed in <b>Paragraph No. 5.3.15</b> . Thus, the objective of preservation of old records and current scanned documents were not fully achieved.

### Audit findings

#### Paragraphs related to Project Implementation

##### 5.3.8 Non-availability of System Design Document (SDD)

**The Department was fully dependent on the private software developers to handle the critical project due to non-availability of SDD.**

The System Design Document (SDD) describes the system requirements, operating environment, system and sub-system architecture, files and database design, input formats, output layouts, human-machine interfaces, detailed design, processing logic, and external interfaces.

Audit scrutiny of files relating to computerisation of the Department revealed that SDD was not available with the Department (December 2018). In absence of SDD, the Department was fully dependent on the private software developers to handle the critical project.

In reply, the Department stated (March 2019) that due to lack of technical expertise for development of software and its implementation the Department could not obtain SDD. Thus, in absence of SDD, the Department may not be able to manage it with some other vendor in case of default by the existing vendor.

**Recommendation: The Department should obtain the system design document in future computerisations, so that the dependency on software developers could be avoided.**

### 5.3.9 Business continuity and disaster recovery plan

**The Department had not documented any Business Continuity and Disaster Recovery plan.**

As per NeGP guideline, the State is required to establish appropriate business continuity and disaster recovery plan along with appropriate data backup and recovery infrastructure.

Audit scrutiny of file related to computerisation revealed that the Department had neither made any provision for business continuity and disaster recovery plan in the agreement with vendor (M/s IL & FS Limited) nor documented it in accordance with NeGP guideline. In absence of this, the vendor maintained software and data without ensuring best practices which includes keeping of back up of data in other seismic zone. Thus, the Department did not have back up data in other seismic zone as business continuity plan.

In reply, the Department stated (March 2019) that due to lack of knowledge regarding keeping of backup data in other seismic zone it was not maintained and appropriate action would be taken in future.

**Recommendation: The Department should develop the business continuity and disaster recovery plan in line with guidelines of NeGP. The Department also requires to develop IT awareness among its officials for successful computerisation.**

### 5.3.10 Non-compliance of ICT policy 2011

**The Department did not comply provision of the ICT Policy 2011.**

As per Information and Communication Technology (ICT) Policy 2011, of Government of Bihar, the Department was required to prepare five years IT plan with yearly deliverables containing details of investments envisaged in the IT infrastructure, training of personnel, etc. and providing high volume of citizen centric services. The Nodal IT Officer had to co-ordinate with the IT Department for conceptualisation and implementation of State IT Projects and the Department had to submit comprehensive reports on the execution of IT projects to SeGP Apex Committee constituted under Chief Secretary on regular basis.

Audit scrutiny of records revealed that the Department had not prepared five year IT plans as per ICT Policy, 2011 for smooth functioning of IT project and had not designated any officer as Nodal IT Officer to co-ordinate with the IT Department for conceptualisation and implementation of the State IT Projects. The Department also failed to submit comprehensive reports on the execution of IT projects to SeGP Apex Committee constituted under the chair of Chief Secretary. The IT Department did not make any correspondence with Registration Department for compliance of ICT Policy as no record was found in files of either the Registration Department or

the IT Department. Due to non-compliance of ICT policy, the Department did not avail the facility of State Data Centre for repository of data and State Wide Area Network for networking purposes.

In reply, the Department nominated (March 2019) nodal officer as required in the ICT Policy and stated (September 2019) that the computerisation of the Department was started in 2005 much before formulation of the ICT policy of 2011 and hence it was not followed earlier.

Reply of the Department is not acceptable as the Department was required to nominate nodal IT officer and to submit comprehensive reports on the execution of IT projects to SeGP Apex Committee constituted under the chair of Chief Secretary soon after promulgation of the ICT Policy.

### 5.3.11 Standardisation Testing and Quality Certification (STQC)

**The Department could not ascertain the security of safe data transmission due to non-conducting of STQC.**

As per agreement (September 2010) between Registration Department of Government of Bihar and the vendor (M/s IL&FS Limited) for digitization of registration records, development of web based retrieval system and online access mechanism for updating database on day to day basis, the partner (M/s IL&FS Limited) shall ensure security certification by Government of India Agency like STQC Directorate for safe data transmission.

Audit scrutiny of records revealed that the Department did not secure STQC from the vendor before making the software go live and release of payment. Thus, the Department is not in a position to assess how secure is their data transmission and how vulnerable is their database.

In reply, the Department stated (March 2019) that, in future, necessary steps would be taken for STQC.

**Recommendation: The Department should get STQC to have adequate assurance of safe data transmission.**

### 5.3.12 Non-imparting of training to departmental officials by vendors

**The vendor did not impart training to departmental officials as envisaged in Service Level Agreement.**

Service Level Agreement (SLA) provides for training to selected departmental officials by the vendor on the features and usage of the application. However, information relating to initiative of the Department to get its officials trained by the vendor was not available on records. It was not made available to Audit despite several reminders. Thus, the Department could not develop its own IT support team to handle this system in case of unforeseen circumstances and remained dependent upon the service of outsourced agencies.

In reply, the Department stated (March 2019) that in view of audit observation arrangement would be made to impart necessary training to departmental



officers. The Department was to do so in terms of SLA and not to wait for audit observation.

### **5.3.13 Avoidable expenditure on Multi Protocol Level Switching Virtual Private Network (MPLS VPN) connectivity**

**Avoidable payment of ₹ 1.35 crore was made to private vendor on account of MPLSVPN connectivity, though the facility of State Wide Area Network (SWAN) was available.**

SWAN was established to connect the State Headquarter (SHQ) with all District Headquarters (DHQ) and all Block Headquarters (BHQ) with minimum leased line with the objective to create a secure Government network for the purpose of delivering Government to Government and Government to citizen services.

Audit scrutiny of records in the Department and other test-checked DSRs/SRs offices revealed that despite the availability of SWAN for network connectivity all over the State from the year 2010, the Registration Department procured separate Multi Protocol Level Switching Virtual Private Network (MPLS VPN) connectivity in February 2016 through private vendors and made a payment of ₹ 1.35 crore during April 2016 to May 2018. However, the State Government was already using SWAN for important projects like CTMIS<sup>4</sup> and VATMIS<sup>5</sup>. This indicated that the Department had not utilised the resources of available networks and made avoidable payment to private vendors. The Department also did not ensure deduction of non-performance charges for downtime calculated through Network Monitoring System (NMS) as it was not installed.

In reply, the Department stated (March 2019) that the facility of uploading/downloading of text information and image file on real time basis was not available in SWAN in 2016 and hence MPLS VPN facility was obtained. The Department further stated that despite several reminders the vendor did not install NMS, however due to service disruption ₹ 4.31 lakh was deducted from payment made to one vendor and its bank guarantee of ₹ 20.47 lakh was also forfeited. The Department furthermore stated that continuous efforts were being taken to avail the service of SWAN and required actions was being taken by the BELTRON, a state designated agency, who looks after SWAN. However, the facts remain that the Department did not make any correspondence with the Bihar State Electronic Development Corporation Limited (BSEDC) for SWAN before obtaining MPLS VPN connectivity and made avoidable payment to private vendor.

The reply of the Department is incorrect as the facility of uploading/downloading of text information and image file on real time basis was available in SWAN as it was fully implemented in April 2010.

---

<sup>4</sup> Comprehensive Treasury Management Information System (CTMIS)

<sup>5</sup> Value Added Tax Management Information System (VATMIS)

### 5.3.14 Avoidable expenditure on own Data Centre of SCORE

**The Department made avoidable payment of ₹ 2.63 crore towards own data centre despite availability of State Data Centre (SDC).**

SDC was established to function as Central Repository of the State, Secure Data Storage, Online Delivery of Services, Citizen Information/Service Portal, State Intranet Portal, Disaster Recovery, Remote Management and Service Integration etc.

- Audit scrutiny of records revealed that the Department continued to operate own data centre despite availability of SDC and made payment of ₹ 2.63 crore during April 2015 to April 2018 to M/s IL&FS for keeping of data of SCORE and maintenance of own data centre. This indicated that the Department had not utilised available SDC and made avoidable payment to private vendor.
- ISO 27001 specifies a management system that is intended to bring information security under management control and gives specific requirements for data ownership, data privacy and data security. However, detailed requirement of ISO 27001, data ownership and privacy policy and its compliance was not available on file. In absence of the fulfilment of requirement of ISO 27001 and robust data ownership and privacy policy and procedures, how the Department ensured its ownership over data, data privacy and data security could not verified in audit.

After being pointed out in audit, the Department requested (March 2019) the IT Department to provide the necessary space in SDC to hoist the data of the Registration Department. The Department accepted (September 2019) the fact of not adhering to the requirement of ISO to ensure data security, data ownership and data privacy and stated that these issues would be incorporated in new application. However, the Department was silent on incorporating these requirements in existing application.

**Recommendation: The Department should avail the services of SWAN for network connectivity and SDC for secure data storage to effect economy. The Department should also ensure fulfillment of requirement of ISO relating to data ownership, data privacy and data security.**

### 5.3.15 Unfruitful expenditure on digitisation of deeds without ensuring space in data centre for uploading of digitised data

**Without ensuring the space in its own data centre/server for uploading of digitised data of executed deeds, the Department made unfruitful expenditure of ₹ 23.94 crore towards digitisation of deeds and its uploading in data centre.**

Audit analysis of the SCORE database revealed the following:

- Out of total 74,66,977 deeds executed during the period April 2011 to March 2018, portable document format (pdf) of only 19,85,477 deeds (26.59 per cent) were uploaded in the database (March 2018).
- Audit further observed that the BISCORE paid ₹ 23.94 crore to six vendors for digitisation and uploading of 1,26,37,896 records pertaining to period 1995 to

2010, but details of only 5,87,576 deeds (4.64 per cent) were available in database and further pdf format of only 23 deeds were uploaded (March 2018). This rendered payment of ₹ 23.94 crore made to vendors unfruitful as the deeds and its details could not be retrieved from the database. Moreover, the objective of digitisation of old records was also not achieved.

The AIG in-charge of computerisation also did not ensure completion of digitisation of records and its uploading in data centre. Further, in absence of digitised data the public in general and executants/claimants in particular could not get the benefit of computerisation of the Department which includes printing of documents through web portal.

In reply, the Department stated (March 2019) that due to paucity of space at data centre, all PDFs documents were not uploaded. On further verification in test-checked cases, data was found in hard drive but was not uploaded on server. In absence of data on server, the main purpose of digitisation to facilitate online access of digitised data was defeated.

### **Paragraphs related to Application Controls**

#### **5.3.16 Manual intervention in calculation of applicable stamp duty and registration fee**

**Crucial fields such as area of land, period of lease were not found entered in SCORE database which indicates that leviable stamp duty and registration fees were manually entered and not auto calculated by SCORE defeating one of its objectives.**

In case of lease deeds and sale deeds stamp duty and registration fee is calculated on the basis of market value of immovable property. To arrive at market value of property and to auto calculate leviable stamp duty and registration fee (which was one of the objectives of SCORE), information such as area of property and period of lease of property are mandatorily required to be filled in SCORE database.

Audit analysis of SCORE database revealed the following:

- Out of 47,319 lease deeds executed during January 2013 to March 2018, area of land was shown as zero in 2,981 cases and period of lease was shown as zero in 3,283 cases. Similarly out of 49,79,071 sale deeds executed during January 2013 to March 2018, area of land was shown as zero in 1,43,418 cases. In absence of these crucial information, the SCORE database shown leviable stamp duty and registration fee in all above cases which could be possible through manual intervention in SCORE database. It indicated that filling of crucial field in database was not made mandatory to enable auto calculation of stamp duty and registration fee in all cases. As a result, one of the objectives of SCORE to auto calculate applicable stamp duty and registration fee could not be achieved. Further, the concerned DSRs/SRs did not ensure filling of these information relating to immovable property before executing these deeds.

On further verification through hard copies of the deeds audit observed in 11 test-checked DSRs/ SRs offices<sup>6</sup> that in 202 cases applicable stamp duty and registration fee were levied and realised though the crucial information was absent in the system which established manual intervention in calculation of applicable stamp duty and registration fee in online system of registration.

In reply, the Department accepted the facts and stated (March 2019) that necessary control had since been incorporated in application software to identify this discrepancy.

- Audit further observed during analysis of SCORE database that excess stamp duty of ₹ 106.14 crore was shown realised in 4,69,428 deeds and excess registration fee of ₹ 20.62 crore was shown realised in 4,70,322 deeds executed between January 2013 and March 2018. Audit furthermore observed that stamp duty in 588 cases and registration fee in 52 cases shown as realised during the period January 2013 to March 2018 was more than even the cost of property.

Audit examination of scanned hard copies of 291 deeds in seven test checked DSRs/SR<sup>7</sup> offices revealed that in 191 cases leviable stamp duty and registration fee was ₹ 1.29 crore against which ₹ 1.90 crore was realised which resulted in excess realisation of stamp duty and registration fee of ₹ 61.64 lakh. In the remaining 100 cases, stamp duty and registration fee was realised correctly.

In reply, the Department stated (March 2019) that necessary MIS report had since been incorporated in application software to identify this discrepancy and necessary action would be taken after receiving reports from the concerned DSRs/SRs. On further verification Audit observed (April 2019) that necessary MIS had since been incorporated in application software.

### **5.3.17 Challan details not entered in SCORE database and not linked with deed/token number**

**Details of challans were not entered in SCORE database for 50,62,399 deeds and 42,350 challans were not linked with the concerned deed/token number though these facilities were available in the application system.**

Audit analysis of SCORE database revealed that out of 56,47,243 numbers of deeds executed between January 2013 and March 2018, details of 50,62,399 numbers of challans were not entered in the application system. The concerned DSRs/SRs also did not ensure filling of information of challans before executing the deeds. Further, 42,350 challans in the database were also not linked with the concerned deed/token number. Thus, due to non-linking of challans with the concerned deed number/token number in the application system and further non-filling of this information by the concerned DSRs/SRs, challan details of ₹ 14,092.95 crore involved in 51,04,749 deeds registered during the period 2013 to 2018 was not available in the SCORE and as such audit could not verify them.

<sup>6</sup> Arwal, Barh, Bhabhua, Darauli, Gaya, Jehanabad, Khagaria, Nalanda, Patna, Purnea and Rajgir

<sup>7</sup> Bhabhua, Gaya, Jahanabad, Khagaria, Nalanda, Patna and Rajgir.

The Department stated (March 2019) that challan table contained details of payment made through only O-GRAS<sup>8</sup> and deed table contained details of all payment.

**Recommendation: The Department should ensure entry of details of challans in SCORE database in respect of all payments and their linking with corresponding deed/token number.**

### 5.3.18 Gaps in the system generated deed numbers

**Due to application control failure and absence of data validation, there were gaps in two consecutive token numbers and deed numbers.**

Token number, Deed number (serial number of a deed) and Book deed number are unique fields generated by the application system after registration of a deed. Since, these are system generated number there should not be any gap between two consecutive registered deeds.

Audit analysis of SCORE data for the period 2013-14 to 2017-18 revealed that in 12 DSRs/SRs<sup>9</sup> offices, there were 693 instances of gap in serial number and 2,376 instances of gap in token number in the deeds generated through application system. It indicates application control failure and absence of data validation check.

In reply, the Department stated (March 2019) that before 2018 gaps were found. The Department further stated that .dmp data provided by the Department contained information of only registered deeds and gaps shown in deed number/token number/book deed number was related to unregistered deed.

The reply was not acceptable as .dmp data provided by the Department was complete database of Registration Department including information of unregistered deeds.

### 5.3.19 Duplicates in the system generated deed numbers and Book Deed Numbers

**Duplicates were found in deed/book deed number which indicated that application system was not appropriately designed to ensure the uniqueness of individual deed.**

Token number, Serial number and Book Deed number are unique fields generated by the system after a deed is registered and identifies the complete registration of a deed. Since it is a machine (system) generated number, there should not be any duplication.

Audit analysis of SCORE database revealed that in office of seven DSRs/SRs<sup>10</sup>, the duplicates were found in 39 cases of deed number and in 106 cases of book deed number. This indicated that application system was not appropriately designed to ensure the uniqueness of individual deed number. The DSRs/SRs also did not detect such generation of duplicate numbers.

In reply, the Department stated (March 2019) that all duplicates were before commencement of online process of registration (2016) due to delay in response time. The reply of the Department is not correct because four cases pertained to 2017.

---

<sup>8</sup> O-GRAS is a portal through which revenue of the Department are remitted into Government Head.

<sup>9</sup> Arwal, Patna, Gaya, Nalanda, Jehanabad, Kaimur, Khagaria, Purnea, Siwan, Rajgir, Barh and Danapur

<sup>10</sup> Arwal, Danapur, Gaya, Khagaria, Nalanda, Patna and Siwan

### 5.3.20 Data Entry Operators were given access to user IDs of Assistant

**Data Entry Operators were given access to the user IDs of Assistant who were supposed to validate the work of Data Entry Operator.**

As per best IT policy, segregation of duties is required to ensure that every transactions are properly authorised, recorded and that assets are safeguarded.

Audit scrutiny of SCORE database revealed in 47 out of 124 DSRs/SRs offices that in 128 cases, Data Entry Operators (DEOs) were given access to user IDs of Assistant, who was authorised to validate work of data entry operator. This indicates weak logical access control.

In reply, the Department stated (March 2019) that due to shortage of manpower one person had been allotted more than one user ID of different privilege level. The reply was not acceptable as in three out of 13 test checked DSRs/SRs offices, Assistants/Head clerks were posted but even then the DEOs were given access to user IDs of Assistants.

### 5.3.21 Incorrect endorsement of certificate of registration

**The DSRs/SRs failed to detect the incorrect endorsement of certificate of registration.**

Section 60 of the Registration Act stipulates for certificate of DSR relating to number and page of the book in which the document was copied.

Audit analysis of SCORE database in three DSRs<sup>11</sup> offices revealed that in 18 cases, page number mentioned in the Endorsement Certificate generated by SCORE software, were either same or within same range. Thus, it was evident that neither the system was designed to generate unique page number for each document nor the concerned DSRs exercised due diligence before endorsing the certificate of registration in spite of availability of document in the application system. In absence of correct depiction of page number of book in which document was preserved, it would be difficult to retrieve the desired document.

In reply, the Department accepted the facts and stated (March 2019) that necessary correction had been done in application software.

### Other IT related Paragraphs

### 5.3.22 Fees collected manually not reflected in SCORE database

**Fees relating to search of documents, inspection, issuance of certified copy of deeds, etc. were collected manually and not reflected in the SCORE database. As a result, daily fee books and monthly fee books generated by SCORE database did not include all transactions.**

One of the objectives of the SCORE was to automate daily fee books and monthly fee books.

<sup>11</sup> Jehanabad, Kaimur and Purnea

Audit observed that as per SCORE database stamp duty (SD) and registration fees (RF) collected in 13 test-checked DSRs/SRs offices for the period 2013-14 to 2017-18 was ₹ 3,714.95 crore. However, as per the monthly report of DSRs/SRs concerned prepared on the basis of daily fee books, SD and RF collected during the same period was ₹ 3,796.82 crore. Thus, there was difference of ₹ 81.87 crore in SD and RF available in SCORE database and that of reported by test checked DSRs/SRs. Audit further observed that the reasons for this difference were manual collection of fee relating to search of documents, inspection, issuance of certified copy of deeds etc., and upkeep of records thereof in manual form only. This indicates that one of the objectives of SCORE to automate daily fee books and monthly fee books incorporating all the transactions taken place in concerned DSRs/SRs office was not achieved.

In response to audit observation, the Department issued instructions (February and May 2019) to all DSRs/SRs to ensure entry of all transactions relating to collection of revenue in SCORE database and to submit monthly report through MIS available in SCORE database.

### **5.3.23 Non-mapping of provision of business rules in application system**

**The Department failed to map the business rules relating to finalised referred cases, refund cases and registration fee for document not mentioned in table of fee in application system.**

Section 47-A of the Indian Stamp (IS) Act, 1899 prescribes for referring of case to AIG for determination of valuation of property, if the registering officer, finds that the value of any property set forth in document was less than the market value of the property. Further, Section 54 of the Act *ibid*, prescribes for refund of stamp duty. Further, the Department instructed (January 2007) the DSRs/SRs to realise the deficit stamp duty at the earliest and file the revenue recovery certificate in case the deficit stamp duty remained unrealised within 60 days of order of the AIG.

Audit analysis of SCORE database revealed that there was no provision of finalisation and monitoring of referred cases in application system. Audit examination of the register of the referred cases and information made available for the period 2013-14 to 2017-18 revealed that in four DSRs/SR<sup>12</sup> offices, 606 cases referred to the AIGs were finalised between 2013-14 and 2017-18. The AIGs determined additional sum of ₹ 4.50 crore as payable stamp duty in 169 cases. However, the DSRs/SRs neither realised the differential stamp duty nor filed the revenue recovery certificates, even after elapse of three months to 71 months. The concerned AIGs also did not monitor the realisation of deficit stamp duty in finalised referred cases.

In response to our audit observation the concerned DSR/SR realised stamp duty and registration fee of ₹ 53.05 lakh in 31 cases and filed certificate case in 121 cases involving revenue of ₹ 3.43 crore. Similarly, provision of refund and provision of registration fee for documents not mentioned in registration table of fee were not mapped in application system which led to non-monitoring of these cases by the Department and non-achievement of objective of computerisation.

---

<sup>12</sup> Gaya, Kaimur, Khagaria and Rajgir

In reply, the Department stated (March 2019) that provision of monitoring of referred cases by the Department and concerned AIG had since been mapped. However, the Department was silent as to why the provision of refund was not mapped.

#### **5.3.24 Manual issuance of non-encumbrance Certificate**

**Non-encumbrance certificates were issued manually though its online issuance was one of the objectives of SCORE.**

Issue of non-encumbrance certificate<sup>13</sup> was one of the objectives of the automation process under the IT system.

Audit scrutiny of records in 13 test-checked DSRs/SRs offices revealed that 1,15,743 number of non-encumbrance certificates were issued manually during 2013-14 to 2017-18. Thus, one of the objectives of computerisation to issue online non-encumbrance certificate was defeated. Further, the AIG (computerisation) also did not monitor the database and working of their offices so as to ensure online issue of non-encumbrance certificate using application system. The Department also did not issue any instruction to DSRs to stop issuing non-encumbrance certificate manually.

In reply, the Department accepted the facts and stated (March 2019) that necessary arrangements would be made in application software.

#### **5.3.25 Requirement of Income Tax Act not fulfilled**

**PAN was not captured in SCORE database in respect of 1,49,065 properties worth more than ₹ five lakh (₹ 10 lakh from 01.01.2016) which indicated inadequate validation controls in the system.**

The Income Tax Act, 1961 requires mandatory quotation of Permanent Account Number (PAN) in case of sale/purchase of immovable property worth more than ₹ five lakh till 31 December 2015 and thereafter ₹ 10 lakh and in its absence submission of Form 60 and 61.

Audit examination of SCORE database revealed that out of 15,93,805 deeds of immovable properties worth more than ₹ five lakh registered during January 2013 to December 2015, PAN details were not entered in database for 1,05,442 deeds. Further, out of 1,73,493 deeds of immovable property worth more than ₹ 10 lakh registered during January 2016 to March 2018, PAN details were not entered in database for 43,623 deeds. In these cases, fields regarding submission of Form 60 and 61 were also blank.

Audit further verified scanned copy of 321 deeds and observed that PAN was not mentioned in 90 deeds despite the value of properties being more than the threshold limit.

Thus, not uploading of PAN information in the database in respect of properties worth more than ₹ five lakh or ₹ 10 lakh, as the case may be, indicated inadequate validation controls in the system.

<sup>13</sup> Non-encumbrance certificate is a certificate issued denoting the property to be free from any encumbrance.



In reply, the Department stated (March 2019) that necessary provision for validation of PAN formats in application software had since been incorporated. On further verification Audit observed that necessary changes have since been incorporated in the SCORE software to capture PAN.

#### **5.3.26 Integration with data of land records**

**The Department did not integrate SCORE database with that of Revenue and Land Reforms Department leading to non-verification of information pertaining to land/property online.**

The National Land Record Modernisation Programme (NLRMP) provided for integration of data of registration with the land records data. Accordingly, the DSR/SRs were required to forward online details of the property registered to the concerned revenue officers automatically on registration of any property. These details would include property details, registration number and date of registration and names of the parties, which would be used by the revenue officers for mutation of the property.

Audit scrutiny of records revealed provision for linking of records of the Registration Department with that of the Revenue and Land Reforms Department was not made in the existing application system as envisaged in National Land Records Modernisation Programme in spite of the fact that Revenue and Land Reforms Department uploaded digitised records of 4,29,76,776 *khesra* on its website till January 2018. In the absence of this provision in application system, revenue officer could not utilise the information available with Registration Department for mutation of property and the Registration Department also could not verify online veracity of information pertaining to land/property furnished by the executants. Thus, due to non-automation of critical function, the internal control of the Department was also compromised defeating the intended purpose.

In reply, the Department stated (March 2019) that due to non-computerisation of land records integration of records of Registration Department with that of the Revenue and Land Reforms Department was not made, but of late, land records were being made available with effect from December 2018 by the Revenue and Land Reforms Department through web service and action would be taken to integrate it with data of the Registration Department.

#### **Important miscellaneous issues**

#### **5.3.27 Illegal provision of collection of Service Charge in the Bihar Registration Rules, 2008**

**The Registration Department illegally made provision for collection of service charge in the Bihar Registration Rules, 2008 and consequently not only collected service charge of ₹ 152.60 crore during 2008-09 to 2017-18 by putting undue burden on stakeholders but also kept them in bank account instead of the Consolidated Fund of the State.**

Section 69 of the Registration Act, 1908 prescribes the powers of Inspector-General (IGR) to superintend registration offices and make rules for (a) providing for safe

custody of books, papers and documents, (aa) providing the manner in which and the safeguards subject to which the books may be kept in computer floppies or diskettes or in any other electronic form and (b) declaring what language shall be deemed to be commonly used in each district.

Invoking this section, the IGR with the approval of Government of Bihar made the Bihar Registration (BR) Rules, 2008 making provision for levy of service charge on the basis of each page of document registered. However, section 69 of the Act *ibid* did not authorise the IGR to make provision for levy of any service charge. Thus, the provision for levy of service charge was beyond the legislative intent of section 69 of the Act and hence illegal.

Audit further observed that the service charge was being levied for automated registration process and preservation of documents in soft copies whereas registration fee was being collected vide section 78 of the Act for the similar purposes of registration of documents through manual process and preservation of documents in hard copy. Thus, no additional service was being provided. The Computerisation/automation of office procedures in government offices is inherent responsibility in providing ease of doing business for better service delivery. However, the Department levied service charge besides registration fees without any additional service.

Audit analysis of the SCORE database revealed that the Department collected ₹ 152.60 crore as service charge during the period 2008-09 to 2017-18 without approval of the legislature and deposited into private bank account of 39 societies (38 DISCORE and one BISCORE); thus, kept the money so collected outside the legislative and executive oversight by allowing these societies to expend the money. Moreover, the stakeholders had to bear financial burden of ₹ 152.60 crore. Not depositing collection from service charge into the Consolidated Fund of the State is in violation of Article 266 (1) of the Constitution of India which provides that all revenue received by the Government of a State shall be credited into the Consolidated Fund of the State. The practice of depositing service charge into bank account of these societies should be stopped immediately as it is fraught with risk of fraud and misappropriation.

Thus, the Government of Bihar illegally framed provision of collection of service charge in the Bihar Registration Rules and allowed collection of service charge to finance the outsourced firm to undertake its core function which resulted in not only bypassing of legislative oversight in financial matter of the State but also undue burden to stakeholders.

In reply, the Department stated (March 2019) that the Bihar Registration Rules, 2008 which provided for levy of service charge was formulated following all due process including due concurrence of the Law Department and the Finance Department and approval of the State Cabinet.

Reply of the Department was incorrect as notification was issued invoking section 69 (1) (a) and (aa) of the Registration Act which did not authorise the State Government to levy any service charge and the Department also did not

bring this fact to the notice of the State Cabinet while seeking approval on the Bihar Registration Rules, 2008.

**Recommendation:** The Department should amend the Bihar Registration Rules, 2008 so that service charge may not be collected in violation of the legislative intent of Section 69 of the Registration Act. The Department should reconcile the collected service charge (kept in bank account) and remit it into the Consolidated Fund of the State immediately. Further the Department may also investigate how the amount thus collected has been used by the BISCORE and DISCORE.

### 5.3.28 Irregular reduction of value of land

**Irregular reduction of value of land in Minimum Value Register (MVR) led to loss of revenue of ₹ 13.86 lakh.**

The Bihar Stamp (Prevention of Under Valuation of Instruments) (Amendment) Rules 2013 provides guidelines to district valuation committee for ascertaining minimum value of property which *inter alia* includes minimum value of property of an area shall not be less than the average value of five registered sale deeds having highest value of that area.

Audit scrutiny of SCORE database and records in office of DSR, Patna revealed that the district valuation committee Patna reduced (February 2016) the value of land of Srikrishnapuri to ₹ 16.25 lakh per decimal from ₹ 18.00 lakh per decimal without following above prescribed criteria. Audit further observed as this criteria was not mapped in application system, the system did not raise any red flag regarding undue change in value of MVR. Thus, reduction of value of land in MVR was irregular which led to loss of revenue of ₹ 13.86 lakh<sup>14</sup> from 51 deeds executed between February 2016 and March 2018.

In response to our audit observation, the Department compared the number of deeds executed and MVR of North and South Srikrishnapuri with those of Shivpuri and stated that reduction of value of land had been done on the basis of report submitted (January 2016) by survey team and there was no revenue loss due to reduction in MVR.

Reply of the Department is factually incorrect as the Survey Report of January 2016 did not include Srikrishnapuri.

<sup>14</sup>

(Amount in ₹)

Thana No.	Number of deeds executed	Total area of land in decimal	Difference in MVR rate	Short valuation of property	Loss of revenue at the rate of 10 per cent
204	8	25.2453	1,75,000	44,17,927	4,41,792
224	43	53.9548	1,75,000	94,42,090	9,44,209
<b>Total</b>	<b>51</b>				<b>13,86,001</b>

### **5.3.29 Delayed remittance of sale proceeds of court fee stamps (judicial) into Government Account**

**The DSR Patna remitted sale proceeds of court fee stamps (judicial) into the Government account with delay of one to 121 days.**

As per Rule 7(1) read with Rule 4(1) of Bihar Court Fee (Sale of Stamps by Franking Machine) Rules 2008, no pre-entry of an amount in the Franking machine shall be made for sale of court fee stamps through Franking machine. The Secretary DISCORE was to deposit amount to concerned DSR for recharging the Franking machine who in turn remits the amount so collected from Secretary DISCORE into government account and sends its weekly report to IGR. However, these rules were not mapped in the SCORE.

Audit scrutiny of records/reports related to franking machine for the year 2016-17 and 2017-18 in office of DSR, Patna revealed that franking machines were recharged and stamps worth ₹ 5.94 crore were sold without ensuring realisation of amount with which franking machine was recharged. This was flagrant violation of provision of the Rules *ibid* which stipulates realisation of revenue at the time of recharge itself. Further, the proceeds of sale of stamps from franking machines were deposited in separate bank account of DISCORE and thereafter remitted into the Government account with delay of one to 121 days. Further, no weekly report regarding receipts on account of recharging of franking machine and its remittance into Government Account was sent to IGR. Thus, due to non-mapping of business rules relating to receipts from sale of stamps through franking machines, the Department failed to exercise necessary control over sale of stamps through franking machines and realisation of revenue therefrom which led to non-realisation of revenue at the time of recharging the franking machine and subsequent delayed remittance into Government account.

In reply, the Department stated (March 2019) that in future this type of negligence would not be repeated.

### **5.3.30 Inspection of Registry Offices**

**Required numbers of inspection of Registry Offices were not conducted which indicated poor internal control.**

As per Bengal Government's letter no. 745-P dated 4.11.1899, as applicable in Bihar, 96 inspections of registry offices were required to be undertaken by the inspecting authorities during 2016-17 and 2017-18. However, Audit scrutiny of records in 13 test checked DSRs/SRs offices revealed that only 17 inspections (17.71 *per cent*) were conducted during 2016-17 and 2017-18 by the inspecting authorities against 96 required inspections which indicated poor internal control.

In reply, the Department stated (March 2019) that during 2016-17 and 2017-18, 92 and 82 inspections were conducted by concerned controlling offices respectively in 124 registration offices.

Reply of the Department is not acceptable as in 13 test checked offices, 11 and six inspections were done during 2016-17 and 2017-18 respectively against required 96 inspections.

**Recommendation: The Department should ensure inspections of offices as per prescribed norms and endeavor should be made to implement inspection through proper MIS and modules in the application system.**

### 5.3.31 Conclusion

- System Design Document, Business Continuity and Disaster Recovery Plan were not available/documented. Standardisation Testing and Quality Certification (STQC) of SCORE was not done.
- SCORE database was also not integrated with land records database of Revenue and Land Reforms Department leading to non-verification of information pertaining to land/property mentioned in the documents online by the Registering authorities.
- Gaps in system generated token number/deed number, duplication in system generated deed number/Book Deed number and reference of incorrect page numbers in endorsement of certificate of registration were noticed.
- Crucial fields such as area of land, period of lease were not found entered in SCORE database which indicates that leviable stamp duty and registration fees were manually entered and not auto calculated by SCORE defeating one of its objectives.
- The Department did not avail facility of SWAN and SDC and obtained intranet services and data centre from outsourced vendors and made avoidable payments of ₹ 3.98 crore.
- Only 27 per cent of the deeds executed between April 2011 and March 2018 were found uploaded (upto March 2018) on SCORE database. Further, though six vendors were paid ₹ 23.94 crore for digitisation and uploading of 1,26,37,896 records pertaining to period 1995 to 2010, details of only 5,87,576 deeds (five per cent) were available in database and further pdf format of only 23 deeds were found uploaded (March 2018). In absence of data on server, the main purpose of digitisation to facilitate online access to digitised data was defeated.
- The Government of Bihar illegally made provision of collection of service charge in the Bihar Registration Rules 2008 as Section 69 of the Registration Act did not authorise levy and collection of service charge.

## Other observations of Compliance Audit

### 5.4 Short realisation of Stamp duty and Registration fee due to undervaluation of property

**AIG Muzaffarpur overlooked factual position of land while finalising case referred by SR Chakia which resulted in short levy of SD and RF of ₹ 4.32 crore. Six Registering Authorities failed to detect undervaluation of properties which resulted in short levy of SD and RF of ₹ 3.96 crore.**

As per the Indian Stamp Act, 1899, the consideration/market value of the property and all other facts and circumstances affecting the chargeability of duty is to be fully and truly disclosed in the instrument. Further, as per notifications issued (February and July 2013) by Registration, Excise and Prohibition (Registration) Department, Government of Bihar, stamp duty and registration fee shall be leviable on the market value of the property based on Minimum Value Register (MVR) and in case of lease for period of 30 years, rate of stamp duty shall be six or eight<sup>15</sup> *per cent* and registration fee shall be two *per cent* of 50 *per cent* of value of lease amount.

- During scrutiny of instruments executed during April 2012 to November 2017 in the office of the Sub Registrar (SR) Chakia, Audit observed (January 2018) that an instrument for sale of land was presented for registration in July 2016. Subsequently, the SR got the spot verification conducted (15 July 2016) and as per the said verification report the land was falling under commercial category and therefore the SR referred (23 July 2016) the case under section 47-A of the IS Act, 1899 to Assistant Inspector General (AIG), Muzaffarpur.

The AIG, Muzaffarpur again got the spot verification conducted (December 2016) and on the basis of said verification report finalised (December 2016) the case treating part of the land as residential and remaining part as developing and accordingly the document was registered by the SR in December 2016. However, the AIG himself mentioned in his order that the seller used the land for establishment of plant and machinery for road construction activities (a commercial activity). Further, audit examination of another instrument for sale of land by the same seller and pertaining to same premises involving same purchaser (registered in January 2017) revealed that the land was situated on National Highway (NH) and hence treated under commercial category. As the land of both instruments was under single boundary and having same seller and purchaser the entire land should have been treated under commercial category situated on NH. Thus, it was evident that the land was splitted with a view to misclassify the land and avoid higher stamp duty. The SR while registering the document did not detect the splitting of the land.

Audit also conducted joint physical verification with SR Chakia in January 2019 which confirmed category of the land as commercial. Audit also got confirmation from concerned land authority that there was no change in land use before sale of land. Thus, due to non-consideration of the available physical facts, the

<sup>15</sup> In municipal area apart from stamp duty, an additional stamp duty at the rate of two *per cent* of valuation of property is also applicable thus making the effective rate to eight *per cent*.

AIG erroneously categorised the land as residential and developing instead of commercial category while finalising the referred case. Thus, misclassification of land led to undervaluation by ₹ 53.98 crore and short levy of stamp duty and registration fee of ₹ 4.32 crore<sup>16</sup>.

In reply, the Department stated (January 2019) that instructions was issued to District sub registrar, East Champaran to file an appeal against the order of the AIG before Commissioner, Tirhut Division, Muzaffarpur. Thereafter, the SR Chakia filed (12 March 2019) an appeal before Commissioner against the order of the AIG which was pending for disposal (September 2019).

**Recommendation: The Department may take immediate action against the concerned AIG for his arbitrary decision/order which hampered the prospect of revenue.**

- Audit observed (between May 2017 and January 2018) during scrutiny of instruments executed during May 2015 and November 2017 in six District Sub Registrar/ Sub Registrar offices<sup>17</sup> that in 11 instruments (eight sale deeds, two lease deeds and one gift deed) the concerned district sub registrar/sub registrar (DSR/SR) either did not detect splitting of land or applied incorrect rate of stamp duty and registration fee. In three cases of sale deeds, the concerned DSR did not detect splitting and subsequent misclassification of land as the bigger portion was registered earlier showing them un-connected from national highway/principal road and thereafter registering smaller portion adjacent to bigger portion showing them situated on national highway/principal road. In remaining five cases of sale deeds, the concerned DSR did not consider actual spot verification report, though it was mentioned in the documents approved by the DSRs themselves. In two cases of lease deeds the concerned DSR did not detect undervaluation/misclassification of lease deeds for application of correct rate of stamp duty and registration fee. Similarly, in one case of gift deed of land the DSR did not consider the spot verification report containing nature of structure situated on land without recording any reasons. These irregularities resulted in undervaluation of property and consequent short levy of stamp duty and registration fee of ₹ 3.96 crore as detailed in **Annexure-3**.

In reply, the Department stated (January 2019) that in three cases an amount of ₹ 7.08 lakh was realised, two cases were impounded and referred to the concerned District Collector to realise the deficit stamp duty, notices of demand were issued in two cases, in one case the concerned party filed appeal against order of AIG, one case was pending at AIG level and in remaining cases the AIG stated (June 2019) that there were no loss of revenue while finalising the cases. Reply of the

<sup>16</sup>

					(₹ in crore)
Area of land (in decimal)	Actual value of the land (at the rate of ₹ four lakh per decimal)	Value of land finalised by AIG (42 decimal at the rate of ₹ 55,000 per decimal, 343 decimal at the rate of ₹ 36,000 per decimal and 1065 decimal at the rate of ₹ 24,000 per decimal)	Leviabale stamp duty (at the rate of six per cent and registration fee (at the rate of two per cent)	Stamp duty and registration fee levied	Short levy of stamp duty and registration fee
1,450	58.00	4.02	4.64	0.32	4.32

<sup>17</sup> Araria, Bhojpur, Danapur, Gaya, Purnea and Sasaram

AIG is not acceptable as in instant cases both purchaser and seller were involved in commercial activities and the land was surrounded by commercial entities.

### 5.5 Government revenue not realised from the finalised referred cases

**Failure of the seven Registering Officers to institute revenue recovery certificate cases in 155 cases for recovery of differential stamp duty led to non-realisation of Government revenue amounting to ₹ 2.02 crore.**

Section 48 of the Indian Stamp (IS) Act, 1899 provides that all stamp duties, penalties required to be paid may be recovered by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force, for the recovery of arrears of land revenue. Further, as per instruction issued (January 2007) by the Secretary-cum-Inspector General of Registration to the Collector-cum-District Registrar/DSR, if the parties do not pay the stamp duty in finalised referred cases, a notice may be served to deposit the stamp duty within 30 days and list of their names should be published in the local newspaper and after 30 days revenue recovery certificate cases would be instituted under the Public Demand Recovery Act, 1914 (PDR Act).

During scrutiny of register of referred cases and information made available by seven DSRs/SRs<sup>18</sup> for the period April 2012 to June 2017, Audit observed (between May and November 2017) that 361 cases, referred to the four AIGs,<sup>19</sup> were finalised by them under Section 47(A) of the IS Act and sent back to concerned DSR/SR during April 2012 to June 2017. Further, on examination of all these cases, Audit observed that the AIGs determined an additional sum of ₹ 2.02 crore as payable stamp duty that was short levied in 155 cases finalised by them and sent these cases to the DSRs/SRs concerned for realisation of differential stamp duty. However, the DSRs/SRs neither realised the differential stamp duty nor filed the revenue recovery certificate, even after elapse of 60 days. It also indicates absence of monitoring mechanism to ensure realisation of differential amount of stamp duty from finalised referred cases.

In reply, the Department stated (January 2019) that ₹ 1.58 crore had since been recovered in 190 cases and certificate cases had been instituted in 105 cases for ₹ 1.84 crore.

### 5.6 Short realisation of Stamp duty and Registration fee on Mining lease of stone

**Failure of the two Registering Officers to detect misclassification of mining lease of stone resulted in short realisation of stamp duty and registration fee of ₹ 1.91 crore.**

Article 35 (b) of Schedule-1 of the Indian Stamp (IS) Act, 1899 provides that where the lease is granted for a fine or premium or for money advanced and where no rent is reserved, the stamp duty at the rate of six *per cent* and registration fee at the rate

<sup>18</sup> Aurangabad, Bhojpur, Gaya, Paroo (Muzaffarpur), Saharsa, Sasaram and Simari Bhakhtiyarpur (Saharsa)

<sup>19</sup> Magadh (Gaya), Patna, Tirhut (Muzaffarpur) and Koshi (Saharsa)



of two *per cent* on premium value would be payable treating them as conveyance. Further, Article 35 (a) of Schedule-I of the Act *ibid* stipulates rate of stamp duty *inter alia* in case of lease, for a term of not less than one year but not exceeding ten years, where rent is fixed and no premium is paid or delivered as conveyance on five *per cent* of the market value of the property based on Minimum Value Register.

Audit observed (between July and September 2017) during test-check of lease deeds in two District Sub-Registrar offices (Aurangabad and Banka) executed during the period January 2015 to July 2017 that two lease agreements of stone quarry were registered for a period of five years between April 2016 and March 2017 for an amount of ₹ 25.27 crore. The leviable stamp duty and registration fee in these cases was ₹ 1.52 crore and ₹ 50.54 lakh respectively as per the above schedule. However, the DSR Aurangabad levied stamp duty and registration fee on premium amount treating it as rent while DSR Banka levied stamp duty and registration fee on total land cost treating it as rent instead of premium amount and accordingly levied stamp duty and registration fee of ₹ 8.10 lakh and ₹ 2.70 lakh respectively. These misclassification of leases resulted in short realisation of stamp duty and registration fee of ₹ 1.91 crore<sup>20</sup>.

After we pointed this out, DSR Aurangabad realised (May 2019) ₹ 1.63 crore and DSR Banka issued (December 2018) notice of demand for ₹ 29.03 lakh. Report on recovery from DSR, Banka was still awaited (September 2019).

The errors/omissions pointed out are on the basis of a test audit. The Department/Government may, therefore, undertake a thorough review of all units to check whether similar errors/omissions have taken place elsewhere and, if so, to rectify them; and to put a system in place that would prevent such errors/omissions.

<sup>20</sup>

(₹ in lakh)

Sl No.	Name of District Sub Registrar	Premium amount	Stamp Duty			Registration Fee			Total short realisation (A+B)
			Leviable	Paid	Short realisation (A)	Leviable	Paid	Short realisation (B)	
1	Aurangabad	2,151.00	129.06	6.45	122.61	43.02	2.15	40.87	163.48
2	Banka	376.00	22.56	1.65	20.91	7.52	0.55	6.97	27.88
<b>Total</b>			<b>151.62</b>	<b>8.10</b>	<b>143.52</b>	<b>50.54</b>	<b>2.70</b>	<b>47.84</b>	<b>191.36</b>

**CHAPTER 6**  
**MINING RECEIPTS**



## CHAPTER 6: MINING RECEIPTS

### 6.1 Tax administration

Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957, Bihar Minor Mineral Concession Rules (BMMC Rules), 1972 and Mineral Concession Rules (MC Rules), 1960, as amended from time to time, govern mining of mineral in Bihar.

The regulation and development of mines and minerals are administered by the Mines and Geology Department with the Principal Secretary-cum-Mines Commissioner as its head at the Government level. The Director of Mines is the head of the Department and is assisted by one Additional Director of Mines and three Deputy Directors of Mines (DDMs) at headquarters level.

Further, there are nine Deputy Directors of Mines at Divisional offices and at the district level, 14 district mining offices (DMOs) are headed by Assistant Director of Mines/Mining Development Officers whereas Mining Inspectors (MIs) are in-charge of the remaining 24 district mining offices and are responsible for assessment, levy and collection of royalty and other mining dues. District Collector is the head of the mining administration in the district.

### 6.2 Results of audit

Audit test checked records of 16<sup>1</sup> out of 48 units of the Department during 2017-18. In addition, settlement of stone quarries and Sand *Ghats* were reviewed during April-October 2018 in 14<sup>2</sup> units. There were 53 mining leases in the State, out of which audit examined 43 out of 48 leases in the 30 test checked districts. Audit noticed irregularities worth ₹ 1,097.27 crore in 147 cases consisting 24 leases due to various deficiencies as detailed in **Table-6.1**:

Sl. No.	Categories	No. of cases	Amount
1.	Non/Short realisation of royalty and cesses	17	6.42
2.	Non-levy of penalty for irregular removal of brick earth/sand	17	8.75
3.	Non-levy of penalty against works contractors	13	56.65
4.	Non-realisation of revenue due to non-execution of settled lease of stone quarry	1	25.68
5.	Non-realisation of Government revenue due to non-settlement of stone quarries	2	684.50
6.	Loss of revenue due to non-adherence of condition of settlement of sand <i>ghat</i> as per New Sand policy	8	214.89
7.	Loss of revenue due to non- resettlement/ non- operation of sand <i>ghat</i> after cancellation	6	96.46
8.	Others	83	3.92
<b>Total</b>		<b>147</b>	<b>1,097.27</b>

<sup>1</sup> **DMOs** – Arwal, Bettiah, Bhagalpur, Biharsharif, Buxur, Darbhanga, Gaya, Jehanabad, Kishanganj, Madhepura, Motihari, Munger, Muzaffarpur, Nawada; **Assistant Director of Mines**, Bhagalpur; **Deputy Director of Mines**, Tirhut.

<sup>2</sup> **DMOs** – Ara, Aurangabad, Gaya, Gopalganj, Jamui, Lakhisarai, Patna, Purnea, Saharsa, Saran, Sasaram, Siwan, Supaul and Vaishali.

The audited units of the Department accepted short levy, short realisation and other deficiencies of ₹ 1,194.41 crore in 582 cases during April 2017 and July 2019. Out of these 582 cases, 26 cases involving ₹ 322.50 crore were pointed out during 2017-18 and the rest during earlier years. The replies in the remaining cases of 2017-18 and those of earlier years are awaited (July 2019). However, reply of the Department at Government level has not been received as on September 2019.

Audit findings worth ₹ 1,008.84 crore have been illustrated in this chapter. The errors/omissions pointed out are on the basis of a test audit. The Department/Government may, therefore, undertake a thorough review of all units to check whether similar errors/omissions have taken place elsewhere and, if so, to rectify them; and to put a system in place that would prevent such errors/omissions.

### **6.3 Non-realisation of Government revenue due to non-settlement of stone quarries**

**Lackadaisical approach of State officials in settlement of stone quarries resulted in non/delayed settlement of ten blocks of stone quarries of Gaya, three blocks of stone quarries of Rohtas and one block of stone quarry of Aurangabad and therefore, the State Government was deprived of revenue of ₹ 710.18 crore.**

Rule 9A read with Rule 52 of the BMMC Rules, 1972 (Amended in 2014) read with instruction (August 2014) of the Department of Mines and Geology, Government of Bihar provide that the settlement of formal lease of stone quarry shall be done for five years through public auction and the area of quarrying lease shall not be less than five hectares.

It further provides that the formal lease of stone mining is to be executed by the Collector after submission of required documents<sup>3</sup> and deposit of due instalment of settlement amount by the settlee within 120 days from the in-principle sanction<sup>4</sup>.

In case of failure to adhere the lease conditions, lease is deemed to have been revoked and application and security deposit is required to be forfeited *suo motu*.

As per notification (February 2014) of the Mines and Geology Department, the mining plan shall be approved by the Committee headed by Director, Mines within 30 days of its submission.

#### **(a) Settlement of Stone quarries in Rohtas**

The chronology of events in the settlement of stone quarries in DMO, Rohtas is detailed in the following **Table 6.2**:

---

<sup>3</sup> Mining plan, environmental clearance, consent to operate and consent to establish.

<sup>4</sup> In-principle sanction is provisional sanction which is subject to fulfilment of prescribed conditions.

Table - 6.2

Date	Event
August 2014	The Department issued instruction for formation of stone blocks and their settlement. Accordingly, the MO, Rohtas formed 10 compact and contiguous blocks of stone quarries in five <i>maujas</i> (revenue villages) and initiated bidding process for settlement of the stone quarries for five years.
November 2014	The MO, Rohtas sought forest clearance from the DFO, Rohtas.
December 2014	DFO, Rohtas denied forest clearance stating that the stone blocks were situated near Wild life Sanctuary. In view of this, the MO, Rohtas sought guidance from the Department.
February 2015	The Department clarified that objection of the DFO, Rohtas is beyond their jurisdiction as Forest Department can object only in cases located in Forest Land or buffer zone. The Department further directed Collector, Rohtas to initiate action for settlement of stone quarries as per rules.
May 2015	The MO, Rohtas initiated Bidding process for settlement of stone blocks. However, DFO stated that these stone blocks being situated within 10 KMs of Wildlife Sanctuary are within eco-sensitive zone and therefore mining activities in these areas would be violation of the Hon'ble Supreme Court order. Thereafter, the MO, Rohtas cancelled the bidding process.
January 2016	After said areas of these mining blocks were already de-notified by the MoEF, GoI from eco-sensitive zone, the MO, Rohtas approached DFO, Rohtas for forest clearance.
September 2016	The Collector, Rohtas directed a joint inspection of these areas after nine months of de-notification.
October 2016	The joint inspection team (mining, forest and police personnel) recommended three out of the proposed 10 blocks for settlement of stone quarries at a reserve price of ₹ 196.27 crore.
November 2016	The Collector sent the proposal for settlement of quarries to the Department on which, no action was taken till February 2017.
February 2017	Meeting between the higher officials of the Mining and Forest Department took place. Forest Department accorded a conditional approval (May 2017), of constructing 100 meter fence to avoid encroachment and mining of forest land, for three blocks. Thus, there was delay of 17 months in issuing forest clearance by the Forest Department. Moreover, the demarcation and fencing work remained inconclusive till November 2018.
September 2017	The Department (Special Secretary) directed the MO, Rohtas to settle the stone quarries after seven months of meeting with forest officials.
October 2017	The Department replaced BMMC Rules, 1972 with Bihar Minor Mineral Rules 2017 in October 2017 by inserting several provisions which were contrary to MMDR Act, 1957.
October 2017	In view of the above new rules, the MO, Rohtas requested the Principal Secretary to issue guidance for settlement of quarries.
November 2017	Patna High Court stayed the new rules as it was at variance with the MMDR Act. The Court further directed to settle quarries based on the existing rules before 2017 enactments.
July 2018	The Principal Secretary/Director did not issue any guidance to MO, Rohtas till July 2018 but issued a reminder to settle the quarries after lapse of nine months.
August-December 2019	The MO, Rohtas and DFO, Rohtas took five months in identification of the area for raising of 100 meter fence, which was a condition for NOC.
January 2019	The Department initiated e-auction for settlement of these quarries
February 2019	The Department postponed the settlement process citing indispensable reason and the stone quarries remain unsettled as on May 2019 though the settlement process was initiated in August 2014.

Audit further observed that between January 2017 and October 2018, task force under the Collector, Rohtas seized stone worth ₹ 4.34 crore in Rohtas district which indicates that non-settlement of mines resulted in illegal mining as well.

Thus, due to inordinate delay of five long years in settlement of stone quarries by the Department, revenue worth ₹ 196.27 crore could not be realised as approved by the Department in February 2015.

The above indicates significant delays and substantive failure of the Department at every level (Mines Commissioner to MO) in terms of coordination, monitoring, supervision and lack of adequate efforts against illegal mining. Further, the new BMM Rules 2017 which was at variance with the MMDR Act, 1957 led to Court cases and contributed further confusion and delay in settlement of the quarries.

In reply, the MO, Rohtas stated (October 2018) that the process of settlement was under process. The matter was reported to Department in December 2018; their reply was awaited (September 2019).

### (b) Settlement of Stone quarries in Gaya

The chronology of events in the settlement of stone quarries in DMO, Gaya is detailed in the following **Table 6.3**:

**Table 6.3**

Date	Event
August 2014	The Department (OSD/Additional Secretary) issued instruction for survey and formation of stone blocks for their settlement for five years.
June 2015-September 2015	Forest Division, Gaya issued (in June 2015 for Bandhua and in September 2015 for Bodhchak) No objection certificate (NOC) for settlement of these stone blocks.
December 2015-January 2016	The Collector got the spot verification done by a Committee comprising of Assistant Director, sub-divisional Magistrate and Additional Collector after lapse of 16 months. The Committee recommended for settlement of 10 stone blocks only (eight in Bandhua and two in Bodhchak <i>mauja</i> ) out of 12 blocks of stone quarries having minimum reserve value of ₹ 488.23 crore.
February 2016 -August 2016	Despite recommendation of the Committee and issuance of NOC by the Forest Department, the Collector and Assistant Director Mines instead of proceeding for settlement sought direction from the mining Department in February 2016 and August 2016 respectively.
February 2017	The Mining Department, after lapse of 12 months, called for the details of those stone blocks from the Collector in February 2017, which was made available to the Department in May 2017.
July 2017	<ul style="list-style-type: none"> <li>The Collector (October 2016) and the Mining Department (Director/Special Secretary Mines) (July 2017 and May 2018) sought <b>No Objection Certificate</b> from Art, Culture and Youth Department for the two <i>maujas</i> of Bodhchak, even though it was not in the list of protected monument area, which was accorded in December 2018 after a lapse of 26 months.</li> <li>As regards the eight <i>maujas</i> of Bandhua, the Mining Department through their letters in July 2017 and reminders in May and August 2018 sought NOC from Tourism Department which was not accorded till July 2019 even after lapse of 24 Months.</li> </ul>
December 2018-February 2019	The Mining Department fixed (December 2018) the reserve price of two blocks of Bodhchak at ₹ 105.00 crore based on the information of the Collector, Gaya. In January 2019, the Collector initiated e-auction, which was cancelled in February 2019 citing indispensable reasons and the reserve money was refunded to the bidder.

Non/delayed settlement of these Stone quarries was fraught with risk of illegal mining activity also which was evident from seizure of huge quantity of stone in 3,247 raids involving realisation of penalty of ₹ 4.12 crore in Gaya district during 2017-19.

Thus, Audit observed that the Mining Department (MC to MO) failed to take effective measures for settlement of these 10 stone quarries even after a lapse of five years and could not realise ₹ 488.23 crore.

In reply, the ADM Gaya stated (October 2018) that the stone quarry would be settled after obtaining the direction from the Department. The Department at Government level has not given any reply. This suggested lack of clarity and transparency in the system of settlement of stone quarries.

### (c) Settlement of Stone quarries in Aurangabad

The chronology of events in the settlement of stone quarries in DMO, Aurangabad is detailed in the following **Table 6.4**:

**Table 6.4**

Date	Event
August 2015	One block of stone quarry under <i>mauja</i> Pachar, was auctioned for five years to the highest bidder for the bid amount of ₹ 32.10 crore and in-principle sanction order was issued.
August 2015	The Principal Secretary received a complaint from an individual that the area comes under a religious site.
August 2015-May 2017	A list of places indicating protected monument area and places of tourist interest issued by the Mining Department (December 2014) itself, did not include the proposed stone quarry area. In spite of this, the Department took 22 months to dispose the complaint and give go ahead for operation of stone quarries.
September 2017	The settlee deposited the prescribed security deposit after auctioning of stone quarry and submitted mining plan for approval (December 2015). However, in view of the above complaint, the Department approved the mining plan in September 2017 after delay of 21 months against stipulated time of 30 days.
May 2018	The settlee applied for environmental clearance to Ministry of Environment and Forest due to non-constitution of SEIAA. However, after formation of SEIAA, his application was transferred in May 2018 to the SEIAA.
October 2018	SEIAA granted environmental clearance.
December 2018 - February 2019	The lessee deposited the first instalment of ₹ 6.42 crore in December 2018 and February 2019.
April 2019	Mining lease executed in April 2019 but was not put to operation till September 2019.

Thus, due to significant delays and failures of various departmental authorities including the Principal Secretary-cum-Mines Commissioner, the stone block could not be made operational for five years leading to non-realisation of revenue of ₹ 25.68 crore during the years 2015-19 calculated on the basis of annual instalment.

The matter was reported to the Department in December 2018; their reply was still awaited (September 2019).



**Recommendation:**

**The Government should investigate from a vigilance angle to ascertain reasons for failure in settlement of stone quarries at every level in last five years and fix responsibility. Further, the Government should specifically investigate at what level the defective BMM Rules 2017 was cleared in the Mining Department in 2017, which was at variance with the MMDR Act, 1957 leading to court cases, confusion and delay and fix responsibility against the responsible officials.**

**6.4 Loss of revenue due to non/delayed settlement of sand *ghats***

**Delayed approval of Mining Plan and EC and lackadaisical approach of the Collectors/MOs in resorting to alternative mechanism to safeguard the revenue, and taking decisions to issue work order as well as weak monitoring and supervision by the Mines Commissioner and the Director led to non-settlement/operation of sand *ghats* during 2016-2018 and consequently total revenue loss of ₹ 166.89 crore.**

The Mines and Geology Department, Government of Bihar issued a notification on 22 July 2014 for settlement of sand *ghats* for a period of five years (2015-19) through tender-cum-auction basis to eligible highest bidders. In case the settlee withdraws during the settlement period, the notification provided for cancellation of lease and realisation of full settlement amount, besides forfeiture of security deposit.

In case the first settlee withdraws from the settlement the Collector is required to give an opportunity to the second highest bidder for settlement on the same terms and conditions which was applicable for the first bidder. In case the second bidder fails to submit required documents and due amount, his security deposit is required to be forfeited and fresh auction for settlement of sand *ghats* was required to be initiated.

Audit examined the settlement of sand *ghats* in 14 districts and the following irregularities were noticed in five districts:

- **Jamui and Lakhisarai**

Audit scrutiny of the composite sand *ghats* settlement for 2016-19 for Jamui and Lakhisarai districts revealed that the Department accorded in-principle sanction (July 2016) to undertake mining operation in favour of a single settlee for a settlement amount of ₹ 263.03 crore. The settlee applied for approval (Director, Mines) of the mining plan in October 2016 within the stipulated period of 90 days. Against the stipulated time of 30 days for approval, the Departmental Committee headed by the Director, Mines approved the proposed mining plan of the settlee in June 2017 after an inordinate delay of nine months.

The analysis of the above delay on the part of the Director, Mines revealed that though the settlee applied for approval on 7 October 2016, the Director mines after delay of 51 days requested the Collectors of Jamui and Lakhisarai to conduct physical verification of the details of mining plan. The Collectors submitted their verification reports on 12 January 2017 and 14 January 2017 respectively. However,

the Director, Mines after an inordinate delay of 165 days approved (29 June 2017) the mining plan, without assigning any reasons for delay in the records.

As per notification (2014) of the Department, after approval of mining plan and environmental clearance from the State Environment Impact Assessment Authority (SEIAA), work order for sand mining was to be issued to the settlee. However, though mining plan was pending for approval and work order for mining was not issued, yet the Collectors/MOs of the districts *ibid* issued demand notices (November and December 2016) against the settlee for deposit of ₹ 24.50 crore (50 per cent of the settled amount for 2016). Meanwhile, due to abnormal delay in approval of mining plan at the level of Director, Mines the settlee could not obtain environmental clearance from SEIAA, as the authority itself was dissolved on 2 July 2017 and the SEIAA was reconstituted in April 2018. Therefore, though the settlee applied for environmental clearance immediately after approval of mining plan, he could not obtain environmental clearance in time.

Meanwhile, the Principal Secretary-cum-Mines Commissioner of the Department overlooking the above facts available in the departmental records, issued directions (August 2017) to the Collectors of the districts *ibid* to cancel the settlements of the settlee in cases of non-submission of environmental clearance within the stipulated time. Consequently, the Collectors of these two districts issued show cause notices in September 2017 to the settlee. The settlee replied (September-October 2017) that due to delay in approval of mining plan for about nine months he could not obtain environmental clearance as the SEIAA itself was dissolved in July 2017. Despite the above, the Collectors arbitrarily cancelled (October-November 2017) the settlement against the settlee on the ground of non-submission of environmental clearance, non-deposit of first installment and taxes etc.

The Collectors after cancelling the settlement, sought guidance (November-December 2017) from the Principal Secretary-cum-Mines Commissioner whether settlements should be made against the second highest bidders. However, no guidance was provided to the Collectors.

Further, the Principal Secretary-cum-Mines Commissioner issued the new BMM Rules w.e.f. 10 October 2017 wherein several provisions such as reverse auction, tenure of penalty etc. were introduced in contravention with the original MMDR Act, 1957 as well as contrary to the provisions of Criminal Procedure Code (Cr. PC), Indian Penal Code (IPC) and other statutory provisions. The Deputy Secretary also issued directives in November 2017 to settle sand mines under the new BMM Rules, 2017.

However, based on the petition of the settlee(s), the High Court of Patna, (27 November 2017) stayed the operation of new BMM Rules 2017 in its totality on the ground that new BMM Rules were contrary to provisions of various Acts. Undaunted by the High Court order, the Mines Commissioner issued directions (November 2017) to the Collectors and MOs to commence business of minor minerals (sand) through the Mining Corporation which was incorporated in September 2017, contrary to the High Court orders *ibid*.

Subsequently, the High Court of Patna, taking a deem view of the orders issued by the Principal Secretary-cum- Mines Commissioner on 28 November 2017, and by the Deputy Secretary in November 2017 quashed (8 March 2018) the orders in favour of the original settlee.

Subsequently, the succeeding Principal Secretary -cum-Mines Commissioner quashed (September 2018) the earlier orders of cancellation passed by the Collectors (November- December 2017) and restored the right of the original settlee for sand mining. However, as on May 2019, the settlee could not get work order for sand mining nor the Department could earn ₹ 164.39 crore (January 2017 to May 2019) royalty in lieu of sand mining.

Thus, due to delay in approval of mining plan by Director, Mines, cancellation of the settlement in cases of lack of environmental clearance, which was beyond the control of the settlee to obtain as explained above, and enactment of BMM Rules by including provisions contrary to the original MMDR Act, 1957 and consequent High Court cases and violation of High Court orders by the Department leading to administrative chaos, confusion and abnormal delay and failure to provide alternative mechanism for settlement of sand *ghats* led to non-realisation of revenue to the tune of ₹ 164.39 crore.

**Recommendation:**

**The Government should carry out vigilance enquiry to unearth the reasons for the above mismanagement and fix responsibility against the responsible officials at every level (Mines Commissioner to MO) who instead of securing revenue interest, acted against the revenue interest of the state, by violating all established rules and procedures in vogue leading to various court cases, chaos, confusion and delay, etc.**

• **Saharsa**

In Saharsa, the in-principle settlement of sand *ghats* was accorded in June 2016 for 2016-19 at an amount of ₹ 2.51 crore. Subsequently the settlee deposited proportional amount of 1<sup>st</sup> instalment of ₹ 18.37 lakh in July 2016 and applied for approval of mining plan in July 2016 which was approved by the Departmental committee headed by the Director in December 2016 i.e. after elapse of five months against the stipulated one month.

Thereafter the settlee applied for EC in January 2017 which was issued by SEIAA in March 2017 and submitted it immediately to the MO and by that time 2016 elapsed. Therefore the settlee submitted for adjustment of money deposited for 2016 with payable amount of 2017. The MO instead of issuing order after adjustment referred (March 2017) this case to the Department for guidance.

In the meantime the settlee approached the High court who in its interim order (May 2017) directed the Collector to issue the work order, if there is no legal impediment. However, no work order was issued by the Collector/MO, who again referred (May 2017) this case to the Department for guidance. The High court in its final judgement directed (10 November 2017) the Department to issue the work

order to the settlee after adjustment of amount deposited for 2016 as the settlee could not operate in 2016 for want of work order, who in turn instructed the DMO to do so. Subsequently the MO issued the work order on 8<sup>th</sup> December 2017 for 22 days of 2017 after adjustment of money deposited for 2016.

Thus due to delay of five Months in approval of Mining Plan and delay in EC (two months) and lackadaisical approach of the Collector/MO in taking decisions to issue work order, weak monitoring and supervision by the Mines Commissioner and the Director led to non-settlement/operation of sand *ghats* during 2016 and 2017 (except for 22 days) leading to loss of revenue of ₹ 99.58 lakh (₹ 46.80 lakh for 2016 and ₹ 52.78 lakh for 2017).

- **Gopalganj and Siwan**

In two districts (Gopalganj and Siwan) in-principle settlement of sand *ghats* was accorded for 2015-19 in December 2014 for ₹ 1.09 crore and ₹ 1.64 crore in favour of two settlees.

However, the settlees did not even submit the mining plan and EC to the Department within stipulated time of 120 days and operated throughout 2015. Moreover, the settlees deposited ₹ five lakh each only for the year 2016 and did not deposit settlement amount of ₹ 12.76 lakh and ₹ 21.40 lakh in Gopalganj and Siwan respectively. Consequently, the mining leases of Gopalganj and Siwan were cancelled in November 2017 subsequent to a direction of the Principal Secretary in August 2017.

The Collectors/MOs failed to provide alternative mechanism to re-settle these lease with the second bidders for the remaining period of leases to safeguard the revenue. The Department though issued directions in February 2017 for settlement but failed to ensure settlement indicating lack of effective monitoring and control. As a result, the sand *ghats* of these two districts were not made operational during 2017 and 2018 resulting in loss of revenue of ₹ 1.50 crore, which includes un-paid amount of 2016 also.

Moreover, possibility of illegal mining during the period sand *ghats* remained non-operational cannot be ruled out as audit observed that 3,250 raids were conducted in which 387 cases of illegal mining involving ₹ 4.39 crore was reported during April 2017 and October 2018. These reports of task force was going to the Department despite that the leases were not settled and made operational.

Delay approval of Mining Plan and EC and lackadaisical approach of the Collectors/MOs in resorting to alternative mechanism to safeguard the revenue, and taking decisions to issue work order as well as weak monitoring and supervision by the Mines Commissioner and the Director coupled with lack of MIS led to non-settlement/operation of sand *ghats* during 2016-2018 and consequently total revenue loss of ₹ 166.89 crore.

The matter was reported to the Department in December 2018; their reply was still awaited (September 2019).

## 6.5 Loss of revenue due to cancellation of leases of sand *ghats*

**Absence of provisions to operationalise sand *ghats* during the interim period between cancellation of leases and their subsequent restoration, resulted in loss of revenue of ₹ 96.39 crore in four district mining offices.**

The MOs of four districts (Patna, Bhojpur, Rohtas and Vaishali) issued licences for sand *ghats* to three settlees for ₹ 1,329.53 crore for the period 2015-19.

In August 2017, the Principal Secretary-cum-Mines Commissioner/Additional Secretary-cum-Director of Mines issued directions to the District Collectors to cancel the settlements of the sand *ghats* in case of violation of conditions of the mining plans and environmental clearance by the settlees. Accordingly, the Collectors of these districts issued notices to the three settlees and cancelled (September–October 2017) the settlement of sand *ghats*, which were in operation since January 2015, due to violation of the conditions stipulated in the notice inviting tender, approved mining plan and environmental clearance. The settlees did not pay the third instalment of royalty of ₹ 64.58 crore which was due on 15 September 2017 and ₹ 26.55 crore of the first instalment of 2018 which was due on 15 December 2017. Subsequently, these three settlees approached (12 January - 27 January 2018) the Principal Secretary-cum-Mines Commissioner for restoring the leases against the cancellation orders of the Collectors. The Principal Secretary-cum-Mines Commissioner revoked (25 January/19 February 2018) the cancellation orders. Incidentally, the same Principal Secretary-cum-Mines Commissioner who had issued directives to the Collectors of Bhojpur, Rohtas and Vaishali to cancel the settlement of the sand *ghats* revoked their orders in addition to revoking the order of Collector of Patna district.

The revocation orders included a condition that the settlees should pay royalty due for the period (September/October 2017 to January/February 2018) when the sand *ghats* were not in operation owing to cancellation of leases, which was contrary to the provisions of the MMDR Act and BMMC Rules, 1972 as no extraction and removal of mineral had taken place. The settlees moved the Hon'ble Patna High Court against the order of the Mines Commissioner and against the demand notices issued to them by the respective Collectors for the period of cancellation.

The Hon'ble High Court in its interim order (March and May 2018) stayed the demand of unpaid royalty issued to the lessees for the period their licenses were cancelled citing the provision of Section 9 of the MMDR Act and rule 26(4) of the BMMC Rules, 1972 that royalty is payable on the extraction and removal of mineral and the settlees did not extract or remove mineral during the period of cancellation.

Audit observed that during the interim period between cancellation of leases of the sand *ghats* and their subsequent restoration, the sand *ghats* remained inoperative. Due to absence of a clear provision in the BMMC Rules (as amended) on the *modus operandi* to operationalise sand *ghats* in such situations, there was a loss of revenue of ₹ 96.39 crore for the period when the sand *ghats* were not in operation.

The matter was reported to the Department in December 2018, but no response was received (September 2019). However Audit observed that the Government of Bihar notified (September 2019) the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 wherein the issue of cancellation of leases of sand *ghats* was addressed vide Rule 30 of Rules *ibid* which provides that wherever a settlee is found indulging in breach of terms of lease for the third time or more, the settlement of that particular sand *ghat* may be suspended by the Collector temporarily for a maximum period of one month until such breaches are rectified. If the breaches are not rectified in the time given by the Collector, action for cancellation of the settlement shall be taken in extreme conditions. Further, Rule 48 of the Rules *ibid* provides that if any mineral concession holder contravenes any provision of the Act or any rules made thereunder, the Collector may at any time, with or without cancellation of such mining lease take over the management of such mining operations/establishment at the risk and loss of the owner of that establishment; or transfer the establishment, for the unexpired period of mining lease at the risk and loss of the owner, to any other person or the Corporation.

### **6.6 Non-levy of penalty for irregular procurement of minerals by works contractors**

**MOs failed to ensure non-payment of the works contractors' bills submitted without forms M and N and they also failed to levy penalty of ₹ 14.62 crore on works contractors for procurement of minerals from unauthorised sources.**

The Audit Reports for the years 2012-13 to 2016-17 had reported cases of non-realisation of penalty by the works divisions amounting to ₹ 170.57 crore in 81 cases where royalty was deducted from bills of works contractors without ensuring form M and N which contains particulars of minerals. However, this irregularity persists indicating that adequate measures were not taken in this regard by the Department.

The Bihar Minor Mineral Concession (BMMC) Rules, 1972 read with the Mines and Minerals (Development and Regulation) Act, 1957 and direction (January 2016) of the Department require works contractors to procure minerals from authorised lessee/dealer/permit holders and in case of violation, a minimum penalty equivalent to price of the mineral is leviable. The BMMC Rules provides for submission of Form M (which contains names and addresses of the sellers from whom the minerals were purchased) and N (which contains particulars of minerals) at the time of submission of bill by the works contractors as a token of proof that mineral used were procured from authorised sources.

Audit observed (between May and August 2017) in six test-checked District Mining offices<sup>5</sup> that during the year 2015-16 and 2016-17 royalty amounting to ₹ 14.62 crore was deducted by 11 works divisions from bills of works contractors who had not submitted required forms 'M' and 'N' and got them deposited into government account through concerned MOs. However, these works divisions

<sup>5</sup> Bettiah (West Champaran), Darbhanga, Jehanabad, Motihari (East Champaran), Muzaffarpur and Nalanda.

neither stopped payment of bills of works contractors for non-submission of forms M and N nor ensured deduction of penalty also along-with royalty while making payment to works contractor in violation of the aforesaid instructions. Though the MOs had information about works divisions who deducted royalty without levying penalty for procurement of minerals from unauthorised sources, they did not ensure compliance of aforesaid instructions by the works divisions. Thus, non-realisation of penalty by these MOs resulted in non-levy of penalty of ₹ 14.62 crore.

In response to the audit observation, four MOs<sup>6</sup> issued (between January and June 2019) notices of demand to concerned works division and two MOs (Motihari and Muzaffarpur) stated that notice of demand would be issued.

The matter was reported (December 2018) to the Department; their reply was still awaited (September 2019).

### **6.7 Non/short realisation of royalty and penalty from brick kiln owners**

**During brick seasons 2015-16 and 2016-17, 273 brick kilns were operated without valid permit and 121 brick kilns were operated without payment of the consolidated amount of royalty resulting in non-realisation of ₹ 2.96 crore including leviable royalty and penalty.**

As per Rule 26 (A) of the Bihar Minor Mineral Concession (BMMC) Rules, 1972 read with notification (January 2012) of the Mining Department every brick kiln owner has to obtain a permit and is required to pay the consolidated amount of royalty at the prescribed rates<sup>7</sup> in two equal instalments.

Further, Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 read with Rule 40 (8) of the Rules *ibid* provides that whenever any person raises without any lawful authority, any mineral from any land, the State Government may recover from such person the minerals so raised or where such minerals has already been disposed of the price thereof and may also recover from such person rent, royalty or taxes as the case may be. The above interpretation was upheld (August 2015) by Advocate General on reference made by the Public Account Committee, Bihar.

Audit observed (between July 2017 and January 2018) during scrutiny of brick kiln files and demand, collection and balance register in District Mining Office, Buxar that 276 brick kilns were operated during brick seasons 2015-16 and 2016-17. Out of this, 121 brick kilns were operated without payment of the consolidated amount of royalty. This resulted in non-realisation of royalty of ₹ 91.89 lakh from these brick kiln owners. Audit further observed that permits were issued to only three brick kilns and remaining brick kilns were operated without valid permit. The Mining Officer, who was the permit issuing authority as well, had knowledge of operation of brick kiln without valid permit as evident from the inspection reports. The MO neither stopped business nor levy penalty of ₹ 2.04 crore for illegal mining

---

<sup>6</sup> Bettiah (West Champaran), Darbhanga, Jahanabad and Nalanda

<sup>7</sup> ₹ 1,30,500 for category-I, ₹ 1,01,500 for category-II and ₹ 72,500 for category-III

in accordance with provision of Rule 40 (8) of the Rules *ibid*. Thus, the MO not only failed to realise royalty from owners of 121 operating brick kilns but also failed to levy penalty on 273 owners of brick kilns operated without valid permit and consequently revenue of ₹ 2.96 crore<sup>8</sup> could not be realised. Further audit observed that permits were not issued to these brick kiln owners as they failed to obtain consent to operate and consent to establish certificate from SEIAA and as such operation of brick kiln was fraught with the risk of environmental hazards as well.

In response to the audit observation, the MO realised ₹ 25.62 lakh of consolidated royalty in 34 cases of brick kiln and replied (April 2019) that certificate case would be instituted against the remaining defaulting brick kiln owners.

The matter was reported to the Department in December 2018; their reply was still awaited (September 2019).

## 6.8 District mineral foundation and National Mineral Exploration Trust

### 6.8.1 Non-remittance of money realised for the district mineral foundation into the Consolidated Fund of the State

**An amount of ₹ 19.52 crore realised towards DMF during April 2017 to December 2018 from the lessees of minor and major minerals was deposited into the current/saving accounts of the District Collectors concerned instead of the Consolidated Fund of the State, and were not utilised.**

Government of Bihar notified Bihar District Mineral Foundations Rules, 2018 (May 2018) which provided that every lessee of major mineral shall pay to the District Mineral Foundation (DMF) an amount at the rate of 10 to 30 *per cent* of the royalty paid. Further, every lessee of minor mineral shall pay to the DMF an amount equal to two *per cent* of annual auction/settlement amount/ compounded royalty as the case may be. Rule 8 of the Rules *ibid* also provided that the amount so collected for DMF shall be kept in any scheduled Bank. DMF funds were created for drinking water supply, environmental preservation and pollution control, health care, education, skill development, etc., to minimise/mitigate the adverse impacts, during and after mining, on the environment, health and socio-economics of the people in mining districts.

Article 266 (1) of the Constitution of India provides that all revenue received by the Government of a State shall be credited into the consolidated fund of the State. However, Rule 8 of the Rules *ibid* is contrary to the Article 266(1) of the Constitution of India. Not depositing collection towards DMF into the Consolidated Fund of the State deprived the State Legislature to exercise its legislative oversight authority and is also fraught with risk of fraud and misappropriation.

<sup>8</sup>

(₹ in lakh)

Year	Royalty			Penalty			Total of outstanding royalty and penalty
	Leviable	Levied	Short	Leviable	Levied	short	
2015-16	110.76	65.35	45.41	107.88	0	107.88	153.29
2016-17	100.95	54.47	46.48	95.85	0	95.85	142.33
<b>Total</b>							<b>295.62</b>



Audit scrutiny of records of 12<sup>9</sup> DMOs revealed that ₹ 19.52 crore was realised towards DMF during April 2017 to December 2018 at the prescribed rate from lessees of minor and major minerals and was deposited into the current/saving bank accounts of the District Collectors concerned instead of the Consolidated Fund of the State and were not utilised.

The matter was reported to the Department in December 2018; their reply was still awaited (September 2019).

**Recommendation:**

**The Department should amend Bihar District Mineral Foundations Rules, 2018 to ensure that it does not violate Article 266 (1) of the Constitution of India. Further, the Department should remit the funds collected towards DMF into the Consolidated Fund of the State.**

**6.8.2 Non-levy of contribution money towards district mineral foundation**

**Twelve MOs did not realise ₹ 23.84 lakh towards district mineral foundation (DMF) from concession holders of brick earth as they failed to incorporate the condition of levy towards DMF in permit conditions.**

Audit scrutiny of records of above 12 test checked DMOs revealed that an amount of ₹ 11.92 crore was realised as royalty from concession holders for extraction of brick earth during 2017-18. However, the MOs concerned did not realise two *per cent* of the settlement/auctioned amount towards district mineral foundation (DMF) as they failed to incorporate the condition of levy towards DMF in permit conditions. This resulted in non-realisation of ₹ 23.84 lakh.

The matter was reported to the Department in December 2018; their reply was still awaited (September 2019).

**6.8.3 National Mineral Exploration Trust Fund**

**An amount of ₹ 8.24 lakh received from lease holders of major mineral during the period January 2015 to December 2018 towards NMET fund was not transferred to the Consolidated fund of India.**

Government of India established (August 2015) National Mineral Exploration Trust Fund (NMET) in pursuance of Section 9C of Mines and Minerals (Development and Regulation) Amendment Act, 2015 and provided that the holder of mining lease or prospecting licence-cum-mining lease of major minerals shall pay to the trust a sum equivalent to two *per cent* of the royalty. The amount so collected towards the Fund initially was to be kept in public account (April 2018) under head of account 8449- Other deposits; 123- National Mineral Exploration Trust Deposit and finally it was to be transferred to the Consolidated fund of India under the Major Head-0853, Minor Head 123- National Mineral Exploration Trust through book transfer.

---

<sup>9</sup> Aurangabad, Banka, Bhojpur, Gaya, Jamui, Lakhisarai, Nawada, Patna, Purnea, Rohtas, Saran and Sheikhpura.

Audit scrutiny of records in two district mining offices (Nawada and Rohtas) revealed (January 2019) that an amount of ₹ 8.24 lakh was received from lease holders of major mineral during the period January 2015 to December 2018 towards NMET. However, the amount of ₹ 8.06 lakh so collected was not remitted into public account of the State Government and therefore it could not be transferred to the Consolidated fund of India and kept in the form of Bank demand draft in the name of NMET. Balance amount of ₹ 0.18 lakh had already been transferred in concerned account of NMET maintained in SBI Delhi. Thus, by keeping the amount outside the government account not only principle of financial propriety of remitting the amount collected into government account was not adhered to but also the objective of NMET to carry out regional and detailed exploration for minerals, funding special studies and projects, undertaking studies for mineral development etc. was not achieved.

In response to audit observation, MO Rohtas remitted (May 2019) ₹ 5.31 lakh directly in government account under major head-0853 instead of public account of the State Government under major head-8449.



**(NILOTPAL GOSWAMI)**  
**Principal Accountant General (Audit)**  
**Bihar**

**Patna**  
**The 24 January 2020**

**Countersigned**



**(RAJIV MEHRISHI)**  
**Comptroller and Auditor General of India**

**New Delhi**  
**The 29 January 2020**



# **APPENDICES**



**ANNEXURE - 1**  
**(Refer Paragraph 2.5)**

**Short levy of tax due to application of incorrect rate of tax**

(Amount in ₹)

Sl. No.	Name of the Circle	Name of the Dealer/ TIN	Period	Commodity	Rate of tax leviable/ levied (in per cent)	Sales amount on which difference rate is to be levied	Tax	Interest	Total
1.	Gandhi Maidan	M/s R B Construction/ 10112549019	2015-16	Stone chips, Stone boulders and ballast	13.5/5	200961590	17081735	4099616	21181351
2.	Muzaffarpur West	M/s Progressive Constructions Ltd./ 10305071063	2014-15	Sand and GSB	13.5/5	12710955	1080431	283613	1364044
		M/s Govardhan Traders/ 10309004027	2013-14	Mobile Charger	13.5/5	12103200	1028772	455231	1484003
			2014-15			24737400	2102679	551953	2654632
3.	Patna North	M/s Young Engineers/ 10104971046	2015-16	Stone chips, Stone boulders and ballast	13.5/5	6880620	584853	135978	720831
		M/s Patna Plywood/ 10101095098	2015-16	Laminated sheet, Sunmica, Formica	13.5,14.5/5	5480278	471664	106124	577788
4.	Patna South	M/s Crystal thermotech Limited/ 10591308033	2015-16	Thermocol disposable cups	13.5/5	120990351	10284180	3239517	13523697
5.	Patna Special	M/s Techno Electric & Engineering Company Limited/ 10010038094	2015-16	Stone chips, Stone boulders and ballast	13.5/5	9396002	798660	239598	1038258
		M/s Adani Wilmar Limited/10010318036	2015-16	Atta, Maida, Suji and Besan	1/0	250672993	2506730	676817	3183547
6.	Sasaram	M/s Isolux Corsan india C and C JV/ 10248367037	2015-16	Stone chips, Stone boulders and ballast	13.5/5	11591110	985244	258627	1243871
<b>Total</b>						<b>655524499</b>	<b>36924948</b>	<b>10047074</b>	<b>46972022</b>

**ANNEXURE-2  
(Refer Paragraph 3.3)**

**Non-remittance of establishment charges into the Consolidated Fund of the State**

(Amount in ₹)

Sl. No.	Name of the district	Name of the project	Period between which Land was under acquisition	Cost of acquisition Amount of compensation received/disbursed	Amount of establishment charges to be remitted	Amount of establishment charges remitted	Non/short remittance of establishment charge
1	Ara (Bhojpur)	Construction of SH-81 Sakadi Nasrigunj	March 2011 and November 2017	315914266 316000000	52647064	49401961	3245103
2	Bhabhua (Kaimur)	Kudra Bhabhua path ki 20 km ke antim chhor par bypass	2012	7341306 7268625	1209591	120951	1088640
		4-laning of Mohania-Ara (Section of NH-30) Project under PPP mode	2012-13 and 2017-18	1304056371 200000000	32127132	0	32127132
		NH-2 ke 6 lane ka chaurikaran	2012-13 and 2016-17	1265400000 1265400000	142254553	95428585	46825968
3.	Nawada	NH-82	2014-17	982415686 636897332	163113918	65672960	97440958
		SH-83	2012-16	12413248 335800000	2353090	0	2353090
4.	Patna	Power sub station 220/132 KV Grid	2007-08	329800000 332405153	50774526	0	50774526
		Solid Sewage treatment	2008-09	1622369828 1622369828	152930483	80000000	72930483
		Railway overbridge approach road (Kankarbagh)	2009-10	96600000 70775195	2928722	0	2928722
		Railway overbridge near Patna Sahib	2011-12	441400000 341695443	69964534	0	69964534
		NH-83 Patna Gaya Dobhi four lane	2012-14	20187900000 8530000000	3362312250	1332769942	2029542308
		NH 98 Anisabad Arval four lane NHAI	2012-16	687700000 668623802	144947096	114141856	30805240
		NH 31 Bakhtiyarpur Khagaria four lane	2013-15	6208700000 2845100000	1008678289	909378137	99300152
		SH-78 Bihta Sarmera highway	2010-14	5515600000 3900000000	631906297	177851065	454055232
5	Vaishali	Police thana bhawan nirman	2007-11	20872743 13604105	625682	223094	402588
		132/133 KV grid sub station	2010-11	23481312 31104924	2673425	0	2673425
<b>Total</b>				<b>39021964760 20814824407</b>	<b>5821446652</b>	<b>2824988551</b>	<b>2996458101</b>

**ANNEXURE-3**  
**(Refer Paragraph 5.4 - 2<sup>nd</sup> bullet)**  
**Short realisation of stamp duty and registration fee due to undervaluation of property**

(Amount in ₹)

SI no.	Name of the District Sub Registrar /Sub Registrar	No. of deed/ type	Date of registration	Valuation of property as per sale deeds	Actual Value of land as per MVR including structure on land, if any	Stamp Duty			Registration fee at the rate of two per cent			Total short realisation	Remarks
						Required	Paid	Short paid	Required	Paid	Short paid		
1.	Araria	1/sale	May 2015	2420000	11220000	897600	193600	704000	224400	49125	175275	879275	50 decimal of land was split with a view to reduce leviable stamp duty and registration fee as is evident from the fact that bigger portion (44 decimal) of land was registered on 13 May 2015 classifying the land as developing and remaining portion (6 decimal) of land was registered on 16 May 2015 classifying the land as principal road commercial. In both cases seller was same person and buyers were mother and her son. This misclassification resulted in undervaluation of property and consequential short levy of stamp duty and registration fee.



Sl no.	Name of the District Sub Registrar /Sub Registrar	No. of deed/ type	Date of registration	Valuation of property as per sale deeds	Actual Value of land as per MVR including structure on land, if any	Stamp Duty			Registration fee at the rate of two per cent			Total short realisation	Remarks
						Required	Paid	Short paid	Required	Paid	Short paid		
2.	Bhojpur	2/lease	May 2015	14996000	14996000	449880	136000	313880	149960	45000	104960	418840	In two cases land was given on lease to education trust for opening school for 30 years, however the DSR applied rate of SD and RF applicable to lease for less than 30 years. This resulted in short levy of stamp duty and registration fee.
3.	Danapur	1/sale	March 2017	29400000	72800000	655200	265600	389600	218400	89700	128700	518300	36 decimal of land was split with a view to reduce leviable stamp duty and registration fee as is evident from the fact that bigger portion (28 decimal) of land was registered on 29 March 2017 classifying the land situated on commercial branch road and remaining portion (8 decimal) of land was registered on 31 March 2017 classifying the land as principal road commercial. In both cases buyer and seller were same person. This misclassification resulted in undervaluation of property and consequential short levy of stamp duty and registration fee.

Sl no.	Name of the District Sub Registrar /Sub Registrar	No. of deed/ type	Date of registration	Valuation of property as per sale deeds	Actual Value of land as per MVR including structure on land, if any	Stamp Duty			Registration fee at the rate of two per cent			Total short realisation	Remarks
						Required	Paid	Short paid	Required	Paid	Short paid		
4.	Gaya	1/sale	May 2016	25040000	56726760	4538141	2004200	2533941	1134535	503695	630840	3164781	The land was situated on NH-83 in Bodh Gaya locality and hence it should be categorised as commercial land, however the DSR allowed it as residential other road.
		1/gift	March 2017	36611000	84970200	6797616	2928880	3868736	1699404	733020	966384	4835120	As per recital of the document, a pucca asbestos godown was shown on land, however spot verification report revealed that structure was of RCC. Thus, misclassification of structure resulted in undervaluation of property and consequential short levy of stamp duty and registration fee.
5.	Purnia	1/sale deed	Between March and April 2017	3915000	23475000	1878000	313200	1564800	469500	79350	390150	1954950	In first case land was categorised as 'under-developed residential' category and rate applied was ₹ 25,000 per decimal and in second case land was categorised as 'national highway residential' and rate applied was ₹ 1.50 lakh per decimal.

Sl no.	Name of the District Sub Registrar /Sub Registrar	No. of deed/ type	Date of registration	Valuation of property as per sale deeds	Actual Value of land as per MVR including structure on land, if any	Stamp Duty			Registration fee at the rate of two per cent			Total short realisation	Remarks
						Required	Paid	Short paid	Required	Paid	Short paid		
													These lands were situated adjacent to each other and therefore should be categorised in same category considering the fact that in both cases seller of the property was same and purchaser of these properties in one case was mother and in other case was her son.
6.	Rohtas	4/sale deed	Between August 2015 and April 2016	167470000	462870000	35182200	13211700	21970500	9257400	3359860	5897540	27868040	In one recital of the document and cross verification of subsequent sale deed of same land depicts it as commercial category, however the DSR allowed it as irrigated category. In other three cases lands were situated in Rohtas Industrail area and hence land should be categorised as commercial category, however, the DSR allowed these land as residential gali category.
<b>Total</b>		<b>11</b>		<b>27,98,52,000</b>	<b>72,70,57,960</b>	<b>50398637</b>	<b>19053180</b>	<b>31345457</b>	<b>13153599</b>	<b>4859750</b>	<b>8293849</b>	<b>39639306</b>	

© COMPTROLLER AND  
AUDITOR GENERAL OF INDIA  
[www.cag.gov.in](http://www.cag.gov.in)

Scan  
QR code  
to  
download  
Report



[www.ag.bih.nic.in](http://www.ag.bih.nic.in)