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सत्यमेव जयते

# Report of the Comptroller and Auditor General of India

For the year ended 31 March 2010

Report No. 3

(Revenue Receipts)

Government of Assam



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

PRESENTED TO THE  
LEGISLATURE ON

**For the year ended 31 March 2010**

**Report No. 3**

**(Revenue Receipts)**

**Government of Assam**



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## PREFACE

This Report for the year ended 31 March 2010 has been prepared for submission to the Governor under Article 151(2) of the Constitution of India.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising salestax/value added tax, state excise, land revenue, other tax and non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2009-10 as well as those which came to notice in earlier years but could not be included in previous year's reports.





# OVERVIEW



## OVERVIEW

This Report contains 35 paragraphs including two reviews relating to non/short levy of taxes, royalty, fees, rent, interest and penalty etc., involving ₹ 385.66 crore. Some of the major findings are mentioned below:

### I. General

- The total receipts of the State for the year 2009-10 were ₹ 19,884.50 crore against ₹ 18,077.04 crore in the previous year. Of this, 39 per cent was raised by the Government through tax revenue (₹ 4,986.72 crore) and non-tax revenue (₹ 2,752.95 crore). The balance 61 per cent was received from the Government of India in the form of State's share of net proceeds of divisible Union taxes (₹ 5,339.53 crore) and grants-in-aid (₹ 6,805.30 crore).

(Paragraph 1.1)

- Failure of senior officials to enforce accountability resulted in non-settlement 4,033 paragraphs involving ₹ 767.23 crore at the end of June 2010.

(Paragraph 1.2.1)

- During the year 2009-10, only one Audit Committee meeting in respect of Taxation Department was held wherein 287 paragraphs involving ₹ 69.90 crore, were settled.

(Paragraph 1.2.2)

- Test check of records of 205 units of salestax/value added tax, motor vehicles, state excise, forest, other tax and non-tax receipts conducted during the year 2009-10 revealed under assessment/short levy/short demand and loss of revenue amounting to ₹ 466.58 crore in 573 cases. The concerned departments accepted under assessment, short levy etc., of ₹ 301.82 crore pointed out in 2009-10 and earlier years and recovered ₹ 60.16 crore.

(Paragraph 1.5.1)

### II. Sales Tax/Value Added Tax

Incorrect grant of exemption on export resulted in short/non-levy of tax of ₹ 3.68 crore including interest.

(Paragraph 2.13.1)

Irregular and excess allowance of exemption to industrial units resulted in non-levy of tax of ₹ 1.42 crore including interest.

(Paragraph 2.13.2)

Against the leviabale interest of ₹ 39.42 lakh, the assessing officers levied interest of ₹ 7.35 lakh leading to short levy of interest of ₹ 32.07 lakh.

**(Paragraph 2.13.3)**

Incorrect allowance of exemption/concession against Form-E-I resulted in short levy of tax of ₹ 62.17 lakh including interest.

**(Paragraph 2.13.5)**

Turnover of ₹ 4.62 crore escaped assessments resulting in short levy of tax of ₹ 99.37 lakh including interest.

**(Paragraph 2.13.6)**

Incorrect allowance of excess deduction of ₹ 5.33 crore on labour charges resulted in short levy of tax of ₹ 77.65 lakh.

**(Paragraph 2.13.7)**

Incorrect grant of concession/exemption against Form A on turnover of ₹ 9.36 crore resulted in non/short levy of tax of ₹ 85 lakh.

**(Paragraph 2.13.8)**

Incorrect grant of concessional rate of tax on sale of goods against Form B resulted in short levy of tax of ₹ 1.74 crore including interest.

**(Paragraph 2.13.13)**

Irregular grant of exemption on account of branch transfer of goods valued at ₹ 152.18 crore resulted in non-levy of tax of ₹ 30.65 crore including interest.

**(Paragraph 2.14.1)**

Incorrect grant of concessional rate of tax against sales supported by invalid Form C resulted in short levy of tax of ₹ 3.12 crore including interest.

**(Paragraph 2.14.2)**

### **III. State Excise**

Short lifting of rectified spirit by the licensees resulted in non-levy of excise duty of ₹ 39.70 lakh.

**(Paragraph 3.9)**

Licensees of wholesale bonded warehouses and foreign liquor "Off" and "On" were allowed to function without realisation of licence fee of ₹ 16.10 lakh.

**(Paragraph 3.10)**

Establishment charges/availability fees of ₹ 9.09 lakh against excise officials deployed in the distilleries/bonded warehouses were not realised.

**(Paragraph 3.11)**

## IV. Land Revenue

A review on **Recovery of dues treated as arrears of land revenue** revealed the following:

- Recovery of arrears ranged between 2.56 and 8.18 *per cent* during the five years from 2004-05 to 2008-09. 1,08,027 certificate cases involving recovery of ₹ 350.76 crore were pending at the end of 31 March 2009.

(Paragraph 4.7.6)

- Absence of guidelines was fraught with the risks of gaps in documentation resulting in difficulty in verifying the occurrences and genuineness of public demand cases.

(Paragraph 4.7.7)

- Non-recording and inordinate delay in instituting certificate cases led to delay in recovery of certified dues of ₹ 45.38 crore.

(Paragraph 4.7.9)

- Certified dues of ₹ 23.91 crore remained unrealised due to non-execution of 259 certificate cases.

(Paragraph 4.7.10)

- Due to non-pursuation of certificate cases pending in Civil Courts/High Court, certified dues amounting to ₹ 3.16 crore remained unrealised.

(Paragraph 4.7.15)

- The Government sustained loss of revenue of ₹ 1.71 crore due to non-levy of interest on the dues realised.

(Paragraph 4.7.18)

Lack of follow up action on the instructions contained in the Land Laws of Assam resulted in unauthorised retention of revenue of ₹ 41.40 lakh by the *Mouzadars* outside the Government account.

(Paragraph 4.8.1)

## V. Other-Tax Receipts

Non-reviewing the combined registers and non-issue of demands by the DTOs resulted in non-realisation of road tax of ₹ 58.99 lakh including fine.

(Paragraph 5.4)

Incorrect application of rate of tax resulted in short levy of entry tax of ₹ 4.02 lakh.

(Paragraph 5.5)

Against the leviable stamp duty of ₹ 3.29 lakh, the Senior Sub-Registrar, Silchar levied duty of ₹ 66,000 leading to short levy of stamp duty of ₹ 2.63 lakh.

**(Paragraph 5.7)**

## **VI. Non-Tax Receipts**

A review on **Mining receipts-assessment, levy and collection of royalty, fees and rent** revealed the following:

- Annual budget estimates were prepared without reference to past trends and future potential.

**(Paragraph 6.2.6)**

- Suppression of production of crude oil, condensate and natural gas by Oil India Limited and Oil and Natural Gas Corporation Limited led to short payment of royalty and interest of ₹ 168.48 crore.

**(Paragraph 6.2.8.1)**

- Non-payment of royalty (April 2008 to March 2009) on deducted discount on well head prices of crude oil distributed to oil marketing companies deprived the State of revenue of ₹ 525.04 crore.

**(Paragraph 6.2.8.2)**

- Differential royalty of ₹ 10.48 crore, payable by the Central Government from Oil Industry Development Board Fund, was not claimed and realised by the State Government.

**(Paragraph 6.2.8.3)**

- Due to computation of oil price at lower side during 2004-05 and 2008-09, ONGCL evaded royalty of ₹ 119.01 crore including interest.

**(Paragraph 6.2.8.4)**

- Failure of the department to enforce payment of royalty on natural gas at well head price resulted in short realisation of ₹ 24.56 crore including interest.

**(Paragraph 6.2.12)**

- Adoption of incorrect method for determination of royalty payable on natural gas resulted in loss of revenue of ₹ 11.97 crore.

**(Paragraph 6.2.13)**

- Payment of royalty on the quantity of coal dispatched from the leased area instead of actual quantity extracted at pit mouth resulted in short payment of royalty of ₹ 6.45 crore.

**(Paragraph 6.2.15)**

### **Forest Receipts**

Non-realisation of residual *mahal* fee from the defaulter *mahaldar* resulted in loss of revenue of ₹ 37.23 lakh.

**(Paragraph 6.3.1)**





# **CHAPTER-I**

## **GENERAL**



## CHAPTER-I: GENERAL

### 1.1 Trend of Revenue Receipts

1.1.1 The tax and non-tax revenue raised by the Government of Assam during the year 2009-10, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)

Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
<b>1.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue	3,232.21	3,483.32	3,359.50	4,150.21	4,986.72
	• Non-tax revenue	1,459.28	1,859.27	2,134.59	2,271.90	2,752.95
	<b>Total</b>	<b>4,691.49</b>	<b>5,342.59</b>	<b>5,494.09</b>	<b>6,422.11</b>	<b>7,739.67</b>
<b>2.</b>	<b>Receipts from Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	3,056.78	3,898.99	4,918.21	5,189.90	5,339.53 <sup>1</sup>
	• Grants-in-aid	4,297.12	4,425.37	4,912.62	6,465.03	6,805.30
	<b>Total</b>	<b>7,353.90</b>	<b>8,324.36</b>	<b>9,830.83</b>	<b>11,654.93</b>	<b>12,144.83</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>12,045.39</b>	<b>13,666.95</b>	<b>15,324.92</b>	<b>18,077.04</b>	<b>19,884.50</b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>39</b>	<b>39</b>	<b>36</b>	<b>36</b>	<b>39</b>

The above table indicates that during the year 2009-10, the revenue raised by the State Government (₹ 7,739.67 crore) was 39 per cent of the total revenue receipts against 36 per cent in the preceding year. The balance 61 per cent of receipts during 2009-10 was from the Government of India.

<sup>1</sup> Note: For details, please see statement No. 11 : Detailed accounts of revenue by minor heads in the Finance Accounts (Volume-2) of Government of Assam for 2009-10. Figures under the "share of net proceeds assigned to States" under the major heads – 0020 - corporation tax, 0021 - taxes on income and expenditure, 0032-taxes on wealth, 0037 - customs, 0038 - union excise duties, 0044 - service taxes and 0045-other taxes and duties on commodities and services booked in the Finance Accounts under 'A - tax revenue' have been excluded from revenue raised by the State Government and included in 'States' share of divisible Union taxes' in the above table.

1.1.2 The following table presents the details of tax revenue raised during the period from 2005-06 to 2009-10:

Sl. No.	Head of revenue	₹ in crore)					Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
		2005-06	2006-07	2007-08	2008-09	2009-10	
1.	Sales tax	2,568.41	2,783.24	2691.43	3,110.58	3,535.26	14
2.	State excise	160.40	174.88	188.71	198.68	239.19	20
3.	Stamp duty and registration fees						
	Stamps - judicial	8.53	11.40	15.08	13.38	9.72	(-) 27
	Stamps - non-judicial	57.89	61.08	64.61	55.39	55.56	0.31
	Registration fees	19.46	24.84	30.22	42.40	43.18	2
4.	Taxes and duties on electricity	13.29	15.89	4.62	22.36	27.07	21
5.	Taxes on vehicles	155.91	151.15	138.62	145.21	177.26	22
6.	Taxes on goods and passengers	61.52	70.15	12.39	284.67	545.41	92
7.	Other taxes on income and expenditure – Tax on professions, trades, callings and employments	99.80	108.36	124.68	137.73	150.15	9
8.	Other taxes and duties on commodities and services	5.10	5.66	6.24	8.27	8.67	5
9.	Land revenue	74.65	74.15	79.76	113.36	116.91	3
10.	Taxes on agricultural income	7.02	2.52	3.14	18.18	78.34	331
11.	Taxes on immovable properties other than agricultural land	0.23	Nil	Nil	Nil	Nil	--
	<b>Total</b>	<b>3,232.21</b>	<b>3,483.32</b>	<b>3359.50</b>	<b>4,150.21</b>	<b>4,986.72</b>	<b>20</b>

The following reasons for variation were reported by the concerned departments:

**State Excise:** The increase was due to issue of more IMFL “ON” licence<sup>2</sup> and newly imposed availability fees.

**Taxes on Vehicles:** The increase was due to increase in movement of motor vehicles and special drive for collection of fees in respect of registration mark.

**Taxes on Goods & Passengers:** The increase was due to collection of arrears of entry tax during the year.

**Taxes on Agricultural income:** The increase was due to increase in profitability of tea business.

<sup>2</sup> Sale of foreign liquor to the public for consumption ‘on’ the premises except in hotels, restaurants, theatres, cinemas or other permanent places of amusement.

**Stamp Duty:** The decrease was due to slashing of stamp duty on conveyance documents and imposition of restrictions on transfer of land.

The other departments did not inform (November 2010) the reasons for variation, despite being requested (June 2010).

**1.1.3** The following table presents the details of non-tax revenue raised during the period from 2005-06 to 2009-10:

(₹ in crore)							
Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+) / decrease (-) in 2009-10 over 2008-09
1.	Petroleum	1,216.16	1,385.82	1,547.88	1,430.12	1,574.18	10
2.	Interest receipts	36.41	167.49	240.72	433.16	493.63	14
3.	Dairy development	0.04	0.07	0.09	0.04	0.18	350
4.	Forestry and wild life	38.42	42.99	75.03	115.64	160.56	39
5.	Non-ferrous mining and metallurgical industries	0.43	0.42	0.66	0.54	1.24	130
6.	Miscellaneous general services	(-) 0.16	(-) 0.01	105.03	104.98	210.88	101
7.	Major and medium irrigation projects	0.21	0.38	0.36	0.56	0.59	5
8.	Medical and public health	3.50	5.50	7.15	7.91	7.10	(-) 10
9.	Co-operation	0.38	0.22	0.29	0.96	0.28	(-) 71
10.	Public works	4.17	3.09	2.89	3.84	3.95	3
11.	Police	14.90	14.91	13.16	12.69	30.91	144
12.	Other administrative services	11.11	9.61	13.57	12.77	102.06	699
13.	Coal and lignite	15.03	19.71	17.88	19.20	37.54	96
14.	Roads and bridges	42.00	32.04	44.08	66.90	79.86	19
15.	Others <sup>3</sup>	76.68	177.03	65.80	62.59	49.99	(-) 20
<b>Total</b>		<b>1,459.28</b>	<b>1,859.27</b>	<b>2,134.59</b>	<b>2,271.90</b>	<b>2,752.95</b>	<b>21</b>

The following reasons for variation were reported by the concerned department:

**Petroleum:** The increase was due to increase in production and revision of price of crude and gas.

**Coal and lignite:** The increase was due to increase in despatch and revision of rate of royalty.

**Major and Medium Irrigation projects:** The increase was due to collection of arrears of water charges.

<sup>3</sup> Others included 29 major head of accounts.

**Forestry and Wildlife:** The increase was due to increased sale of *mahal* materials.

The other departments did not inform (November 2010) the reasons for variation, despite being requested (June 2010).

## **1.2 Response of the departments/Government towards audit**

The succeeding paragraphs 1.2.1 to 1.2.5 discuss the response of the departments/Government towards audit.

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

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

Our review of inspection reports issued upto December 2009 disclosed that 4,033 paragraphs involving ₹ 767.23 crore relating to 1,518 IRs remained outstanding at the end of June 2010 as mentioned below along with the corresponding figures for the preceding two years.

	June 2008	June 2009	June 2010
Number of outstanding IRs	1362	1364	1518
Number of outstanding audit observations	3710	3685	4033
Amount involved (₹ in crore)	683.71	711.53	767.23

The department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amounts involved are mentioned below:

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved (₹ in crore)
1.	Finance (Taxation)	(a) Taxes/VAT on sales, trade, etc.	152	697	299.94
		(b) Agriculture income tax	8	30	2.02
		(c) Entry tax, Electricity duty, Entertainments tax, and luxury tax, etc.	68	76	2.62
2.	Excise	State excise	61	167	11.42
3.	Revenue	Land revenue	605	1442	208.97

4.	Transport	Taxes on motor vehicles	192	493	20.01
5.	Stamps and registration	Stamps and registration fees	154	308	16.13
6.	Mines and geology	Non-ferrous mining and metallurgical industries	9	37	79.71
7.	Forest and environment	Forestry and wild life	269	783	126.41
<b>Total</b>			<b>1,518</b>	<b>4,033</b>	<b>767.23</b>

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 654 IRs issued upto December 2009. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the PAG (Audit) in the IRs.

**We recommend that the Government takes suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as take action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.**

### 1.2.2 Departmental audit committee meetings

The Government set up audit committees to monitor and expedite the progress of settlement of IRs and paragraphs contained in the IRs. The details of the audit objection committee (AOC) meetings held during the year 2009-10 and the paragraphs settled are mentioned below:

Head of revenue	(₹ in crore)		
	Number of meetings held	Number of paragraphs settled	Amount
Sales tax	1	287	69.90
Others (Agricultural income tax, Stamp duty and registration fees, State excise, Taxes on vehicles, Land revenue & Forest Receipts)	Nil	Nil	Nil
<b>Total</b>	<b>1</b>	<b>287</b>	<b>69.90</b>

The table above is indicative of the fact that the Audit Committees of the respective departments are not concerned about the huge accumulation of audit objections contained in the IRs. Though we took up the matter of holding AOCs on a regular basis with the concerned department/Government, we did not get a positive response (except for Taxation Department).

Though the Finance Department had issued an instruction (May 1994) to all the departments for expeditious disposal of the audit objections through AOCs, it had neither reviewed the position nor taken follow up action.

**We recommend that the Government may consider holding AOC meetings periodically in respect of each department every year.**



### **1.2.3 Response of the departments to the draft audit paragraphs**

As per the instruction issued (March 1986) by the Finance Department, all the departments are required to furnish replies to the audit objections within two months. The PAG's office forwards draft paragraphs prepared on the basis of audit objections to the Secretaries of the concerned departments through demi-official letters drawing their attention to audit findings with the request to send their response within six weeks. The fact of non-receipt of replies from the Government is indicated at the end of each paragraph included in this Audit Report.

Draft paragraphs/reviews included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2010 were forwarded to the Secretaries of the departments between March and June 2010 through demi-official letters with the request to furnish their replies/comments within six weeks. Out of 35 draft paragraphs including two reviews incorporated in this report, replies either part or full, of the departmental officers in respect of 26 draft paragraph had been received (November 2010). Replies to the reviews were furnished by the departments/Government in the exit conferences held in July 2010.

### **1.2.4 Follow up on Audit Reports – summarised position**

As per the instruction issued (May 1994) by the Finance Department, the departments are required to furnish explanatory notes indicating action taken or proposed to be taken and submit action taken note (ATN) to the Assembly Secretariat with a copy to the PAG, in respect of paragraphs and reviews included in the Audit Reports within 20 days from the date of receipt of the Audit Report.

The Audit Report (Revenue Receipts) for the year ended 31 March 2009 was tabled in the Legislative Assembly on 2 March 2010. Though the time limit for furnishing ATNs had elapsed, no ATNs in respect of any Department had been furnished. We took up the matter regarding non-furnishing of ATNs by the departments through a demi-official letter with the Principal Secretary to the Government of Assam, Finance Department, and await his reply (November 2010).

### **1.2.5 Compliance with the earlier Audit Reports**

During the years from 1999-2000 to 2008-09, the departments/Government accepted audit observations involving ₹ 95.71 crore (out of the total money value of ₹ 3,335.56 crore) of which only ₹ 15 crore had been recovered till March 2010 as mentioned below:

Year of Audit Report	Total money value	(₹ in crore)	
		Accepted money value	Recovery made
1999-2000	100.19	1.37	0.13
2000-2001	104.66	2.16	0.45
2001-2002	43.32	11.77	0.06
2002-2003	97.69	51.54	0.34
2003-2004	413.82	3.35	0.22
2004-2005	71.89	4.93	1.24

2005-2006	920.60	1.63	0.04
2006-2007	186.03	2.17	0.17
2007-2008	241.77	16.25	12.35
2008-2009	1,155.59	0.54	0.00
<b>Total</b>	<b>3,335.56</b>	<b>95.71</b>	<b>15.00</b>

The above table indicates that the amount recovered was only 15.67 per cent of the accepted amount while the Government/departments have accepted only 2.87 per cent of the cases included in the Audit Reports. However, an analysis of accepted cases and recovery made in respect of Audit Reports for the years 1999-2000 to 2008-09 reveals that both the position remains almost static as compared to those included in the Audit Report of the preceding year (2008-09).

### 1.3 Analysis of the mechanism for dealing with the issues raised by Audit

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the departments/Government, the action taken on the paragraphs and reviews included in the Audit Reports of the last 10 years in respect of one department is evaluated and included in this Audit Report.

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the **Finance (Taxation) Department** to deal with the cases detected in the course of local audit conducted during the last 10 years and also the cases included in the Audit Reports for the years 1999-2000 to 2008-09.

#### 1.3.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on March 2010 are tabulated below:

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2000-01	214	800	6,448.21	55	249	2,625.61	19	108	1,169.33	250	941	7,904.49
2001-02	250	941	7,904.49	39	115	1,704.89	18	58	477.85	271	998	9,131.53
2002-03	271	998	9,131.53	57	162	1,958.23	11	102	437.99	317	1,058	10,651.77
2003-04	317	1,058	10,651.77	70	237	5,607.70	93	350	1,503.31	294	945	14,756.16
2004-05	294	945	14,756.16	37	216	4,099.05	49	140	1,442.43	282	1,021	17,412.78
2005-06	282	1,021	17,412.78	67	224	9,252.86	67	134	355.22	282	1,111	26,310.42
2006-07	282	1,111	26,310.42	42	189	6,251.86	41	317	4,740.79	283	983	27,821.49
2007-08	283	983	27,821.49	65	300	11,135.80	47	100	8,659.96	301	1,183	30,297.33
2008-09	301	1,183	30,297.33	45	335	3,336.28	103	469	4,246.29	243	1,049	29,387.32
2009-10	243	1,049	29,387.32	46	254	8,799.31	13	75	2,113.75	276	1,228	36,072.88

During 2009-10, only one Audit Committee meeting in respect of Finance (Taxation) Department was held wherein 287 paragraphs involving ₹ 69.90

crore were settled<sup>4</sup>. Apart from this, 75 paragraphs involving money value of ₹2,113.75 crore were settled/disposed of by the PAG (Audit) on the basis of replies received from the DDOs/departments as well as by conducting reviews of the old IRs. The position of receipt of replies to the outstanding IRs has not improved though regular reminders were issued to the the DDOs/departments.

### 1.3.2 Assurances given by the Department/Government on the issues highlighted in the Audit Reports

#### 1.3.2.1 Recovery of accepted cases

The position of paragraphs pertaining to the Finance (Taxation) Department included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned below:

(₹ in crore)						
Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year (2009-10)	Cumulative position of recovery of accepted cases
1999-2000	8	4.67	5	0.63	-	0.03
2000-2001	22	16.30	9	2.05	-	0.01
2001-2002	16	11.74	13	7.46	-	0.83
2002-2003	14	11.04	13	4.35	-	0.34
2003-2004	12	13.85	9	5.87	-	0.22
2004-2005	22	17.97	6	2.30	-	0.52
2005-2006	16	39.40	9	1.58	-	0.03
2006-2007	18	20.72	5	1.51	-	Nil
2007-2008	20	81.59	9	8.77	-	Nil
2008-2009	15	28.00	3	0.64	-	Nil

(The paragraphs mentioned above relate to VAT/Sales tax, Agricultural Income tax, Professional tax, Specified Land tax, Entry tax and Hotel & Luxury tax etc.)

The Assessing Officers raise demands on completion of the assessments of dealers. If the demands are not paid during the year of assessment, they become arrears and are forwarded to the respective Superintendent of Taxes (Recovery) for realisation as arrears of land revenue. The Superintendent of Taxes (Recovery) are vested with the powers for recovery under the Bengal Public Demand Recovery Act, 1913. Though this system is in place, the Department/Government had not monitored the progress of recovery of dues effectively and as a result recovery pertaining to the cases pointed out in the earlier Audit Reports was nil during the year 2009-10.

**The Government of Assam, Finance (Taxation) Department may consider adoption of the following measures to strengthen the system for compliance leading to streamlining the process of speedy recovery of the dues:**

- **Issuing suitable instructions to the assessing officers for prompt identification of arrear cases and issue of requisitions for certificate cases;**

<sup>4</sup> Due to late receipt of minutes of the AOC, adjustment of the paragraphs was made in May 2010.

- Making the process of admittance of certificate cases time bound to lessen the scope of undue delay at various stages thereby causing blocking/non-realisation/loss of revenue; and
- Prescribing specific targets for disposal of certificate cases and installing a mechanism to effectively monitor the overall position of pendency of certificate cases at various stages.

### 1.3.2.2 Action taken on the recommendations accepted by the departments/Government

The performance reviews conducted by the PAG are forwarded to the concerned departments/Government for their information with a request to furnish their replies. These reviews are also discussed in the exit conference and the department's/Government's views are included while finalising the reviews for the Audit Reports.

The following paragraphs discuss the issues highlighted in the reviews on the Finance (Taxation) Department featured in the last 10 Audit Reports including the recommendations and action taken by the Department on the recommendations accepted by it as well as the Government.

Year of Audit Report	Name of the review	Number of recommendations	Details of the recommendations accepted	Status
2000-01	Collection of Sales Tax	8	Details of recommendations accepted by the department have not been received.	PAC meeting was held in July 2007. Action Taken Notes (ATN) is yet to be received.
2002-03	Exemption and concession of tax against declaration forms	2		PAC meeting was held in March 2010. ATN is yet to be received.
2003-04	Working of Sales Tax Check posts	2		PAC meetings are yet to be held.
2004-05	Working of the Recovery Offices of the Sales Tax Department	5		
2006-07	Exemptions and concessions under the Central Sales Tax Act, 1956	3		
2008-09	(i) Transition from Sales Tax to Value Added Tax	11		
	(ii) Pendency of appeals at various stages and its impact on revenue collection	4		
	(iii) Information Technology of Taxation Information Management System	6		

We remain unaware of the position regarding acceptance of the recommendations included in the reviews till we receive the ATN from the concerned Department. Though the Finance (Taxation) Department made it mandatory for all the departments to furnish ATN replies to the PAG within 20 days from the date of receipt of the Audit Report, it was not adhered by the department. As a result no ATN against the recommendations included in the eight reviews conducted during the last 10 years was received.

## **1.4 Audit planning**

The unit offices under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which inter-alia include critical issues in Government revenues and tax administration i.e., budget speech, White Paper on State finances, reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee; statistical analysis of the revenue earning during the past five years, features of the tax administration, audit coverage and its impact during past five years etc.

During the year 2009-10, the audit universe comprised of 613 auditable units, of which 205 units were audited during the year 2009-10 which is 33 per cent of the total auditable units. The details are shown in Annexure-I.

Besides the compliance audit mentioned above, two performance reviews were also taken up to examine the efficacy of the tax administration of these receipts.

## **1.5 Results of audit**

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

We test checked the records of 205 units of VAT/sales tax, state excise, motor vehicles, forest and other departmental offices during the year 2009-10 and found underassessment/short levy/loss of revenue aggregating ₹ 466.58 crore in 573 cases. During the course of the year, the departments concerned accepted underassessments and other deficiencies of ₹ 301.82 crore involved in 129 cases of which 15 cases involving ₹ 291.94 crore were pointed out by us during 2009-10 and the rest in earlier years. The departments collected ₹ 60.16 crore in 116 cases during 2009-10.

### **1.5.2 This Report**

This report contains 33 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in earlier reports) and two performance reviews on (i) Mining Receipts - assessment, levy and collection of royalty, fees and rent and (ii) Recovery of dues treated as arrears of land revenue relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 385.66 crore. The Departments/Government have accepted audit observations involving ₹ 299.39 crore out of which ₹ 1.41 crore has been recovered. The replies in the remaining cases have not been received (November 2010). These cases are discussed in the succeeding Chapters II to VI.

## **CHAPTER-II**

### **SALESTAX/VALUE ADDED TAX**



## CHAPTER-II: SALES TAX/VALUE ADDED TAX

### 2.1 Tax administration

The Assam Value Added Tax (AVAT) Act, 2003 was introduced from 1 May 2005 repealing the Assam General Sales Tax Act, 1993. Administration of AVAT has been vested with the Finance (Taxation) Department. The Commissioner of Taxes, Assam has been authorised to collect AVAT for the State.

### 2.2 Analysis of budget preparation

As per the provision of the Assam Budget Manual, the estimates of revenue and receipts should show the amount expected to be actually realised within the year and those only including arrears for previous years and advance collections for coming year. In estimating fixed revenue, the calculations should be based upon the actual demand including arrears due for past years and the probabilities of its realisation during the year. According to the provision of Assam Financial Rules, the Finance Department is required to prepare the estimates of revenue on obtaining necessary information/data from the respective Department/Government.

We found that the budget estimates of the Finance (Taxation) Department were prepared taking actual collection of the last seven months of the previous year and provisional collection of the first five months of the current financial year into account. Besides, growth over actual receipts of the previous year as well as expected realisation of tax due to adoption of certain measures for augmentation of revenue was also taken into consideration. This indicated that the provisions of the Budget Manual were not considered by the Department/Government while preparing the estimates of revenue.

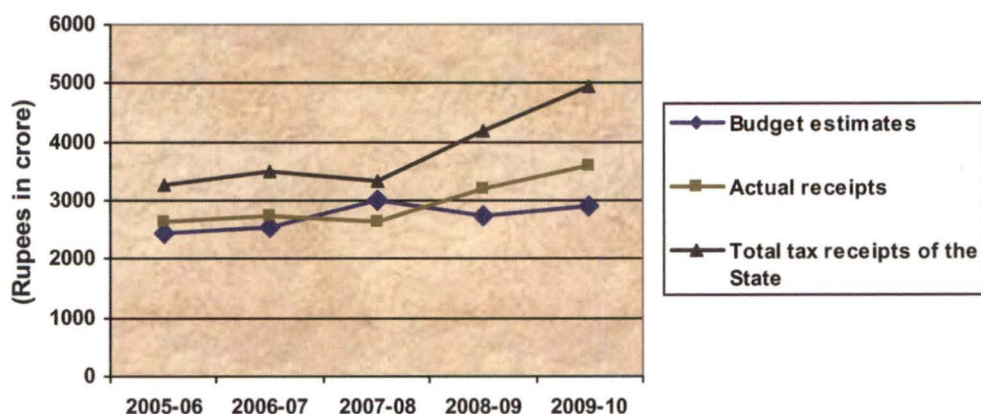
### 2.3 Trend of receipts

Actual receipts from tax on sales, trade etc. during the period 2005-06 to 2009-10 along with total tax receipts during the same period is exhibited in the following table and graph.

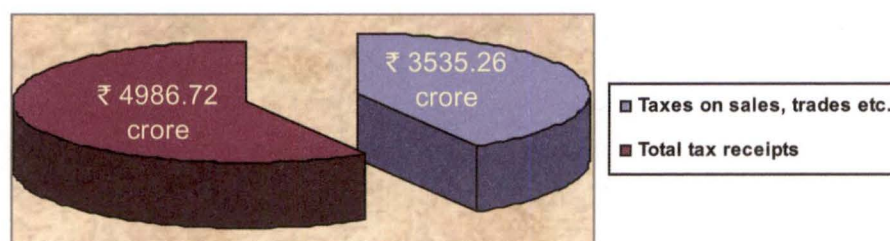
(₹ in crore)

Year	Budget estimates	Actual receipts (Taxes on Sales, Trade etc.)	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts <i>vis-à-vis</i> total tax receipts
2005-06	2,425.86	2,568.41	142.59	6	3,232.21	79
2006-07	2,734.71	2,783.24	48.53	2	3,483.32	80
2007-08	3,129.51	2,691.43	(-) 438.08	(-) 14	3,359.50	80
2008-09	2,820.69	3,110.58	289.89	10	4,150.21	75
2009-10	2,900.00	3,535.26	635.26	22	4,986.72	71





It would be seen from the above table and the line graph that there was increasing trend in the collection of revenue over the budget estimates except during 2007-08. The collection of revenue increased between two and 22 per cent during the last five years except in 2007-08 when there was a 14 per cent shortfall in collection.



The share of tax on sales, trade etc. receipts, which was around 80 per cent of the total tax receipts of the State between 2005-06 and 2007-08, fell to 75 per cent and 71 per cent in 2008-09 and 2009-10 respectively.

## 2.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 1,777.89 crore of which ₹ 505.76 crore was outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2005-06 to 2009-10.

(₹ in crore)				
Year	Opening balance of arrears	Amount added during the year	Amount collected during the year	Closing balance of arrears
2005-06	670.85	16.27	34.83	652.29
2006-07	652.29	56.24	26.82	681.71
2007-08	681.71	9.60	53.19	638.12
2008-09	638.12	51.88	22.77	667.23
2009-10	667.23	1221.91	111.25	1,777.89

The department stated that the arrears of revenue had increased drastically in 2009-10 due to non-realisation of taxes in respect of assessments made under

CST Act, 1956, Assam Taxation on Specified Land Act, 1990 and Assam Entry Tax Act, 2008 following the stay orders of Gauhati High Court and the Supreme Court. As a result of the judgement passed by the High Court, the provision of the Assam Entry Tax Act, 2005 was not in force upto 12 April 2008. This jeopardized completion of assessment and collection of revenue. However, after enactment of the new Assam Entry Tax Act, 2008, huge number of assessments were completed and demand raised during 2009-10 leading to accumulation of huge arrears. The Supreme Court observed that Assam Specified Land Act, 1990 is also applicable in case of crude oil and natural gas. Hence, the Department assessed and raised demands during 2009-10 leading to accumulation of huge arrears of revenue.

## 2.5 Assessee profile

The total number of assessees under the AVAT Act during the year 2009-10 was 1,06,925. The Department/Commissionerate did not maintain records classifying dealers as large tax payers and small dealers separately. The Department/Commissionerate also did not ascertain the number of dealers required to file return and number of returns received during the year.

## 2.6 Cost of revenue per assessee

The cost of revenue on taxes on sales tax, trades etc. per assessee for the years 2005-06 to 2009-10 ranged between ₹ 2.27 lakh to ₹ 3.47 lakh as shown below:

(₹ in crore)			
Year	Number of assessees	Revenue collected	Revenue per assessee
2005-06	83,772	2,568.41	0.03
2006-07	1,02,197	2,783.24	0.03
2007-08	1,18,279	2,691.43	0.02
2008-09	89,630	3,110.58	0.03
2009-10	1,06,925	3,535.26	0.03

## 2.7 Arrears in assessment

The details of pending assessment cases at the beginning of the year, cases becoming due for assessment during the year, cases finalised during the year and number of cases pending as of March 2010 as furnished by the Department are mentioned in the following table:

(In number)					
Name of Acts	Opening balance as on 1 April 2009	Cases added for assessment during 2009-10	Total assessment due during the year 2009-10	Cases disposed during 2009-10	Balance as on 31 March 2010
Sales Tax (AGST/VAT/CST)	7,099	11,129	18,228	7,209	11,019
APTC&ET <sup>1</sup> , 1947	38,854	42,486	81,340	51,223	30,117
Entry Tax	830	1,556	2,386	620	1,766

<sup>1</sup> Assam Professional, Trades, Callings and Employment Taxation.

Luxury (Hotel & Lodging), 1989	355	470	825	533	292
Electricity duty	1,312	586	1,898	433	1,465
Specified Land	730	642	1,372	635	737
Luxury Tax, 1997	5	7	12	8	4
Agriculture Income Tax	1,541	605	2,146	920	1,226
<b>Total</b>	<b>50,726</b>	<b>57,481</b>	<b>1,08,207</b>	<b>61,581</b>	<b>46,626</b>

Thus, the Department could complete assessment of only 57 per cent of the total cases due for assessment during 2009-10.

## 2.8 Cost of collection

The gross collection of Sales Tax/VAT, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2005-06 to 2008-09 along with the relevant all India average percentage of expenditure on collection to gross collections are mentioned below:

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection
2005-06	2,568.41	19.00	0.74	0.91
2006-07	2,783.24	34.93	1.26	0.82
2007-08	2,691.43	23.29	0.87	0.83
2008-09	3,110.58	39.49	1.27	0.88

Thus, percentage of expenditure on gross collection in respect of the last three years was higher than the all India average cost of collection.

**The Government needs to take appropriate steps to bring down the cost of collection.**

## 2.9 Impact of audit

During 2004-05 to 2008-09, we through our inspection reports (IRs) had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 366 crore in 1,111 paragraphs. Of these, the DDOs/department had accepted audit observation in 100 paragraphs involving ₹ 6.14 crore and had since recovered ₹ 1.02 crore. The details are shown in the table below:

Year of Inspection Report	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	118	214	38.17	50	2.51	11	0.36
2005-06	127	187	91.87	17	0.88	2	0.11
2006-07	115	173	61.28	14	1.79	5	0.17
2007-08	135	302	110.86	9	0.19	5	0.12
2008-09	77	235	63.82	10	0.77	7	0.26
<b>Total</b>	<b>572</b>	<b>1,111</b>	<b>366.00</b>	<b>100</b>	<b>6.14</b>	<b>30</b>	<b>1.02</b>

Though the department accepted 100 cases involving ₹ 6.14 crore against 1,111 cases featured in the IRs, it could recover ₹ 1.02 crore only which was 16.61 per cent of the total accepted amount.

**We recommend that the Department may take immediate action to install a mechanism to pursue and monitor prompt recovery involved in accepted cases.**

## 2.10 Working of internal audit wing

The Finance Department, Government of Assam put in place an Internal Audit Wing (IAW) within the Department in 1988, sanctioning and deploying eight Internal Auditors in the office of the Commissioner of Taxes. The strength was reduced (January 2009) to one, as a result of which during 2009-10 only 11 unit offices could be audited by the sole Internal Auditor. Thus, the very objective of IAW to function as a tool of internal control mechanism in the Department was defeated.

## 2.11 Results of audit

Our test check of the records of 120 units relating to Sales Tax/VAT revealed underassessment of tax and other irregularities involving ₹ 86.35 crore in 237 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Irregular exemption	44	49.93
2.	Turnover escaped assessment	12	12.45
3.	Non/short levy of interest	5	1.35
4.	Loss of revenue	4	0.53
5.	Other irregularities	172	22.09
<b>Total</b>		<b>237</b>	<b>86.35</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 1.50 crore in 85 cases, of which 4 cases involving ₹ 4 lakh were pointed out by us during the year 2009-10 and the rest in earlier years. An amount of ₹ 1.50 crore was realised in 85 cases during the year 2009-10.

A few illustrative cases involving ₹ 45.67 crore are mentioned in the following paragraphs.

## **2.12 Audit observations**

*Our scrutiny of records of sales tax/value added tax (VAT) in the Taxation Department revealed several cases of non-observance of provisions of Acts/Rules/departmental orders and other cases as mentioned in the succeeding paragraphs. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of assessing officers (AO) are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system including strengthening of internal audit so that such omissions can be detected, corrected and avoided.*

## **2.13 Non-observance of provisions of Acts/Rules**

*As per the provisions of the Assam General Sales Tax (AGST) Act, 1993, the AO while finalising the assessment of a dealer has to observe the relevant provisions of the Act and Rules and verify the records submitted by the dealer as mentioned below:*

- i Complete the assessment within the period of limitation;*
- ii Levy tax/interest as per prescribed rate;*
- iii Adjust tax on the basis of evidence such as challans, cheques etc;*
- iv Utilisation statement of declaration form;*
- v Audited accounts of the dealer;*
- vi Authorisation certificate while allowing exemption to an industrial unit; and*
- vii Other ancillary records as required.*

*We observed that the AOs while finalising assessments did not follow some of the provisions of Act and Rules and verify records resulting in non/short levy of tax as shown in paragraphs 2.13.1 to 2.13.17.*

### 2.13.1 Incorrect grant of exemption of export

[Assistant Commissioner of Taxes (ACT), Guwahati, Unit-A, Superintendent of Taxes (ST), Morigaon and Naharkatia; July 2008 and June 2009]

The Central Sales Tax (CST) (Registration and Turnover) Rules, 1957, provide that a dealer may claim exemption from payment of tax for sale in course of export, if the sales are supported by Form H/Form VII duly filled in and signed by the exporter alongwith evidence of such export. Otherwise, tax is leviable at the rate of 10 per cent or at the rate of tax applicable under the State Act, whichever is higher. Further, Section 17(5) of the AGST Act, 1993, stipulates that if a dealer fails to furnish a return, or fails to comply with the notice, the Assessing Officer (AO) may, to the best of his judgment assess the dealer and determine the tax payable by him on the basis of such assessment. CST Act read with AGST Act, provide that if a dealer fails to pay the full amount of tax payable by him by the due date, he is liable to pay interest at the rate prescribed.

**2.13.1.1** We observed that the AO, while finalising the assessment of M/s Hindustan Paper Corporation for the year 2002-03 in March 2008, allowed exemption from payment of tax on a turnover of ₹ 10.35 crore on the basis of export documents and Form H against submission of 15 bills of lading for ₹ 1.78 crore. The assessee did not submit any bill of lading or other evidence of export (except Form H) for the remaining export sales valued at ₹ 8.57 crore. This irregular allowance of exemption of ₹ 8.57 crore resulted in short levy of tax of ₹ 2.10 crore including interest of ₹ 1.24 crore.

After we pointed out this, the Department stated (March 2010) that the assessee furnished ARE-I<sup>2</sup> amounting to ₹ 8.56 crore and the goods

were actually exported and hence question of irregular exemption of export did not arise. The reply of the ST was not acceptable as we could not ascertain the veracity of claim of export as part B of the ARE-1 relating to 'Certification by Customs Officer' had neither been filled up nor signed by the customs officer.

**2.13.1.2** The AO, while finalising the assessment of M/s Assam Tea Brokers in March 2008 for 2004-05 on best judgment basis, allowed the dealer deduction of ₹ 7.20 crore being export sales during the year. Since the assessment was completed on best judgment basis, exemption allowed on account of export sales without export documents was irregular. The AO even did not obtain the report of the area Inspector<sup>3</sup> of Taxes. This resulted in short levy of tax of ₹ 72 lakh and interest of ₹ 79.17 lakh.

**2.13.1.3** While finalising the assessment of M/s Seal Kotee Tea Estate in March 2008 for the year 2004-05, the AO exempted turnover of ₹ 34.85 lakh

<sup>2</sup> Application for removal of goods for export.

<sup>3</sup> Area Inspector is to gather information on the dealer's business and report it to the assessing officer.

from payment of tax on the ground of export. However, no evidence of export of goods such as air consignment note and bill of lading was furnished. Thus, irregular grant of exemption of turnover of ₹ 34.85 lakh resulted in non-levy of tax of ₹ 7.40 lakh including interest of ₹ 3.91 lakh.

After we pointed this out, the Department stated (March 2010) that the dealer submitted certificate of export in Form VII and as such exemption was correct. The reply of the Department was not acceptable as no evidence of export of goods was on record.

We reported the cases to the Department/Government between October 2008 and October 2009; we are yet to receive their comments/replies (November 2010).

### **2.13.2 Excess allowance of tax exemption to an industrial unit**

[ACT, Guwahati, Unit-A; July-August 2008]

The Assam Industrial Sales Tax Concession Scheme (AISTCS), 1997 provides that a new industrial unit shall be exempted from payment of tax for a period of seven years from 01.02.2002, on purchase of raw materials and on sale of finished goods manufactured by them subject to a maximum limit of 150 *per cent* of the capital investment. To avail such exemption, the intending industrial unit shall have to obtain a certificate of authorisation from the concerned sales tax office on the basis of eligibility certificate issued by the Industries Department. Again, the CST Act (as amended with effect from 11 May 2002) provides that eligible industrial units under the AISTCS may claim exemption from payment of tax on their interstate sales provided the sales are made to the registered dealers and supported by declaration in Form C/D. Otherwise, tax is leviable at the rate of 10 *per cent* or at the rate applicable under the State Act, whichever is higher.

We observed that the AO, while finalising the assessments of M/s Eminent Health Care and Cosmetic Pvt. Ltd. (industrial unit) between January 2004 and May 2008 for the years 2001-02 to 2004-05, allowed exemption from payment of tax of ₹ 1.85 crore against the maximum limit of ₹ 1.22 crore i.e. 150 *per cent* of the capital investment of ₹ 81 lakh. This resulted in excess allowance of tax exemption of ₹ 63 lakh. In addition, interest of ₹ 79 lakh was also leviable.

We reported the case to the Department/Government in October 2008; we have

not received their replies (November 2010).

### 2.13.3 Short levy of interest

[ACsT, Guwahati Unit-A and Tezpur; May 2007 and August 2008]

The CST Act read with the AGST Act provide that if a dealer fails to pay the full amount of tax payable by him by the due date, he is liable to pay interest at the rate of two *per cent* for each month on the amount by which the tax paid falls short.

**2.13.3.1** Six Guwahati and Tezpur based dealers<sup>4</sup> failed to pay the full amount of the tax payable by them for the years from 2000-01 to 2004-05. The AOs while completing the assessments between May 2005 and March 2008, assessed and levied interest of ₹ 5.25 lakh against leviable interest of ₹ 30.39 lakh resulting in short levy of interest of ₹ 25.14 lakh.

After we pointed this out, the AO, Tezpur stated (October 2010) that interest of ₹ 1.18 lakh in respect of one dealer (M/s Guru Bastrayalaya) had been levied. We are yet to receive the report on realisation of the amount and replies in the remaining cases (November 2010).

**2.13.3.2** The AO, Tezpur while completing the assessment of M/s T & I Limited in May 2006 for the year 2002-03 levied interest of ₹ 2.10 lakh against ₹ 9.03 lakh leviable for delayed payment of tax. This resulted in short levy of interest of ₹ 6.93 lakh.

After we pointed this out, the AO stated (February 2010) that interest of ₹ 6.93 lakh was under process of realisation through *Bakijai*<sup>5</sup> process. He, however, did not explain as to why the full amount of interest could not be levied at the time of assessment. We have not yet received the report of realisation of the amount (November 2010).

We reported the cases to the Department/Government between August 2007 and October 2008 ; we are yet to receive their replies (November 2010).

<sup>4</sup> (1) M/s Guru Bastrayalaya, (2) M/s IOC Ltd, (3) M/s Indrajit Mehta Constructions (P) Ltd, (4) M/s Pragati Enterprise, (5) M/s Surgico and (6) M/s Zuventus Health Care Pvt. Ltd.

<sup>5</sup> A process of recovery through Recovery Officers of Taxation Department.



### 2.13.4 Concealment of turnover

[ACT, Tezpur; April and May 2007]

The AGST Act read with the CST Act provides that if a dealer has concealed or failed to disclose fully and truly the particulars of his turnover, the AO may within eight years from the date of the relevant year make a re-assessment of the dealer. Further, the dealer is liable to pay by way of penalty, in addition to tax, additional tax and interest, a sum not exceeding one and half times the amount of tax sought to be evaded.

We observed that the AO, while finalising the assessment of M/s S.K. Automobile in May 2006 for the year 2004-05, determined turnover at ₹ 4.28 crore (₹ 3.70 crore under AGST Act and ₹ 0.58 crore under CST Act). The utilisation statement of the delivery note submitted by the dealer for the year 2004-05, however, showed that the dealer had actually received goods valued at ₹ 6.40 crore against ₹ 4.44 crore disclosed by the dealer in the audited accounts as well as in the annual return. Thus, the dealer concealed minimum turnover of ₹ 1.96 crore which escaped the notice of the AO resulting in short levy of tax of ₹ 25.81 lakh including

interest of ₹ 8.60 lakh.

After we pointed this out, the Department stated (September 2010) that assessment was revised on the concealed turnover of ₹ 1.96 crore and the dealer paid demand of ₹ 22.78 lakh and penalty of ₹ 10,000. The Department did not, however, explain the reason (s) for non-realisation of tax and interest of ₹ 3.03 lakh (November 2010).

We reported the case to the Government in August 2007; we are yet to receive their reply (November 2010).

### 2.13.5 Incorrect allowance of exemption/concession against Form E-I

[ACT, Tezpur; May-June 2007]

The CST Act provides that any subsequent sale of goods during their movement from one State to another effected by transfer of documents of title of such goods to a registered dealer or to the Government shall be exempted from levy of tax provided such sale is supported by a certificate in Form E-I or E-II duly filled in and signed by the selling dealer alongwith Form C or D. It has been judicially held (Tata Iron & Steel Co. Ltd. Vs S R Sarkar (1960)-11 STC 665 (SC)) that where a dealer books goods to self without a purchaser and subsequently finds a purchaser and transfers title to the goods while the goods are in transit, it is eligible for exemption under the Act.

M/s Rikhab Chand Sohanlal Ltd claimed exemption of ₹ 4.63 crore and ₹ 3.47 crore for the years 2002-03 and 2003-04 respectively and M/s T&I Ltd claimed exemption of ₹ 18.40 lakh for the year 2002-03 against transfer of documents during interstate sales.

The AO accepted the claims while finalising the assessments between May 2006 and September 2006. The exemptions were irregular as the subsequent purchasers placed the orders for purchase of goods prior to putting the goods in transit. The incorrect exemption of turnover of ₹ 8.28 crore resulted in short levy of tax of ₹ 62.17 lakh including interest of ₹ 29.09 lakh.

After we pointed this out, the Department in one case (M/s T & I Ltd.) stated (February 2010) that realisation had been initiated through *Bakijai* process. We have not received the reply of the second case (November 2010).

We reported the cases of incorrect/irregular exemption and resultant short levy of tax and interest to the Government in August 2007; we are yet to receive the reply (November 2010).

### 2.13.6 Turnover escaping assessment

[ACsT, Tezpur, Guwahati, Unit-A, Nagaon and Sivsagar; April 2007 and October 2008]

The AGST Act read with CST Act provides that if any part of the turnover of a dealer in respect of any period has escaped assessment to tax, the AO may, within eight years from the end of the relevant year make, a reassessment of the dealer. If the dealer fails to pay the full amount of tax payable by him by the due date, he is liable to pay interest at the rate prescribed on the amount of tax due.

**2.13.6.1** We observed that the AOs, while completing the assessments of five dealers<sup>6</sup> determined taxable turnover at ₹ 34.98 crore. The records/documents like Form C, Form F, sales journal of interstate sale, audited accounts etc, available in the case records/unit offices, however, showed that the

dealers transferred stock/sold goods valued at ₹ 39.05 crore. Thus, turnover of ₹ 4.07 crore escaped assessment. This resulted in short levy of tax of ₹ 95.32 lakh including interest of ₹ 51.65 lakh as mentioned below:

Sl No.	Name of the Unit No. of dealers	Assessment year month	Nature of irregularities	₹ in lakh)		
				Turnover escaped assessment	Tax Interest	Total Tax and interest involved
1.	Tezpur Two	2003-04 September 2007 2005-06 June 2007	The AO determined turnover of inter-state sale of goods at ₹ 11.47 crore against ₹ 12.05 crore as per Form C available in the case records.	58.00	7.73 4.73	12.46
2.	Guwahati Unit 'A' One	2004-05 August 2007	The AO determined the turnover of the dealer at ₹ 20.37 crore against ₹ 21.02 crore as per abstract of sales journal.	65.00	7.53 8.29	15.82
3.	Sivsagar One	2003-04 May 2005	The dealer disclosed stock transfer of ₹ 5.22 crore as per the audited accounts available in the case records. The AO allowed exemption of stock transfer of ₹ 2.45 crore and	277.00	27.73 37.71	65.44

<sup>6</sup> (1) M/s Castrol India Ltd, (2) M/s Lafarge India Pvt. Ltd, (3) M/s Kanu T.E, (4) M/s Pawan Industries and (5) M/s R.K. Supply Agency.

			did not levy tax on the balance amount.			
4.	<u>Nagaon</u> One	<u>2003-04</u> January 2007	The AO allowed exemption on ₹ 68.25 lakh supported by Form F and levied tax on ₹ 1.33 lakh not supported by Form F and did not allow exemption on balance turnover of ₹ 6.77 lakh as the forms submitted by the dealer related to earlier years but did not levy tax.	6.77	<u>0.68</u> 0.92	1.60
<b>Total</b>				<b>406.77</b>	<b><u>43.67</u></b> <b>51.65</b>	<b>95.32</b>

After we pointed this out, the Department stated (February 2010) in one case (Sl. No. 3) that notice had been issued for reassessment of the dealer. The department neither intimated further developments in this case nor furnished replies in respect of the remaining four cases (November 2010).

**2.13.6.2** The AO, while finalising the assessment of M/s Shree Khatuwala Re-Rolling Mills Pvt. Ltd in January 2007 for the year 2004-05, determined turnover of ₹ 11.30 crore including a concealed turnover of ₹ 1.76 crore. We found from a letter dated 5 January 2005 of the Commissioner of Taxes (CT), Assam that the dealer had actually concealed turnover of ₹ 2.31 crore taxable at the rate of four *per cent*. Thus, turnover of ₹ 55 lakh escaped assessment. The AO did not indicate any reason in the assessment order as to why the total concealed turnover was not brought to assessment. This escapement of turnover of ₹ 55 lakh resulted in short levy of tax of ₹ 4.05 lakh including interest of ₹1.87 lakh.

We reported the cases to the Department/Government between July 2007 and December 2008; we have not received their replies (November 2010).

### **2.13.7 Excess deduction of labour charges**

[ACT, Tezpur; September 2008]

AGST Act provides that taxable turnover in respect of a contractor of civil work is determined after reducing the gross turnover by the turnover relating to declared goods purchased locally in Assam and thereafter deduction of labour and other charges shall be made by AO according to the best of his judgment, subject to the limit prescribed in the Act in cases where such labour and other charges are either not shown or shown in the accounts but according to the AO, are unreasonably high.

The AO, while finalising the assessment of M/s Gammon India Ltd., in July 2007 for the assessment year 2004-05 deducted labour and other charges for ₹ 9.96 crore from the total turnover of ₹ 18.51 crore (excluding value of declared goods) considering the claim of the dealer as unreasonably high. Since the claim of labour and other charges of the dealer was considered as unreasonably high and the same reduced according to the best of the AO's judgment, the deduction

was to be restricted to ₹ 4.63 crore (maximum prescribed limit of 25 *per cent*

as specified in the Act). Thus, allowance of excess deduction of ₹ 5.33 crore resulted in short levy of tax of ₹ 77.65 lakh.

After we pointed this out, the ACT, Tezpur stated (March 2010) that the claim for deduction towards labour and other charges was optional provided these were supported by true and proper accounts and statements such as attendance register, pay roll, PF statements etc., when those deductions were incidental to execution of works contract and the prescribed authority after verification of aforesaid books of accounts reduced the inadmissible claim for deduction. The reply of the department was not acceptable as the assessment order was silent about maintenance of such documents by the dealer. The AO reduced the claim observing that the dealer made a higher claim of labour and other charges, without specifying any particular inadmissible claim. Since the AO did not consider the accounts of the dealer as true and proper, deductions were to be restricted to maximum 25 per cent prescribed in schedule VI of the Act.

We reported the case to the Department/Government in December 2008; we are yet to receive their replies (November 2010).

### 2.13.8 Incorrect grant of concession/exemption against Form A

[ACsT, Nagaon and Tezpur; July and September 2008]

Section 8(1)(b) & (c) of AGST Act and Rule 19(b) made thereunder provide that a registered dealer may sell goods falling under Schedule III (goods taxable at last point) & Schedule IV (goods taxable at first and last point) of AGST Act to another registered dealer free of tax or at concessional rate of tax, if such sales are supported by valid declaration in Form A for either resale in the State or for packing of such goods for resale. Further, as per Rule 19(b) of the AGST Rules, no single declaration Form A shall cover more than one transaction of sale except in case where total amount of sale made in a financial year and covered by one declaration is equal to or less than ₹ one lakh or such other amount as the Government may notify in the official gazette. The Government of Assam vide notification dated 8 September 2004 made an amendment that a single declaration Form A may cover all transactions of sale in one financial year.

The AOs, while finalising the assessments of five dealers<sup>7</sup> between March 2007 and March 2008 incorrectly allowed concession/exemption on turnover of ₹ 9.36 crore which resulted in short/non-levy of tax of ₹ 85 lakh as detailed in the following table:

<sup>7</sup> (1) M/s Assam Cement, (2) M/s Rikhab Chand Sohanlal Ltd., (3) M/s R.K. Supply Agency, (4) M/s R. J and Sons and (5) M/s Vikash Enterprise.

Sl. No.	Name of unit Number of dealers	Period of assessment/ Month of assessment	Turnover incorrectly granted concession/exemption (₹ in crore)	Nature of irregularities	Amount of tax (₹ in lakh)
1.	Tezpur/Nagaon Four	2003-04 2004-05/ July 2007 and March 2008	7.19	The AO allowed concession/exemption on turnover of ₹ 7.19 crore though the dealers submitted Form A which contained multiple transactions of sale and covered more than ₹ one lakh in each form.	64.00
2.	Tezpur/Nagaon Two	2004-05/ July 2007	1.54	The AO allowed concession/exemption on turnover of ₹ 63.49 crore. Scrutiny revealed that turnover of ₹ 1.54 crore was supported by two Form A which did not contain the date of registration of the purchasing dealers.	14.00
3.	Tezpur One	2004-05/ June 2007	0.48	The AO allowed concession/exemption on ₹ 84.78 lakh. Scrutiny revealed that turnover of ₹ 48.16 lakh was supported by photocopies of counterfoil of Form A instead of the original form.	5.00
4.	Tezpur One	2004-05/ March 2007	0.15	The AO allowed concession/exemption on turnover of ₹ 36.42 lakh as sale to registered dealer. Scrutiny revealed that turnover of ₹ 15.17 lakh was not supported by Form A.	2.00
<b>Total</b>			<b>9.36</b>		<b>85.00</b>

After we pointed this out, the Department in one case (M/s R.J & Sons under ACT, Nagaon at Sl. No. 1 above), stated (September 2010) that the whole transaction was carried out against a single supply order. The reply of the Department is not tenable as Rule 19 (b) prescribes that no single declaration in Form A shall cover more than one transaction of sale except in case where the total amount of sale made in a financial year is equal to or less than ₹ one lakh.

We reported the cases to the Department/Government between October and December 2008; we are yet to receive their replies (November 2010).

### 2.13.9 Incorrect allowance of taxable goods as exempted goods

[ACT, Guwahati, Unit A; July-August 2008]

Schedule II of the AGST Act provides that chemicals are taxable at the rate of four *per cent* with effect from 1 January 2000. Besides, an additional tax at the rate of ten *per cent* on the amount of tax is also leviable.

The AO, while finalising (between December 2006 and February 2008) the assessments of two registered dealers dealing in agro chemicals (items taxable under Schedule-II) for the years 2003-04, 2004-05 and 2005-06 (April 2005), allowed exemption of ₹ 1.52 crore under Schedule-I (applicable for exempted goods) of the

AGST Act. Since the dealers deal in chemicals, they were not eligible to get exemption under Schedule-I and tax should have been levied on them at the prescribed rate under Schedule-II. Incorrect allowance of exemption resulted in non-levy of tax of ₹ 14.20 lakh including interest of ₹ 7.52 lakh.

After we pointed out the mistake, the AO stated in July 2009 that the assessments had been revised and demand notices issued. We are yet to receive a report on realisation of the tax amount (November 2010).

We reported the cases to the Department/Government in October 2008; we have not received their replies (November 2010).

### 2.13.10 Non-deduction of tax at source

[Divisional Forest Officer (DFO), Kamrup East Division, Guwahati; September 2009]

The AVAT Act and Rules made thereunder provide that the amount of tax payable by a works contractor shall be deducted at source by the drawing and disbursing officer who shall deposit the same into the Government account within 10 days from the expiry of each calendar month. The Act also provides that if the person responsible for deduction and deposit of tax fails to do so, he shall pay by way of penalty, a sum not exceeding twice the amount of tax deductible and interest at the rate of one and a half *per cent* per month on the amount of tax deductible from the date of payment of bill till the date of actual deposit to Government accounts in addition to the tax.

The DFO paid ₹ 1.05 crore to nine contractors in February 2009 for civil works without deducting/realising VAT of ₹ 4.20 lakh from their bills in contravention to the provisions of the Act. As such, the DFO was liable to pay/deposit interest of ₹ 1.32 lakh and penalty not exceeding ₹ 8.40 lakh in addition to the tax of ₹ 4.20 lakh (including interest of ₹ 1.32 lakh).

We brought the case to the notice of the department/Government in November 2009; we are yet to receive their replies (November 2010).

### 2.13.11 Short levy of tax

[ST, Kabaitary Check Post, Bongaigaon; September 2009]

Section 12 of the AVAT Act provides that every dealer who in course of his business, purchases any taxable good without payment of tax and despatches the same to a place outside the State, other than by sale or export, is liable to pay tax on the gross turnover of purchase of such goods.

We found that the AO finalised the assessment of M/s Ram Vinimoy Coal Pvt. Ltd. for the assessment years 2006-07 and 2007-08 and levied tax on sale of coal valued at ₹ 3.08 crore against purchase of ₹ 12.26 crore as per assessment orders after deduction of interstate sale of coal for ₹ 2.13 crore out of the above purchase. No proof in support of purchase of coal from outside the State of Assam was available in the case records. Thus, the exemption allowed on purchase of coal valued at ₹ 7.05 crore was irregular and resulted in short levy of tax of ₹ 39.99 lakh

including interest of ₹ 11.79 lakh.

After we pointed this out, the Department stated (September 2010) that action was being initiated to levy tax. We are yet to receive intimation regarding realisation of tax (November 2010).

We have reported the case of wrong determination of turnover and resultant short levy of tax to the Government in September 2009; we are yet to receive their replies (November 2010).

### 2.13.12 Application of incorrect rate of tax

[ST, Dhemaji; June 2007]

The AGST Act provides that tax on works contract is leviable at the rate of eight *per cent*. Besides, an additional tax at the rate of 10 *per cent* on the amount of tax is also leviable.

The AO, while finalising the assessment of a works contractor M/s Anil Baruah, for the assessment years 2002-03 and 2003-04 in January 2004 and February 2005 respectively levied tax at the rate of four *per cent* instead of the leviable rate of eight *per cent*. This resulted in short levy of tax of ₹ 13.51 lakh including interest of ₹ 8.07 lakh.

After we pointed out the mistake, the AO stated in May 2009 that the case was referred to the Deputy Commissioner of Taxes, Tezpur for suo-moto revision. We are yet to receive a communication on further developments in the case (November 2010).

We brought the case to the notice of the Department/Government in August 2007; we have not received their comments (November 2010).

### 2.13.13 Incorrect grant of concessional rate of tax against Form B

[ACT, Guwahati, Unit A; July-August 2008]

The Assam Government issued notification dated 3 January 2003 which stipulated that goods (water supply and sanitary fittings including pipes of any type used for the purpose) mentioned in the notification when sold by a dealer to Government department/undertakings for the purpose of their own use against Form B were taxable at the rate of four *per cent* with retrospective effect from 1 May 2001. The said notification was in force from May 2001 to April 2004 and thereafter no such concession was allowed by the Government. Plastic water storage tanks and pipes are taxable at the rate of 13.2 *per cent* including additional tax.

The AO, while finalising the assessment of four<sup>8</sup> registered dealers for the years 2004-05 and 2005-06 (April 2005), levied tax at the concessional rate of four *per cent* on the taxable turnover of ₹ 9.84 crore on account of sales to Government Department against Form B. The monthly returns submitted by the dealers, however, disclosed that the turnover for the month of April 2004 was ₹ 2.03 lakh only and the

<sup>8</sup> (1) M/s Kamakhya Plastic (P) Ltd, (2) M/s Mahalakshmi Udyog (P) Ltd., (3) M/s North East Chemical Corporation and (4) M/s Universal Pipes (P) Ltd.

balance turnover of ₹ 9.82 crore pertained to the period beyond April 2004 and was thus inadmissible for concessional rate of tax. This resulted in short levy of tax of ₹ 1.74 crore including interest of ₹ 91 lakh.

After we pointed out the mistake, the AO stated in November 2009 that the assessments in two cases had been revised and additional demand of ₹ 6.46 lakh raised. The AO, however, did not explain the reason for non-levy of tax at the prescribed rate at the time of assessment. We are yet to receive the report on realisation of these two cases and replies in respect of other two cases (November 2010).

We brought the mistake to the notice of Department/Government in December 2008; we are yet to receive their comments/replies (November 2010).

### 2.13.14 Evasion of tax

[ACT, Tezpur; August–September 2008]

Section 16 of the AGST Act provides that every registered dealer is required to submit monthly statement of turnover/annual return of turnover, pay the admitted tax within the prescribed date and produce books of accounts for verification by the AO at the time of finalisation of assessment. Otherwise, the AO shall complete the assessment on best judgment basis within three years and determine the tax payable by the dealer. The Act further provides that if a dealer conceals the particulars of his turnover, he shall pay by way of penalty, in addition to tax, additional tax and interest, a sum not exceeding one and a half times the amount of tax sought to be evaded.

We observed that the AO did not take any initiative to assess a dealer, M/s National Trading Company, for the years 2002-03 to 2004-05 within the period of limitation of three years. The dealer submitted the annual return for the year 2003-04 and disclosed gross turnover of ₹ 3.78 lakh only in the annual return. We found after cross checking with the records of M/s J.J. Automotive Ltd., (registered under Guwahati Unit A Office) that the dealer (M/s National Trading Company) purchased motor parts for ₹ 73.76 lakh between 11 April 2003 and 31 March 2004 from M/s J.J. Automotive Ltd. by utilising

two Form A<sup>9</sup> which the dealer did not disclose in his return and also did not pay tax. Thus, the dealer evaded tax of ₹ 7.55 lakh including interest of ₹ 4.60 lakh by suppressing taxable purchase of ₹ 73.76 lakh. Besides, penalty of ₹ 4.42 lakh was also leviable.

After we pointed this out, the Department stated (October 2010) that assessment was revised and demand notice of ₹ 9.07 lakh including penalty of ₹ one lakh was issued. The dealer, however, paid ₹ 4.60 lakh. We are yet to receive the report on realisation of the balance amount.

<sup>9</sup> By utilising declaration Form A, a registered dealer can purchase taxable goods without payment of tax within the State of Assam. The dealer is however required to pay the tax on subsequent sale of goods.



We reported the matter to the Government in December 2008; we have not received their comments (November 2010).

### 2.13.15 Incorrect grant of deduction

[ACT, Nagaon; July- August 2008]

The AGST Act provides that taxable turnover in respect of a works contract is determined by deducting the value of declared goods purchased locally in Assam on payment of tax and thereafter the labour and other charges incurred by the dealer from the gross turnover. There is no provision in the Act to deduct turnover relating to tax paid goods. Cement is not a declared goods.

**2.13.15.1** The AO, while finalising the assessment of a works contractor, M/s J. D. Construction, for the year 2001-02 in March 2005 allowed deduction of ₹ 4.45 crore including tax paid goods of ₹ 55.98 lakh from the gross turnover of ₹ 5.92 crore. Deduction of turnover of ₹ 55.98 lakh relating to tax paid goods was not correct and resulted in short levy of tax of ₹ 12.33 lakh including interest of ₹ 7.40 lakh.

**2.13.15.2** The AO, completed the assessment of a works contractor, M/s R.C. Construction, for the year 2001-

02 in July 2006 and allowed deduction of ₹ 18.67 lakh from the turnover of ₹ 86.05 lakh as value of declared goods. The deduction allowed included purchase of cement valued at ₹ 18.65 lakh by the dealer. Since cement is not a declared goods, the deduction allowed was incorrect and resulted in short levy of tax of ₹ 4.62 lakh including interest of ₹ 2.98 lakh.

We reported the matter to the Department/Government in October 2008; we are yet to receive their comments/replies (November 2010).

### 2.13.16 Non-realisation of tax/Incorrect adjustment of tax deducted at source

[ACT, Nagaon; September 2008]

The AGST Act and Rules made thereunder provide that the amount of tax payable by a supplier/works contractor shall be deducted at source by the drawing and disbursing officer who shall deposit it into Government account within 10 days from the expiry of each calendar month.

The AO, while finalising the assessment of M/s Indrajit Mehta Construction Pvt. Ltd. in April 2007 for the years 2004-05 and 2005-06 (April 2005), incorrectly adjusted ₹ 17.34 lakh against tax payable of ₹ 17.03 lakh on the basis of tax deduction certificate

submitted by the dealer. Treasury *challan* or bank scroll in support of deposit of tax were not available in the case records. This resulted in short demand of tax of ₹ 17.34 lakh due to incorrect adjustment of the tax deducted at source.

We reported the case to the Department/Government in December 2008; we are yet to receive their comments/replies (November 2010).

**2.13.17 Incorrect grant of deduction**

[ACT, Guwahati Unit A; July-August 2008]

The AGST Act read with the CST Act provides that while determining taxable turnover of a dealer, tax included in the gross turnover is to be deducted according to the formula prescribed. No such deduction is admissible where the turnover is exclusive of tax.

The AO, while determining the net taxable turnover of a dealer M/s Masanto India Ltd. for the year 2004-05 in May 2007, allowed deduction of tax of ₹ 37.88 lakh from the turnover of ₹ 4.17 crore towards element of tax. As the stock transfer of goods did not contain tax element, deduction allowed towards element of tax from the gross turnover to arrive at the net taxable turnover was incorrect. This resulted in short levy of tax of ₹ 7.95 lakh including interest of ₹ 4.16 lakh.

After we pointed this out, the ACT stated in November 2009 that the assessment was revised and demand notice was issued. However, the dealer being aggrieved filed an appeal against the assessment order. We are yet to receive a report on further developments in the case (November 2010).

We reported the case to the Department/Government in October 2008; we are yet to receive their replies (November 2010).

**2.14 Non-compliance of departmental orders**

*The CT, Assam vide circulars dated 25 March 1999 and 6 May 1999 instructed the AOs to cross verify central sales tax declaration forms submitted by the dealers specially of North Eastern States and to verify the transactions made under stock transfer for arresting evasion of taxes and curbing malpractice of evasion of central sales tax respectively. Failure of the AOs to act upon the circulars issued by the CT, Assam resulted in short levy of tax/incorrect grant of exemption as shown in the succeeding paragraphs 2.14.1 and 2.14.2.*

### 2.14.1 Irregular grant of exemption

[ACsT, Dibrugarh, Nagaon, Tezpur & Tinsukia and ST, Doomdooma, Digboi, Naharkatia & Morigaon; May 2007 and September 2009]

The CST Act provides that when any dealer claims exemption of tax in respect of any goods by reason of transfer of such goods to any other place of his business out of the State, he may furnish to the AO a valid declaration in Form F duly filled in and signed by the transferee alongwith evidence of despatch of such goods failing which tax at the prescribed rate is to be charged. As per rule, one Form F should cover the transactions of one calendar month. Furnishing of Form F is mandatory with effect from 11 May 2002. In addition, interest at the prescribed rate is also leviable on the unpaid amount of tax.

The AOs, while assessing 19<sup>10</sup> cases under eight unit offices for the years from 2002-03 to 2005-06 between March 2006 and January 2009, allowed irregular exemption on account of branch transfer of goods valued at ₹ 152.18 crore resulting in non-levy of tax amounting to ₹ 30.65 crore including interest of ₹ 17.34 crore as detailed below:

(₹ in crore)					
Sl. No.	Name of unit Number of dealers	Period of assessment Assessed between	Turnover exempted incorrectly	Nature of irregularity	Amount (including interest)
1	2	3	4	5	6
1.	Doomdooma Dibrugarh Digboi Nagaon Naharkatia Morigaon 14	2002-03 to 2004-05 December 2006 and March 2008	68.10	The AOs allowed exemption of stock transfer of ₹ 257.25 crore. Scrutiny revealed that 199 declaration Form F covering ₹ 68.10 crore were defective as the Form F involved transaction of more than one calendar month.	14.82 (9.91)
2.	Tezpur One	2003-04 March 2008	0.43	The AO allowed exemption of stock transfer of ₹ 11.28 crore. Scrutiny revealed that six Form F covering stock transfer of ₹ 43 lakh were defective as the purchasing dealer did not mention the registration number and date since when the registration was valid.	0.10 (0.06)
3.	Doomdooma One	2005-06 November 2007	0.37	The AO allowed exemption of ₹ 37 lakh as stock transfer but such stock transfer was not supported by Form F.	0.06 (0.02)

<sup>10</sup> (1) M/s Adabari T.E, (2) M/s Bhowani Tea Industries, (3) M/s Bogapani T.E, (4) M/s Dehing T.E, (5) M/s Deomali T.E, (6) M/s Dirok T.E, (7) M/s Empire of Singlo Tea Ltd., (8) M/s Gangotri Tea Industries, (9) M/s Hatimora T.E, (10) M/s Hindustan Paper Corporation Ltd, (11) M/s Margherita T.E, (12) M/s Namdong T.E, (13) M/s Pawan Industries, (14) M/s Rossel Industries Ltd, (15) M/s Shanti T.E, (16) M/s Shaym Sundar Tea Company (P) Ltd, (17) M/s Seal Kote T.E, (18) M/s Tata Tea Ltd. and (19) M/s Tipuk T.E.

4.	Tinsukia One	2003-04 November 2007	23.60	The AO allowed exemption of stock transfer of ₹ 270.58 crore. Scrutiny revealed that 31 Form F covering transactions of ₹ 23.60 crore were duplicate instead of original foil of Form 'F'.	5.38 (3.02)
5.	Naharkatia One	2005-06 January 2009	0.90	The AO allowed exemption of stock transfer of ₹ 1.53 crore. Scrutiny revealed that stock transfer of ₹ 0.90 crore covered by 27 Form F related to earlier years.	0.14 (0.05)
6.	Tezpur One	2002-03 March 2006 2003-04 March 2007 2004-05 March 2007	58.78	The AO exempted stock transfer of ₹ 58.78 crore. Scrutiny revealed that the dealer neither produced any evidence of dispatch of goods to outside the State nor recorded the details of dispatch in the Form F.	10.15 (4.28)
Total			152.18		30.65 (17.34)

After we pointed this out, the department stated (between January and March 2010) in six cases (out of 14 cases at Sl. No. 1 of table above) that it was a technical mistake. The reply was not acceptable since as per provision of CST Act, one Form F should cover the transactions of one calendar month. In another case of M/s Russel T.E. (Sl. No. 4 of table), the AO Tinsukia reassessed the dealer. The dealer, however, filed a revision petition to the CT, Assam. We are yet to receive the latest position of the case (November 2010).

We reported the cases to the Government between August 2007 and November 2009; we are yet to receive the replies (November 2010).

### 2.14.2 Incorrect grant of concessional rate of tax

[ACsT, Guwahati Unit A & Tezpur and ST, Doomduma, Digboi & Kabaitary Check Post, Bongaigaon; March 2007 and September 2008]

The CST Act provides that interstate sale of goods, other than declared goods, to the registered dealers/Government departments if supported by valid and duly filled in declaration in Form C/D are taxable at the concessional rate of four *per cent*. Otherwise, tax is payable at the rate of 10 *per cent* or at the rate of tax applicable under the State Act, whichever is higher. In addition, interest at the prescribed rate is also leviable. Benefit of concessional rate of tax against Form D had been withdrawn from 1 April 2007.

The CT, Nagaland in his letter dated February 2002 intimated the CT, Assam regarding cancellation of a series of declaration Forms C with effect from 11 June 2001. This information was duly circulated to all the unit offices by the CT, Assam in December 2002 to take note of at the time of finalising the assessments.

**2.14.2.1** M/s Castrol India Ltd, M/s Indian Oil Corporation Ltd., and M/s Samsung India Electronics Ltd were assessed to tax for the years 2001-02 to 2005-06 in November 2006 and September 2007 at the concessional rate of four *per cent* on a turnover of ₹ 250.51 crore. We found from the case records that interstate sales amounting to ₹ 8.24 crore were supported by declarations in Form C which were

declared invalid by the Government of Nagaland. Thus, failure of the AOs to take note of the circular of the CT, Assam in this regard while finalising the assessments resulted in irregular allowance of concessional rate on the turnover covered by invalid declaration forms and short levy of tax of ₹ 1.65 crore including interest of ₹ 94.17 lakh.

**2.14.2.2** While finalising the assessments of nine dealers<sup>11</sup>, the AOs irregularly allowed concessional rate of tax on interstate sales valued at ₹ 10.01 crore as detailed in the table below. This resulted in short levy of tax amounting to ₹ 1.47 crore including interest of ₹ 71.65 lakh.

				(₹ in lakh)
<u>Name of the Unit</u> No. of dealers	<u>Period of assessment</u>	<u>Assessed between</u>	<u>Nature of irregularities</u>	<u>Amount of tax (including interest)</u>
<u>Tezpur, Digboi</u> Two	2002-03, 2004-05, 2003-04	June 2007 and September 2007	Concessional rate of tax was allowed on interstate sale of ₹ 1.83 crore against Form C. Scrutiny revealed that the forms were photocopies of the declaration form instead of the original.	30.00 (14.65)
<u>Guwahati Unit 'A'</u> Three	2003-04, 2004-05	March 2007 and March 2008	Concessional rate of tax was allowed on interstate sale of ₹ 3.23 crore against Form C. Scrutiny revealed that the forms were issued prior to the date of registration.	60.00 (31.00)
<u>Guwahati Unit 'A,'</u> <u>Doomdooma,</u> <u>Kabaitary Check Post</u> Three	2004-05, 2006-07	August 2007 and August 2008	Concessional rate of tax was allowed on interstate sale of ₹ 5.38 crore against declaration in Form C. Scrutiny revealed that the forms were defective as registration number of the purchasing/selling dealer and the date from which registration was valid, invoice number and date, name of the dealer to whom the forms were issued by the purchasing dealer etc. were not mentioned therein.	49.00 (21.00)
<u>Guwahati Unit 'A'</u> One	2003-04	March 2007	Concessional rate of tax was allowed on interstate sale of ₹ 56.67 lakh though the dealer did not furnish declaration in Form C in support of the claim.	8.00 (5.00)
<b>Total</b>				<b>147.00</b> <b>(71.65)</b>

We brought the cases to the notice of the Department/Government between August 2007 and December 2008; we are yet to receive their comments/ replies (November 2010).

<sup>11</sup> (1) M/s Ambika Electric Stores, (2) M/s Anjali Tea Company, (3) M/s Gastetner India Ltd, (4) M/s Indian Oil (Marketing Division) Ltd, (5) M/s Ledo T.E, (6) M/s N.L. Enterprise, (7) M/s Pfizer Ltd, (8) M/s R.K. Corporate and (9) M/s Samsung India Electronics Ltd.

# **CHAPTER-III**

## **STATE EXCISE**



## CHAPTER-III : STATE EXCISE

### 3.1 Tax administration

In Assam all excisable items such as beer, country spirit, extra neutral alcohol (ENA) and other spirits are imported from outside the State. India made foreign liquor (IMFL) is manufactured and bottled in the State and also imported from outside the State. The import of such goods is regulated according to the provision of the Assam Excise (AE) Act, 1910 and the Assam Excise Rules (AER), 1945, and various administrative orders issued from time to time. The Assam Bonded Warehouse Rules, 1965, (ABW Rules) regulate the establishment and working of bonded warehouses. The administration of the Excise Duties/Receipts has been vested with the Excise Department. The Commissioner of Excise is the head of the Department and he has been authorised to collect the excise duties/receipts for the State.

### 3.2 Analysis of budget preparation

As per the provisions of the Assam Budget Manual, the estimates of revenue and receipts should show the amount expected to be actually realised within the year, arrears for previous years and advance collections for the coming year. In estimating fixed revenue, the calculations should be based upon the actual demand including arrears due for past years and the probability of its realisation during the year. According to the provision of the Assam Financial Rules, the Finance Department is required to prepare the estimates of revenue on obtaining necessary information/data from the respective Department/Government.

The Government of Assam, Excise Department stated (July 2010) that the budget estimates of revenue were prepared by enhancing 10 *per cent* on the previous year's collection. But the table below does not justify the statement of the Government. This indicated that neither the provisions of the Budget Manual nor any scientific basis was adopted while preparing the estimates of revenue.

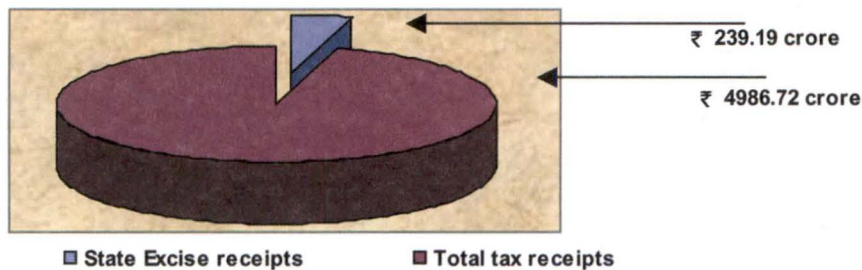
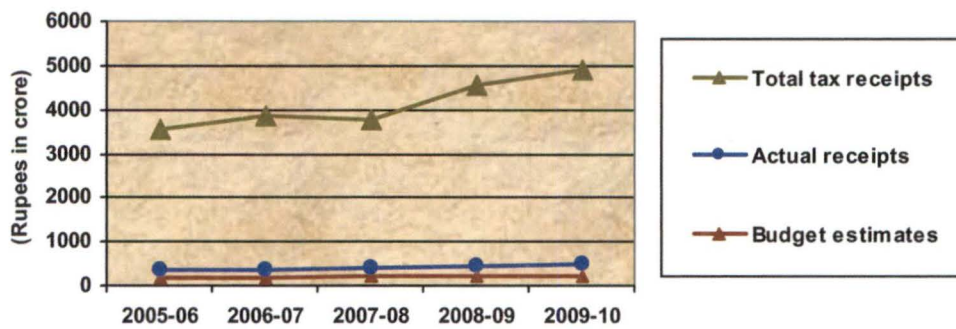
### 3.3 Trend of receipts

Actual receipts from State Excise during the last five years 2005-06 to 2009-10 along with total tax receipts during the same period is exhibited in the following table, graphs and pie chart.

(₹ in crore)

Year	Budget estimate	Actual receipts of Excise	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	172.15	160.40	(-) 11.75	(-) 7	3,232.21	5
2006-07	184.61	174.88	(-) 9.73	(-) 5	3,483.32	5
2007-08	204.92	188.71	(-) 16.21	(-) 8	3,359.50	6
2008-09	223.30	198.68	(-) 24.62	(-) 11	4,150.21	5
2009-10	235.90	239.19	3.29	1	4,986.72	5





### 3.4 Cost of collection

The gross collection of excise duty, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2005-06 to 2008-09 along with the relevant all India average percentage of expenditure on collection to gross collection is mentioned below.

(₹ in crore)				
Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection
2005-06	160.40	7.76	5	2.67
2006-07	174.88	9.70	6	3.30
2007-08	188.71	10.37	6	3.27
2008-09	198.68	11.62	6	3.66

Thus, the percentage to gross collection in all the four years (2005-06 to 2008-09) was significantly higher than the All India average percentage of expenditure on collection.

**We recommend that the Government take appropriate steps to reduce the cost of collection.**

### 3.5 Impact of audit

During the period 2004-05 to 2008-09, we through our inspection reports (IRs) had pointed out non/short realisation of establishment charge/excise duty, non-payment of licence fee and other irregularities with revenue implication of ₹ 16.01 crore in 241 cases. Of these, the DDOs/Department had

accepted audit observations in 14 cases involving ₹ 36 lakh and had since recovered ₹ five lakh. The details are shown in the following table.

(₹ in crore)

Year of Inspection Report	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	14	49	1.32	0	0	Nil	Nil
2005-06	13	42	3.72	4	0.05	4	0.05
2006-07	20	56	8.40	4	0.12	Nil	Nil
2007-08	21	51	1.15	4	0.14	Nil	Nil
2008-09	19	43	1.42	2	0.05	Nil	Nil
<b>Total</b>	<b>87</b>	<b>241</b>	<b>16.01</b>	<b>14</b>	<b>0.36</b>	<b>4</b>	<b>0.05</b>

The recovery made (except 2005-06) against the paragraphs accepted could not be ascertained mainly because of non-receipt of replies from the Department/Government.

### 3.6 Working of internal audit wing

The Finance Department, Government of Assam had neither put in place an Internal Audit Wing for the Excise Department nor did the Excise Department engage some other body like the Director of Local Audit for internal audit of the records/accounts of the Department. This indicated a serious deficiency in the internal control mechanism of the Government.

### 3.7 Results of audit

Our test check of the records of 11 units of State Excise Department, conducted during the year 2009-10 revealed non/short realisation of establishment charges, non-payment of licence fee, loss due to warehouse going dry, non/short realisation of excise duty etc., amounting to ₹ 5.32 crore in 76 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short realisation of establishment charge	8	0.22
2.	Non-payment of licence fee	11	0.71
3.	Loss due to warehouse going dry	8	1.01
4.	Loss due to non-levy of excise duty	10	0.62
5.	Other irregularities	39	2.76
<b>Total</b>		<b>76</b>	<b>5.32</b>

During the course of the year, the Department accepted non/short realisation of establishment charges/excise duty and other deficiencies of ₹ 1.48 crore in 18 cases, of which five cases involving ₹ 11 lakh were pointed out by us during the year 2009-10 and the rest in earlier years. An amount of ₹ 1.27 crore was realised in 16 cases during the year 2009-10.

A few illustrative audit observations involving ₹ 76.73 lakh are mentioned in the following paragraphs.

### 3.8 Audit observations

*Our scrutiny of records of the State Excise Department revealed several cases of non-observation of the provisions of Acts/Rules/departmental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by us. Such omissions on the part of the departmental officers are pointed out by us each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system including establishing an internal audit wing.*

### 3.9 Non-levy of excise duty for short lifting of rectified spirit

[Superintendent of Excise (SE), Jorhat and Tinsukia; February and March 2009]

The Assam Excise Rules (AER), 1945, provide that the licensee is required to prove to the authority granting a pass that the quantity specified in the pass has actually been delivered to the officer-in-charge of the rectified spirit warehouse. In case of non-lifting of the full quantity, the licensee has to obtain non-execution certificate (NEC) duly countersigned by the SE of the district (CE's order of October 2004) and furnish it to the Commissioner of Excise (CE) within 15 days from the date of expiry of the validity of the permit. Otherwise, a sum equal to the amount of duty payable will be realised from him.

We observed that two licensees, M/s Jorhat Rectified Spirit Warehouse and M/s Rangpur Trading Company Ltd., were permitted (June 2008 and November 2008) to lift two lakh bulk litre (BL<sup>1</sup>) and one lakh BL of rectified spirit by September 2008 and March 2009 respectively. We found that the licensees together lifted only 1.80 lakh BL rectified spirit and did not furnish NECs for non-lifting the balance 1.20 lakh BL of spirit within the specified period of 15 days. The

Department did not raise demand for recovering the excise duty of ₹ 39.70 lakh<sup>2</sup> from the licensees.

After we pointed out the mistake, the SE, Tinsukia furnished a copy of the NEC in respect of M/s Rangpur Trading Company Ltd. for non-supply of 60,000 BL of rectified spirit. The NEC was not acceptable as it was not countersigned by the concerned SE. We are yet to receive further replies of the SE, Tinsukia while the SE, Jorhat has not given any specific reply (November 2010).

We reported the matter to the Department/Government in May 2009; we are yet to receive their comments/replies (November 2010).

<sup>1</sup> 1 BL = 1.654 LPL (Rate of duty = ₹ 20 per LPL).

<sup>2</sup> 1.20 lakh BL x 1.654 LPL x ₹ 20 per LPL = ₹ 39.70 lakh.

### 3.10 Non-realisation of licence fee

[SE, Diphu and Kamrup; April and July 2009]

The AER provides that the licensee of wholesale bonded warehouse and foreign liquor 'Off' and 'On' licence holder are required to pay annual fee in advance for renewal of their licences.

In case of failure, their shops are to be closed with the approval of the CE (instruction No. 141 under Chapter-IV of NE Region Excise Manual) till the fees are paid. Their licences are also to be cancelled in case they do not pay the fees promptly after closure of their shops.

Four<sup>3</sup> licensees of wholesale bonded warehouse and seven<sup>4</sup> foreign liquor 'Off' and 'On' licences<sup>5</sup> holders did not pay licence renewal fee for the years between 2005-06 and 2009-10. The CE did not take any action to close their shops or to cancel their licences. In contravention of the provisions of the AER, the CE allowed these licensees to function by issuing

permits regularly without realisation of the licence fee of ₹ 16.10 lakh due from them.

After we pointed this out, the SE, Diphu stated (July 2009) that demand would be raised for recovery of the renewal fees. The reply was, however, silent regarding the reasons for inaction till this was pointed out in audit. We are yet to receive replies in the remaining cases (November 2010).

We reported the matter to the Department/Government in September-October 2009; we are yet to receive their replies (November 2010).

<sup>3</sup> (i) M/s Himalaya Distilleries Pvt. Ltd., Guwahati, (ii) M/s N.K. Bonded Warehouse, Diphu, (iii) M/s Seven Sisters Bonded Warehouse, Guwahati and (iv) M/s SKOL Breweries Ltd. Bonded Warehouse, Guwahati.

<sup>4</sup> (i) M/s ENRG Bar-cum-Restaurant, Gorchuk, (ii) M/s Greenwood, Sri Siddharta Sarkar, (iii) M/s Jiban Baruah, Guwahati, (iv) M/s N M Wineshop, Ambari, (v) M/s N P Wineshop, Ratul Choudhury, Lalmati, (vi) M/s Red Rench "A" Plus Bar, Getika Baruah Changkati, Amirigog and (vii) M/s Sudhir Krishna Mahanta, Guwahati.

<sup>5</sup> Off & On licence: "Off"-Licence for retail sale of foreign liquor to the public for consumption 'off' the premises and "On"- Licence for sale of foreign liquor to the public for consumption 'on' the premises except in hotels, restaurants, theatres, cinemas or other permanent places of amusement.

### 3.11 Non-realisation of establishment charges/availability fees

[SE, Silchar and Jorhat; February and March 2009]

The Assam Bonded Warehouse Rules, 1965 and the Assam Distillery Rules, 1945, provide that the CE shall appoint such excise officer and establishment as he thinks fit to the charge of bonded warehouses/distilleries and for this, the licensee shall pay availability<sup>6</sup> fee (in lieu of establishment charges in respect of the excise officials attached to the warehouse/distillery) at the end of each calendar month on the total quantity of IMFL/Beer sold during the month.

Two<sup>7</sup> distilleries and two<sup>8</sup> bonded warehouses did not pay the availability fees of ₹ 9.09 lakh due for the period between January 2008 and January 2009 for the excise officials engaged in their warehouses/distilleries. The concerned SEs also

did not issue demand notices to the defaulters for payment of availability fees.

We reported the matter to the Department/Government in May 2009; we are yet to receive their comments/replies (November 2010).

### 3.12 Non-realisation of label renewal fee

[SE, Kamrup; April and June 2009]

As per notification dated 17 August 2005 of Excise Department, Government of Assam, the manufacturing units of IMFL products are to pay label renewal fee in advance on annual basis.

Three<sup>9</sup> Guwahati based manufacturing units/bottling plants did not pay label renewal fee of ₹ 6.25 lakh for the year 2009-10. The SE, Guwahati neither raised any demand for realisation of the amount nor took any action against unauthorised removal of liquor

without clearance of brand renewal fees. Another distillery (M/s North East Distillery Pvt. Ltd., Khanapara, Guwahati) had applied (March 2009) for renewal of brand label. But we did not find the realisation of the fee of ₹ 2.70 lakh from the distillery. The Excise Officials posted in the distillery also failed to report the matter to the concerned SE.

We brought this to the notice of the Department/Government in September 2009; we are yet to receive their comments/replies (November 2010).

<sup>6</sup> Availability fee is a fee in lieu of establishment charge to be paid by the bonder at the end of each calendar month with effect from 18 March 2005 on the total quantity of IMFL/beer sold during a month.

<sup>7</sup> (i) M/s Associated Beverage Co., Jorhat and (ii) M/s Surma Distillery Pvt. Ltd, Silchar.

<sup>8</sup> (i) M/s Barak Warehouse Pvt. Ltd., Silchar and (ii) M/s S.B. Bonded Warehouses, Silchar.

<sup>9</sup> (i) M/s Diageo India Pvt. Ltd., (ii) M/s Himalaya Distillery Pvt. Ltd. and (iii) M/s Indo Assam Distillery Pvt. Ltd.

**3.13 Loss of revenue due to warehouse going dry**

[SE, Kamrup; June 2009]

The AER provide that a contractor shall maintain such minimum stock of spirit in the warehouse as may be fixed from time to time so that the warehouse does not go dry. Otherwise, he is required to compensate the loss of revenue sustained by the Government owing to his failure to maintain adequate/ minimum stock of spirit.

The contractor/licensee M/s Guwahati Excise Warehouse did not maintain adequate/ minimum stock of spirit and the stock declined to zero during the period from 24 August to 4 October 2007 (42 days). As a result, the Government sustained loss of revenue of ₹ 2.89 lakh (calculated on the preceding three month's daily

average collection of excise duties), which the contractor did not compensate.

We reported the case to the Department/Government in September 2009; we are yet to receive their comments/replies (November 2010).



## **CHAPTER-IV**

# **LAND REVENUE**





## CHAPTER-IV : LAND REVENUE

### 4.1 Tax administration

The Assam Land and Revenue Regulation (ALRR), 1886, along with four other ancillary Acts<sup>1</sup> and Rules made and instructions issued thereunder prescribe the procedure governing assessment, levy and collection of land revenue as well as the functions of the Revenue Department. In addition to land revenue, all land, whether revenue paying or held free of revenue, are assessed to local rates under the Assam Local Rates Regulation, 1879. The Revenue Department, Government of Assam is responsible for collection of land revenue through *Kanongoos, Mondals and Patowaries* in respect of Goalpara District and Barak Valley and through *Mouzadars* appointed by Deputy Commissioners in respect of Brahmaputra Valley.

### 4.2 Analysis of budget preparation

As per the provisions of the Assam Budget Manual, the estimates of revenue and receipts should show the amount expected to be actually realised within the year, arrears for the previous years and advance collections for the coming year. In estimating the fixed revenue, the calculations should be based upon the actual demand including arrears due for past years and the probability of its realisation during the year.

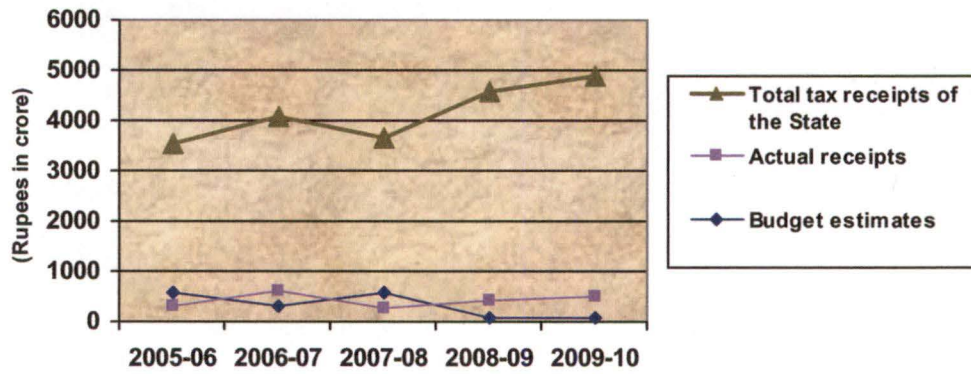
The parameters taken into consideration for preparation of budget estimates by the Government of Assam, Revenue Department, could not be ascertained in audit. The Government, however, stated that the budget estimates are prepared every year by enhancing 30 per cent on the collection of the previous year. This is also not correct as may be seen from the following paragraph.

### 4.3 Trend of receipts

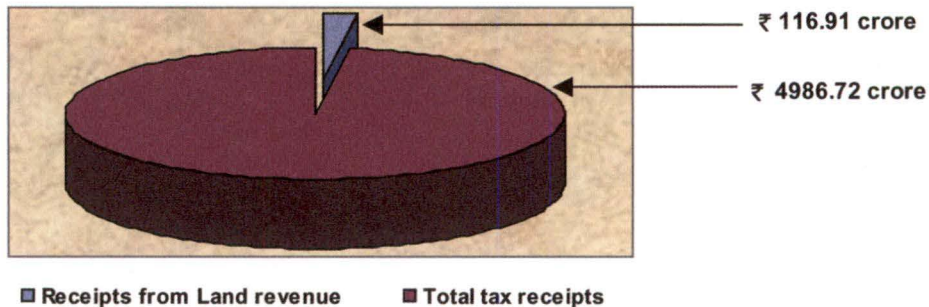
Actual receipts from land revenue during the last five years 2005-06 to 2009-10 along with total tax receipts during the same period is exhibited in the following table and graph.

Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	₹ in crore)	
					Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	129.31	74.65	(-) 54.66	(-) 42	3,232.21	2
2006-07	183.07	74.15	(-) 108.92	(-) 59	3,483.32	2
2007-08	91.55	79.76	(-) 11.79	(-) 13	3,359.50	2
2008-09	90.49	113.36	22.87	25	4,150.21	3
2009-10	89.38	116.91	27.53	31	4,986.72	2

<sup>1</sup> (1) Assam Land Revenue Reassessment Act, 1936 (2) Assam Land Revenue and Rent (Surcharge) Act, 1970 (3) Assam Land (Requisition & Acquisition) Act, 1964 and (4) Assam Land Holding (adoption of relation under the Assam Land and Revenue Regulation, 1886 in the acquired permanently settled estate) Act, 1974.



The table and the line graph above indicate that though there were shortfalls in the collection over the budget estimates (BEs) between 2005-06 to 2007-08, the collection increased to 25 per cent and 31 per cent in 2008-09 and 2009-10 respectively. The wide variation between the BEs and the actual receipts underline the fact that the BEs were not prepared in a scientific manner.



The share of land revenue to the total tax receipts remained static at around two per cent during 2005-06 to 2007-08 and increased to three per cent in 2008-09 but again fell to two per cent in 2009-10.

#### 4.4 Impact of audit

During the last five years, we through our inspection reports (IRs), had pointed out non/short recovery of land revenue, non-levy of surcharge, retention of cash in hand, etc, with revenue implication of ₹ 58.39 crore in 352 paragraphs. Of these, the Department/Government had accepted audit observations in 25 paragraphs involving ₹ 1.33 crore. The details are shown in the following table.

Year of Inspection Report	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	25	73	12.12	2	0.17	Nil	Nil
2005-06	18	55	17.94	11	0.37	Nil	Nil
2006-07	34	58	13.20	10	0.31	Nil	Nil
2007-08	27	107	4.30	2	0.48	Nil	Nil
2008-09	26	59	10.83	Nil	Nil	Nil	Nil
<b>Total</b>	<b>130</b>	<b>352</b>	<b>58.39</b>	<b>25</b>	<b>1.33</b>	<b>Nil</b>	<b>Nil</b>

Though the department accepted 25 cases involving ₹ 1.33 crore against 352 cases featured in the IRs for the years from 2004-05 to 2008-09, the recovery made, if any, was not intimated to us.

#### 4.5 Working of internal audit wing

The Finance Department, Government of Assam had not put in place an Internal Audit Wing with the Department nor did the Land Revenue Department engage some other body like the Director of Local Audit for audit of the records/accounts of the Department internally. As such, the records/accounts of the Revenue Department as well as the unit offices at the district level were not subjected to internal audit. Thus, an important component of the internal control mechanism of the Government was lacking.

#### 4.6 Results of audit

Our test check of records of 16 units relating to Land Revenue revealed underassessment of tax and other irregularities involving ₹ 21.61 crore in 59 cases which fall under the following categories:

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1.	Recovery of dues treated as arrears of land revenue (A review)	1	1.97
2.	Retention of cash balances beyond permissible limit	9	0.53
3.	Outstanding land revenue	11	14.57
4.	Other irregularities	38	4.54
<b>Total</b>		<b>59</b>	<b>21.61</b>

During the course of the year, the Department accepted audit observations in two cases involving ₹ 1.97 crore which were pointed out by us during 2009-10.

A review on "Recovery of dues treated as arrears of land revenue" involving ₹ 1.97 crore and other audit observations involving ₹ 4.80 lakh are mentioned in the following paragraphs.

## 4.7 Recovery of dues treated as arrears of land revenue

### Highlights

Recovery of arrears ranged between 2.56 and 8.18 *per cent* during the five years from 2004-05 to 2008-09. 1,08,027 certificate cases involving recovery of ₹ 350.76 crore were pending at the end of 31 March 2009.

(Paragraph 4.7.6)

Absence of guidelines was fraught with the risks of gaps in documentation resulting in difficulty in verifying the occurrences and genuineness of public demand cases.

(Paragraph 4.7.7)

Non-recording and inordinate delay in instituting certificate cases led to delay in recovery of certified dues of ₹ 45.38 crore.

(Paragraph 4.7.9)

Certified dues of ₹ 23.91 crore remained unrealised due to non-execution of 259 certificate cases.

(Paragraph 4.7.10)

Due to non-pursuance of certificate cases pending in Civil Courts/High Court, certified dues amounting to ₹ 3.16 crore remained unrealised.

(Paragraph 4.7.15)

The Government sustained loss of revenue of ₹ 1.71 crore due to non-levy of interest on the dues realised.

(Paragraph 4.7.18)

### 4.7.1 Introduction

For recovery of public demands<sup>2</sup>, the Government of Assam has adopted the Bengal Public Demands Recovery (PDR) Act, 1913. The PDR Act provides that any sum recoverable as public demand can be recovered by effecting service of written demand, sale of movable property, attachment of the estate or holding, proceeding against other immovable property held by the defaulter and arrest and detention of the defaulter.

The modes of recovery of arrears of the Government departments/undertakings, corporations, banks etc., are laid down in the relevant Acts of the concerned Departments/organisations. However, if recovery cannot be effected and the dues become irrecoverable under the provisions of the relevant Acts, the officers responsible for administering those Acts are required to send the requisitions in the prescribed form, furnishing full details of the defaulter and the recovery to be effected as public demands to the certificate officer for initiation of certificate proceedings. The certificate proceeding is initiated by serving a demand notice on the certificate debtor

<sup>2</sup> Public demands mean arrears of land revenue, other revenue, demand of Government other than revenue and demands due to persons other than Government.

once the certificate officer is satisfied that the dues are legally due. If the debtor does not respond to the notice served, the recovery can be made (after 30 days of serving notice) under Section 14 of PDR Act by adopting any or all of the following methods.

- i) by attachment and sale or by sale without attachment of any property
- ii) by attachment of any decree
- iii) by arresting the certificate debtor and detaining him in the civil prison

**We conducted a review on 'Recovery of dues treated as arrears of land revenue' covering the period from 2004-05 to 2008-09 to study the effectiveness of the systems prescribed for recovery of public demands. The review revealed a number of system and compliance deficiencies which are discussed in the succeeding paragraphs.**

#### **4.7.2 Organisational setup**

The Principal Secretary (Revenue), Government of Assam administers the certificate organisation (*Bakijai* Branch) through the Commissioners of four<sup>3</sup> divisions covering all the 27 districts in the State of Assam. At the district level the Deputy Commissioner/Collector is responsible for monitoring recoveries under the PDR Act for execution of certificates of recovery of public demand. There is no separate sanctioned post for the *Bakijai* branch. The staff of the Deputy Commissioner (DC)/Collector's office are utilised for administering the certificate cases.

#### **4.7.3 Audit objectives**

We conducted the review with a view to assess:

- the effectiveness of the administration for recovery of public demand to collect the dues treated as arrears of land revenue;
- the compliance to the prescribed rules and procedure related to recovery of the dues treated as arrears of land revenue; and
- the efficacy of the internal control mechanism and internal audit.

#### **4.7.4 Audit scope and methodology**

We selected 10<sup>4</sup> out of 27 district collectorates for test check of their records covering the period from 2004-05 to 2008-09 with reference to the provisions of the PDR Act between October 2009 to February 2010. We also verified the records of the four Commissionerates and the Government.

<sup>3</sup> 1) Lower Assam, 2) Upper Assam, 3) North Assam and 4) Hills & Barak Valley.

<sup>4</sup> (1) Upper Assam (Jorhat); (2) Lower Assam (Darrang, Kamrup (Metro), Kamrup (Rural, Nalbari); (3) North Assam (Nagaon, Sonitpur); and (4) Hills & Barak Valley (Karimganj, Hailakandi, Karbi Anglong).

#### 4.7.5 Acknowledgement

We acknowledge the co-operation of the Revenue Department for providing necessary information to audit. We organised an entry conference in December 2009 wherein the audit criteria, objectives and methodology were discussed with the Principal Secretary, Revenue. We communicated our findings to the Department in June 2010 and discussed the same in the exit conference held in July 2010 with the Principal Secretary, Revenue. The replies on the draft review were received in August 2010 and we incorporated the same suitably in the respective paragraphs.

#### Audit findings

#### 4.7.6 Trend of arrears

The position of total demand for recovery, demand settled and balance carried over to the following year during the period 2004-05 to 2008-09, as per the details furnished by the Commissioners and collected during field audit, in respect of 27 district collectorates<sup>5</sup> were as under:

**Table-I**  
**Trend of arrears and recovery of dues**

Sl. No.	Year	(₹ in crore)					
		Opening balance	Cases instituted during the year	Total cases	Cases disposed during the year	Balance	Percentage
		<u>No. of cases</u> Amount	<u>No. of cases</u> Amount	<u>No. of cases</u> Amount	<u>No. of cases</u> Amount recovered	<u>No. of cases</u> Amount	<u>Disposal</u> Amount
1	2	3	4	5	6	7	8
1.	2004-05	99,989	6,948	1,06,937	2,588	1,04,349	2.42
		185.86	57.86	243.72	8.33	235.39	3.42
2.	2005-06	1,04,349	2,668	1,07,017	2,061	1,04,956	1.93
		235.39	30.35	265.74	12.23	253.51	4.60
3.	2006-07	1,04,956	2,627	1,07,583	1,834	1,05,749	1.70
		253.51	42.61	296.12	18.35	277.77	6.20
4.	2007-08	1,05,749	3,478	1,09,227	1,508	1,07,719	1.38
		277.77	38.69	316.46	8.09	308.37	2.56
5.	2008-09	1,07,719	3,068	1,10,787	2,760	1,08,027	2.49
		308.37	73.62	381.99	31.23	350.76	8.18
<b>Total</b>			<b>18,789</b>		<b>10,751</b>		
			<b>243.13</b>		<b>78.23</b>		

Thus, the percentage of disposed cases varied between 1.38 and 2.49 per cent of the total pending cases. Collection effected varied from 2.56 and 8.18 per cent compared to the total demand for the respective years. The disposal with reference to opening balance of 2004-05 and the cases instituted during the last five years was only nine per cent. The department had not fixed any target for disposal of pending cases by each collectorate leading to accumulation of ₹ 350.76 crore in 1,08,027 cases at the end of the year 2008-09 against ₹ 185.86 crore in 99,989 cases at the beginning of the year 2004-05.

<sup>5</sup> (1) Bongaigaon, (2) Barpeta, (3) Baksa, (4) Chirang, (5) Cachar, (6) Dibrugarh, (7) Dhubri, (8) Dhemaji, (9) Darrang, (10) Golaghat, (11) Goalpara, (12) Hailakandi, (13) Jorhat, (14) Kokrajhar, (15) Karimganj, (16) Karbi Anglong, (17) Kamrup (Metro), (18) Kamrup (Rural), (19) Morigaon, (20) North Lakhimpur, (21) Nagaon, (22) Nalbari, (23) NC Hills, (24) Tinsukia, (25) Sibsagar, (26) Sonitpur and (27) Udalguri.

This indicates ineffectiveness in implementation of the PDR Act in the State of Assam. The Government or the Commissioners could not provide us the age-wise pendency of arrears and hence we could not analyse the pendency of arrears further. The Government did not also prescribe any report or return to be furnished periodically by the administrators to the controlling officers of the Department to keep a watch on the progress of public demand cases. This indicated weak monitoring mechanism in regard to recovery of dues at all the levels of the State Government.

We noticed that arrears in 38,147 cases (out of total 1,08,027 pending cases) involving recoverable dues of ₹ 58 crore were lying outstanding for more than five years as on 31-3-2009 in nine<sup>6</sup> out of 10 test checked districts.

The Government while accepting the audit contentions stated that suitable instructions will be issued to the district collectorates to reduce the pendency of certificate cases.

**The Government may consider prescribing reports/returns to be furnished periodically by the administrators to the controlling officers to enable monitoring of the progress of public demand cases and setting specific targets for disposal of certificate cases.**

### **System Deficiencies**

#### **4.7.7 Absence of guidelines**

The Government had neither prepared any manual nor issued any standing order about the system and procedure to be followed for initiation of certificate proceedings on receipt of requisition from the requisitioning authorities for administering the public demand. Absence of guidelines was fraught with the risk of gaps in documentation resulting in difficulty in verifying the occurrences and genuineness of public demand cases.

**The Government may consider preparing a departmental manual compiling all orders and detailing functions and responsibilities of departmental staff.**

#### **4.7.8 Manpower**

Manpower is a key instrument for efficient management of operational performance of an organisation to provide quality service to the stakeholders. Timely disposal of certificate cases in terms of the PDR Act is a key measure of the operational efficiency of the certificate organisation and is dependent on adequate and efficient manpower.

We found that there were no separate sanctioned posts for dealing with certificate cases in the 10 test checked districts. The work was managed by the existing staff of the amalgamated establishment of DC offices. Absence of dedicated manpower in the certificate organisation resulted in delay in disposal and increased the pendency of claims, as brought out in succeeding paragraphs.

<sup>6</sup> (1) Darrang, (2) Kamrup (Metro), (3) Kamrup (Rural), (4) Nalbari, (5) Nagaon, (6) Sonitpur, (7) Hailakandi, (8) Karimganj and (9) Karbi Anglong.



The Government accepted the audit observation and stated that district collectorates will be asked to earmark at least one UDA<sup>7</sup> level staff from their amalgamated establishment exclusively for dealing with the certificate cases under the supervision of one Additional Deputy Collector level officer, whose performance on certificate cases will be considered while recording his Annual Confidential Report.

**The Government may consider creating separate sanctioned posts as well as deployment of manpower for the certificate organisation (Bakijai Branch).**

#### 4.7.9 Non-recording of requisition for institution of certificate cases

The Bengal PDR Act, 1913 provides that the certificate officer on receipt of a requisition is required to sign a certificate after his satisfaction that the demand is recoverable and that the recovery of the demand by suit is not barred by law. The Act also provides for maintenance of a Register of Certificates cases wherein the particulars of the certificates are required to be recorded.

We found that the Government did not issue any standing order specifying the period within which a requisition received is to be converted into a certificate case. We also found that there was no system of reconciliation of records of the Requiring Officer (RO) and the Certificate Officer (CO) in

any of the 10 test checked districts. This resulted in delay in instituting certificate cases and consequent non-recovery of dues of ₹ 45.38 crore as discussed below:

(i) The district collectorates, Karbi Anglong and Jorhat neither recorded the six requisitions received between 2001-02 and 2006-07 in the register of certificate cases nor instituted certificate cases (February 2010). The details of the cases are shown in the table below:

**Table-II**

**Non-recording of requisitions for institution of certificate cases**

Sl. No.	Name of Office	Requiring Officer	Reference No. and date of requisition	Amount of public dues (₹ in lakh)
1	2	3	4	5
1.	District Collectorate, Karbi Anglong	Assistant Labour Commissioner, Golaghat	(i) Misc.IDA/2006/530-32 dt.12-7-2006 (ii) Misc.IDA/2006/534-36 dt. 12-7-2006	1.92 4.57
2.	District Collectorate, Jorhat	Chairman, Board of Trustee, ATPPF, Guwahati	(i) PF (L) 2002/S-146/6644-48 dt. 24-1-2002 (ii) PF(L)2002/S-199/6693-97 dt.24-1-2002 (iii) PF (L)/2003/S/266/1009-13 dt. 27-5-2003	26.62 38.78 36.98
3.	District Collectorate, Jorhat	Branch Manager, Apex Bank, Jorhat	No. Nil dt.4-4-2005	2,653.23
<b>Total</b>				<b>2,762.10</b>

<sup>7</sup> Upper Division Assistant.

The CO or the RO never reconciled their records to ascertain the actual position of the cases. Thus, non-reconciliation and non-recording the requisitions led to delay in initiation of the process for realisation of public dues amounting to ₹ 27.62 crore.

(ii) We observed that 324 certificate cases involving recoverable dues of ₹ 1.61 crore as on 31 March 2009 were awaiting settlement as per records of the Divisional Forest Officers, Nagaon and Karimganj against 122 cases involving ₹ 55 lakh in the records of the COs as detailed below:

**Table-III**  
**Variation between the figures of ROs and COs**

(₹ in crore)							
Sl No	Name of office	As per records of Divisional Forest Officers		As per records of the certificate officers		Difference	
		No of cases outstanding with certificate officers as on 31/3/09	Recoverable amount	No. of cases outstanding as on 31/3/09	Recoverable dues	No. of cases	Amount involved
1	2	3	4	5	6	7	8
1.	DFO, Nagaon Division	281	1.11	89	0.11	192	1.00
2.	DFO, Karimganj Division	43	0.50	33	0.44	10	0.06
<b>Total</b>		<b>324</b>	<b>1.61</b>	<b>122</b>	<b>0.55</b>	<b>202</b>	<b>1.06</b>

The COs did not reconcile their records with that of the ROs to ascertain the reasons for the difference of 202 cases involving recoverable dues of ₹ 1.06 crore.

(iii) In five out of the 10 test checked district collectorates we observed inordinate delays on the part of the COs ranging between two and 108 months (after receiving the requisitions) in instituting 1,089 certificate cases. This led to delay in recovery of ₹ 16.70 crore as shown in the following table:

**Table-IV**  
**Delay in conversion of requisitions into certificate cases**

Sl. No.	District	No. of cases	Recoverable amount (₹ in crore)	Month/Year of receipt of requisitions	Month/Year of institution of certificate cases	Period of delay In months)
1	2	3	4	5	6	7
1.	Nalbari	998	10.64	Between 1999-2000 and 2004-05	2008-09	48 to 108
2.	Darrang	22	0.30	August 2001	June 2003	22
3.	Jorhat	18	5.41	Between 2001-02 to 2007-08	2007-08	2 to 72
4.	Kamrup (Metro)	10	0.06	November 2006	October 2009	36
5.	Karbi-Anglong	41	0.29	Between May 2003 and July 2006	Between July 2008 and October 2008	27 to 61
<b>Total</b>		<b>1,089</b>	<b>16.70</b>			

We did not find any reasons for non-recording of the requisitions in the register of certificate cases and delay in institution of certificate cases for such long periods.

The Government stated that a time frame will be fixed for registering the requisitions and conversion of requisitions into certificate cases.

**The Government may consider prescribing the procedure for recording requisitions from the requisitioning authorities and also specifying a time frame within which a requisition received is to be converted into a certificate case.**

**4.7.10 Non-execution of certificate cases**

Section 7 of the PDR Act provides that the certificate officer is required to execute the certificate in the event of non-payment of dues by the certificate debtor after a lapse of 30 days of serving notice. In the event of denial of liability by the certificate debtor, the case is required to be heard by the certificate officer and after taking the evidences the demand is to be determined.

We observed that there was no mechanism for monitoring the execution of certificate cases at the Government level.

In six<sup>8</sup> out of 10 test checked districts, we found that 259 certificate cases were pending for execution. The details are given in the following table:

**Table-V  
Non-execution of certificate cases**

Sl. No.	District	Period of institution of Certificate Cases	No. of cases	Amount involved (₹ in lakh)	Irregularities
1	2	3	4	5	6
1.	Nalbari	January 1986 to May 2005	21	14.54	Notices/reminders were issued between June 1989 and June 2005. No further action was taken thereafter.
2.	Karimganj	June 2005	1	773.19	Demand notice was issued in July 2005 followed by reminder in July 2006. No action was taken thereafter.
3.	Kamrup (Metro)	January 2008	1	85.79	Demand notice was issued in February 2008, but the certificate debtors could not be traced at the given address. No further action was taken.
4.	Kamrup (Metro)	November 2003	1	147.13	Demand notice was issued in November 2003. No action was taken thereafter.
5.	Karbi Anglong	February 2002	4	14.04	Demand notice was not issued till date for reasons not on record.
6.	Karbi Anglong	Between 1998 and 2004	31	17.41	Reasons for non-execution could not be ascertained due to non-availability of records.
7.	Sonitpur	Between February 1997 and March 2008	108	157.24	Besides issue of demand notices, warrants in all the cases for arrest were issued more than once but not executed. No penal measures, like attachment /sale of properties of the certificate debtors, were adopted for realisation of the dues.
8.	Kamrup (Rural)	Between September 2001 and November 2007	62	108.22	
9.	Kamrup (Rural)	April 2007	9	10.36	These cases were instituted on 20 April 2007 and after the issue of first demand notices, no further action was taken to execute the cases.
10.	Nagaon	February 2001 to September 2008	5	547.35	These cases were instituted on receipt of requisitions from the authority of the Assam Tea Plantation Provident

<sup>8</sup> (1) Nalbari, (2) Karimganj, (3) Kamrup (Metro), (4) Kamrup (Rural), (5) Karbi Anglong and (6) Sonitpur.

11.	Karimganj	May 2001 to September 2001	16	515.40	Fund Scheme. But on receipt of request from the Managing Director of Assam Tea Corporation Ltd., these cases were deferred by the COs in January 2009 without the approval of the Government. The cases are pending (July 2010) resulting in locking up of recoverable dues of ₹ 10.63 crore. There is no provision in the Act for deferment of a certificate case once it is instituted.
<b>Total</b>			<b>259</b>	<b>2,390.67</b>	

The district collectors could not furnish the reasons for non-execution of the cases. This resulted in locking up of certified dues amounting to ₹ 23.91 crore.

The Government while accepting our point stated that the matter of non-execution/deferment of certificate cases would be examined/verified and remedial measures adopted.

**The Government may consider adopting an effective monitoring system for execution and disposal of certificate cases as per the provisions of the Act.**

#### 4.7.11 Lack of control in respect of public demand sent to other Collectors

The PDR Act provides that when a public demand is payable by a defaulter having property in a district(s) other than the one in which the arrear accrued or the sum is payable, the Collector may send to the Collector of the other district(s), a copy of the certificate indicating the name of the defaulter and such other particulars as may be necessary for his/her identification including the amount payable and the ground on which it is due. The Collector(s) of the other district(s) shall, on receiving the certificate, proceed to recover the amount stated therein as if it was a public demand which had accrued in his (Collector's) district.

**4.7.11.1** The District Collector of Kamrup (Metro), on receipt of a requisition from the authorities of Assam Financial Corporation, Guwahati, instituted in April 2002 a certificate case involving ₹ 15.11 lakh. On cross verification with the records of the RO, we found that the defaulter hailed from Sonitpur district of Assam and was having properties there. But the Collectorate did not transfer (February 2010)

the case to Sonitpur district for recovery of the loan as arrears of land revenue and instead retained the case without any further action. This resulted in non-recovery of certified dues amounting to ₹ 15.11 lakh.

**4.7.11.2** The Sales Tax Department of Madhya Pradesh had requested the District Collector, Kamrup (Metro) in 1999 to recover ₹ 10.60 lakh in respect of a dealer<sup>9</sup>. The Collector instituted the case on 16 September 1999 and issued a demand notice on the same day itself followed by a reminder on 19 January 2000. On 16 February 2000, the dealer presented himself through his

<sup>9</sup> M/s Bajrang Tea India Company, Guwahati.

advocate in the District Collector's Office. The Collector, in contravention of the extant rules, decided that as the arrears related to sales tax, the concerned department may be written to for recovery of the dues. Any correspondence made with the concerned tax department thereafter could not be ascertained in audit. The case is still pending (November 2010).

The Government accepted our observations and stated that suitable instructions would be issued to the district collectors to take action on certificates received.

#### 4.7.12 Slow pace of disposal of cases

The Bengal PDR Act provides that any sum recoverable as arrears of land revenue under various relevant Acts can be recovered by effecting attachment and sale of property, sale of property without attachment, attachment of any decree, arrest and detention of defaulter.

The year-wise position of certificates issued, the number of certificates where recovery was made and the balance cases during the period from

2004-05 to 2008-09 in respect of the 10 test checked districts are given below:

**Table-VI**  
**Slow pace of recovery**

Sl. No.	Year	Opening balance	Fresh cases instituted	Total demand	Disposal	Closing balance (5-6)	Percentage of pendency	Percentage of cases where recovery made
1	2	(Cases)	(Cases)	(Cases)	(Cases)	(Cases)	8	9
1.	2004-05	50,714	3,423	54,137	977	53,160	98.20	1.80
2.	2005-06	53,160	1,349	54,509	1,149	53,360	97.89	2.11
3.	2006-07	53,360	1,037	54,397	1,108	53,289	97.96	2.04
4.	2007-08	53,289	2,492	55,781	804	54,977	98.56	1.44
5.	2008-09	54,977	2,027	57,004	2,445	54,559	95.71	4.29

Thus, during 2004-05 to 2008-09, the percentage of recovery ranged between 1.44 and 4.29 of the total number of cases. The number of cases where recoveries were made was less than the cases instituted during 2004-05, 2005-06 and 2007-08, while the number of cases disposed of during 2006-07 and 2008-09 were higher than those instituted during these years. However, the pace at which the cases were disposed during the five years was not encouraging given the steady increase in the numbers of cases pending at the end of each year except in 2006-07, when the number of such cases came down marginally from 54,509 to 54,397. The Government had not framed an action plan for clearing the pending cases expeditiously.

Further check of the records revealed that:

- The District Collectorate of Jorhat reduced 30 cases amounting to ₹ 10.85 lakh from the closing balance for the year 2008-09 without recovering the arrears on the ground that the certificate debtors were not traceable and returned the cases to the certificate holders.

We found that no police report relating to non-traceability of the certificate debtors was obtained by the CO.

- The District Collectorates of Jorhat, Nagaon and Sonitpur during 2007-08 and 2008-09 had written off ₹ 68.20 lakh without assigning any reasons on record. The PDR Act does not provide for write off of any recoverable dues under the certificate cases and as such the action taken by the District Collectorates were not in order.

The Government, while accepting the audit contention, stated that periodical reviews will be conducted for quick disposal of the cases. The COs will be directed to enforce the provisions of the Act strictly and in case the certificate debtor is found untraceable, an untraceable report should be obtained and dues recoverable should not be written off.

**The Government may consider making the process of admittance and disposal of certificate cases time bound to minimise delays at various stages thereby causing blocking/non-realisation/loss of revenue.**

#### 4.7.13 Internal control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They also help in creation of reliable financial and management information system for prompt and efficient service and for adequate safeguards against defaults.

The internal control system in the department was inadequate as brought out below:

- Records relating to receipt and recording of requisitions were not maintained in any of the 10 test-checked collectorates as there was no defined procedure for maintaining of such records. Absence of such records rendered monitoring of receipt of requisitions and conversion of these requisitions into certificates difficult, if not, impossible.
- There was no system of periodical inspection of certificate cases by the higher authorities. The progress of disposal of cases and recovery thereof also remained unmonitored. Three<sup>10</sup> out of 10 test checked districts disposed/settled 11 certificates cases, involving recoverable dues of ₹ 65.36 lakh, but did not remove these from the balance cases and continued to exhibit them as live cases.
- Rule 79 under Schedule II of the Bengal PDR Act provides for maintenance of a Register of Certificate cases wherein the particulars of the certificates are required to be recorded. The Government/Department had not, however, prescribed any format for maintaining the register. We found that though the registers were maintained in all the 10 test checked districts, these did not disclose the required information needed for disposal, monitoring and supervision of certificate cases.

<sup>10</sup> 1) Kamrup (Metro) – one case, 2) Karbi Anglong –four cases and 3) Nagaon – six cases.

- There was lack of an effective system for monitoring the cases at the Government/Commissionerate level other than getting the consolidated statements of amounts outstanding for recovery. Information regarding the period of pendency of the certificate cases was not being intimated by the district collectorates to the Government/Commissionerates. The Government/Commissionerates had also never called for such details from the subordinate offices/officers. There was no prescribed format for the returns to be furnished to the higher authorities for monitoring the cases.

The Government accepted this and stated that guidelines prescribing a monitoring system and maintenance of registers in a prescribed format will be issued.

#### 4.7.14 Incorrect reporting of demands due

The statement of demands of revenue collection for the month of March 2009 as reported to the Government by the District Collectorates of Jorhat and Sonitpur, were not correct as may be seen from the following table:

**Table-VII**  
**Incorrect reporting of demands due**

Sl. No	District	Name of the Certificate Holders	Figures as per monthly statement for March 2009 submitted to Government		Figures as per records of the certificate officer		Difference	
			No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)	No. of cases	Amount (₹ in crore)
1	2	3	4	5	6	7	8	9
1.	Jorhat	ATPPF <sup>11</sup> Authority	142	9.19	38	9.73	104	0.54
		DFO <sup>12</sup> , Jorhat	19	0.11	14	0.47	5	0.36
2.	Sonitpur	DFO, Sonitpur	9	0.34	5	0.02	4	(-) 1.74

This indicated that the reports were prepared without verifying the basic records. The discrepancies remained unreconciled.

The Government stated that the District Collectorates will be directed to submit returns to the Government after proper scrutiny.

#### 4.7.15 Delay in recovery of certificate dues due to cases pending in Court

The following table shows that 92 cases involving ₹ 3.11 crore and five cases involving ₹ five lakh (filed between 2003-04 to 2008-09) were pending in Civil Courts and the High Court (as of March 2009) respectively but the COs did not pursue the matter for early settlement. The officers at higher levels also did not monitor the disposal of the court cases.

<sup>11</sup> Assam Tea Plantation Provident Fund.

<sup>12</sup> Divisional Forest Officer.

**Table-VIII**  
**Delay in recovery of certificate dues due to cases pending in Court**

(₹ in lakh)

Sl. No.	District	Cases pending in Civil Courts		Cases pending in High Court	
		No. of cases	Amount involved	No of cases	Amount involved
1	2	3	4	5	6
1.	Karimganj	1	1.25	Nil	Nil
2.	Kamrup (Metro)	5	236.13	Nil	Nil
3.	Sibsagar	10	2.96	Nil	Nil
4.	Kamrup (Rural)	18	27.72	Nil	Nil
5.	Nagaon	3	9.04	Nil	Nil
6.	Nalbari	Nil	Nil	5	5.00
7.	Morigaon	1	2.70	Nil	Nil
8.	Dhamaji	5	5.44	Nil	Nil
9.	Dhubri	42	21.91	Nil	Nil
10.	Cachar	7	3.51	Nil	Nil
<b>Total</b>		<b>92</b>	<b>310.66</b>	<b>5</b>	<b>5.00</b>

The pending court cases need to be pursued in the interest of recovery of certified dues.

The Government stated that the District Collectorates will be directed to monitor the pending court cases.

#### 4.7.16 Internal audit

Internal Audit is a vital component of the internal control mechanism and enables an organisation to assure itself that the prescribed systems are functioning reasonably well.

We found that there was no arrangement for any internal audit within the Department nor was any arrangement made for internal audit by the Finance Department for scrutinising the records relating to the

management of certificate cases. As no internal audit of the records of the Collectorates was conducted, we are not in a position to comment on the adequacy and efficacy of internal audit as far as recovery of dues is concerned.

The Government stated that the Finance Department will be requested to introduce the system of Internal Audit in respect of recovery cases.

#### 4.7.17 Computerisation

The activities of the Government at various levels relating to certificate cases had not been computerised.

The Government stated (August 2010) that a project on computerisation of certificate cases will be undertaken which will include development of a software.

**The Government may consider early computerisation of the entire gamut of activities relating to certificate cases so as to enable proper monitoring of the progress of certificate proceedings, quick disposal of the cases and prompt realisation of dues.**



## Compliance deficiencies

### 4.7.18 Non/short levy of interest on the dues realised under certificate cases

Section 16 of the PDR Act provides for recovery of interest at the rate of 6.25 *per cent* per annum on the demands from the certificate debtors, chargeable from the date of filing of the case upto the date of realisation of dues.

The COs of nine District Collectorates did not levy interest of ₹ 1.71 crore on the dues realised against 1,779 cases disposed of during 2004-05 to 2008-09 as shown in the following table :

**Table-IX**  
Non-levy of interest on the dues realised under certificate cases

Sl. No.	Districts	No. of cases for which records made available	Amount of interest not charged (₹ in lakh)
1	2	3	4
1.	Nalbari	125	7.41
2.	Karimganj	116	12.87
3.	Kamrup (Metro)	99	14.38
4.	Kamrup (Rural)	160	15.77
5.	Nagaon	311	30.42
6.	Sonitpur	304	29.45
7.	Jorhat	124	17.20
8.	Karbi Anglong	236	14.84
9.	Darrang	304	28.70
<b>Total</b>		<b>1,779</b>	<b>171.04</b>

We also noted that the rate of interest of 6.25 *per cent* was fixed in the year 1913, at the time of enactment of the PDR Act. The prescribed rate of interest is very low and has not been received since then. The Government of Assam had also not considered revising the rate so far (July 2010).

The Government stated that the COs will be directed to levy interest as per the PDR Act and the matter of revision of the rate of interest will be considered.

**The Government may consider enhancing the rate of interest recoverable from certificate debtors to act as a deterrent to habitual and willful defaulters.**

### 4.7.19 Delay in remittance/non-accounting of dues collected

The Bengal PDR Act stipulates that the recovered certificate dues are required to be remitted to the departments/organisations on whose behalf the certificates were issued immediately.

4.7.19.1 In six out of ten test checked districts there were delays ranging between one to 17 months in remitting the collected dues which led to accumulation of money at the end of each month. The amount accumulated upto March 2009 in six districts

aggregated to ₹ 1.01 crore as detailed below:

**Table-X**  
**Delay in remittance of recovered dues** (₹ in lakh)

Sl. No.	District	Accumulated amount upto March 2009
1	2	3
1.	Kamrup (Metro)	28.01
2.	Nagaon	57.48
3.	Karimganj	4.29
4.	Nalbari	2.57
5.	Darrang	3.13
6.	Jorhat	5.87
<b>Total</b>		<b>101.35</b>

We found that the dues collected were disbursed to the certificate holders on obtaining a receipt slip without recording the same in the Collection Register.

**The Government may issue directions for prompt remittance of recovered dues to the concerned departments and prescribing a format for the Collection Register.**

**4.7.19.2** The daily collection of certified dues was being recorded in the daily collection register and at the end of each day the collected amount was to be handed over to the cashier for accounting and crediting the amount in favour of the certificate holder on whose behalf the collection was made.

We found from the receipt books that the District Collectorates of Darrang and Nagaon (Koliabor Sub-division) between June 2007 and December 2008 collected certified dues amounting to ₹ 15,260 in 10 cases but this was neither recorded in the cash books nor accounted for in any other records. The details of the collection were as under:

**Table-XI**  
**Non-accounting of dues realised** (₹ in lakh)

Sl. No.	District	Period of collection	No of cases	Amount collected	Present position
1	2	3	4	5	6
1.	Darrang	December 2008	6	0.06	Not yet regularised
2.	Nagaon	June 2007 to August 2008	4	0.09	Not yet regularised
<b>Total</b>			<b>10</b>	<b>0.15</b>	

The Government while accepting the point stated that the District Collectorates will be directed to ensure that the recovered certificate dues are remitted to the concerned Department/organisation immediately.

#### **4.7.20 Conclusion**

Despite existence of enforceable provisions in the PDR Act, the Department failed to take effective and meaningful action to recover arrears of certificate dues. Improper maintenance of basic records, failure to invoke penal and coercive provisions in recovery proceedings, lack of co-ordination with other departments and delay in filing and disposing certificate cases were the main reasons which hampered the Department's efforts in effective and efficient collection of arrears of certificate dues. The absence of age-wise analysis of the instituted cases weakened the monitoring of pending cases with likely risk

of old cases becoming unrealisable. The internal controls were inadequate. The internal audit wing also did not exist. There was absence of automation which would have helped in effective monitoring of the system of recording and disposal of public demand cases.

#### **4.7.21 Recommendations**

To strengthen the system for compliance leading to streamlining the process of speedy disposal of the certificate cases, the Government of Assam may consider:

- Creating separate sanctioned posts as well as deployment of manpower for the certificate organisation (*Bakijai Branch*);
- Prescribing the format of reports and returns to be furnished periodically by the administrators to the controlling officers to keep a watch on the progress of public demand cases and setting specific targets for disposal of certificate cases;
- Preparing a departmental manual compiling all orders and detailing functions and responsibilities of departmental staff;
- Prescribing the procedure for maintenance of registers in respect of receipt of requisitions from the requisitioning authorities and specifying the time frame within which a requisition received is to be converted into a certificate case;
- Adopting an effective monitoring system on execution and disposal of certificate cases as per the provisions of the Act;
- Making the process of admittance and disposal of certificate cases time-bound to lessen the scope of undue delay at various stages thereby causing blocking/non-realisation/loss of revenue;
- Considering early computerisation of the entire gamut of activities relating to certificate cases so as to increase the pace of disposal of these cases and facilitate monitoring the progress of certificate proceedings, disposal and realisation of dues; and
- Enhancing the rate of interest recoverable from certificate debtors to act as a deterrent to habitual and willful defaulters.

## LAND REVENUE

### 4.8 Non-observation of the provisions of the Act and the Assam Treasury Rules

*As per executive instructions, mouzadars are allowed to retain cash in hand upto ₹ 10,000. The provisions of the Assam Treasury Rules state that any money received shall not be appropriated to meet departmental expenditure.*

*We found that mouzadars not only retained cash beyond the permissible limit but also utilised it towards meeting departmental expenditure instead of depositing the same into Government account. Though cases of unauthorised retention of cash have been repeatedly pointed out in earlier Audit Reports, the Department/Government failed to take any corrective steps. A few cases in this regard are discussed in paragraphs 4.8.1 and 4.8.2.*

#### 4.8.1 Retention of cash in hand by mouzadars

[Circle Officers, Doboka, Mayang and Tinsukia; April 2008 and January 2010]

In accordance with the executive instruction issued by the Land Revenue Department under notification dated 29 March 1996, no mouzadars is allowed to retain cash in hand beyond the permissible limit of ₹ 10,000 with regard to the land revenue collected by him. Subject to this limit, the mouzadar should remit the land revenue, local rates and other Government revenue collected by him into the treasury at least once in a month.

As per instructions under the Land Laws of Assam, the Sub-Deputy Collectors shall inspect the accounts of the mouzas in their respective jurisdictions at least twice a year. For this purpose they should inspect at least half of the mouzas in their charge every quarter of the year.

We found from the *Amdani* (Collection) Register that land revenue of ₹ 41.40 lakh (pertaining to the period from 1984 to 2009), collected between January 2007 and December 2009, was retained by thirteen<sup>13</sup> mouzadars<sup>14</sup> under the Circle Officers (COs), Doboka, Mayang and Tinsukia each in excess of the permissible limit ranging between ₹ 42,000 and ₹ 14.74 lakh. We also found that none of these mouzadars had been inspected by the Sub-Deputy

Collectors or the COs. This is indicative of lack of follow-up action on the instructions contained in the land laws of Assam. This also led to unauthorised retention of revenue of ₹ 41.40 lakh outside the Government account.

<sup>13</sup> (i) Bogdung (Part), (ii) Gharbandi (Part), (iii) Gobha, (iv) Kapashbari, (v) Manaha, (vi) Mayang, (vii) Namati, (viii) Niz ghagua, (ix) Pakaria, (x) Rongagora, (xi) Tingrai, (xii) Tinsukia and (xiii) Tipling (Part).

<sup>14</sup> *Mouzadars* are revenue officers appointed under Section 124 of the Assam Land and Revenue Regulation, 1886.

The CO, Doboka stated (June 2010) that after proper verification of records they found that the *mouzadar* of Namati *Mouza* retained ₹ 10.19 lakh and not ₹ 14.74 lakh as pointed out by audit. But the statement annexed to the reply disclosed that the *mouzadar* actually retained ₹ 19.87 lakh. In respect of Kapahbari *Mouza*, he stated that actual retention was ₹ 72,000 (₹ 24,000 retained by the *mouzadar* and the balance of ₹ 48,000 retained by the Jr. Assistant of Doboka Circle Office against whom departmental proceedings was on). We do not agree as the figures shown were after deduction of the amount of commission due to be paid to the *mouzadar*. We have not received any reply from other COs (November 2010).

We reported the cases to the Department/Government between August 2008 and February 2010; we are yet to receive their replies (November 2010).

#### 4.8.2 Utilisation of land revenue to meet departmental expenditure

[Circle Officer, Sonari; December 2008]

The Assam Treasury Rules provide that all moneys received by or tendered to Government on account of revenue of the State, shall without undue delay be remitted into treasury or into the bank. Money so received shall not be appropriated to meet departmental expenditure.

Land revenue of ₹ 4.80 lakh, collected during the period from 2005-06 to 2007-08 by three *mouzadars* of Abhoypur, Sapekhati and Silakuti, was unauthorisedly utilised as commission by the *mouzadars* in violation of the above rule. This resulted in unauthorized

appropriation of Government revenue of ₹ 4.80 lakh. This was also indicative of weak budgetary and expenditure controls and an instance of by-passing the required legislative approval.

We reported the case to the Department/Government in February 2009; we are yet to receive their reply (November 2010).

## **CHAPTER-V**

### **OTHER TAX RECEIPTS**



## CHAPTER-V: OTHER TAX RECEIPTS

### 5.1 Results of audit

Our test check of records in the offices dealing with the following revenue receipts during the year 2009-10 revealed non/short realisation of revenue amounting to ₹ 5.46 crore in 117 cases as shown below:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Taxes on Motor Vehicles	64	3.30
2.	Agricultural Income Tax	10	1.58
3.	Stamp duty and Registration fee	21	0.47
4.	Professional tax, Specified land, etc.	22	0.11
<b>Total</b>		<b>117</b>	<b>5.46</b>

During the course of the year 2009-10, the departments accepted 15 cases involving ₹ 6.12 crore, out of which three cases involving ₹ 12 lakh were raised during 2009-10 and ₹ 21 lakh realised in nine cases.

We noticed in one case that the Agricultural Income Tax Officer, Guwahati had assessed a dealer (M/s Biswanath Tea Company Ltd.) for ₹ 2.04 crore under section 19 of the Assam Agriculture Income Tax Act, 1939 for the year 2000-01. Though the assessee paid ₹ 2.54 crore, the Assessing Officer adjusted ₹ 3.66 crore as tax paid. This resulted in excess adjustment of tax of ₹ 1.12 crore.

After we pointed this out, the Department rectified the assessment order and reduced the excess adjustment by ₹ 1.12 crore.

A few illustrative audit observations involving ₹ 76.46 lakh are mentioned in the following paragraphs.



## 5.2 Audit observations

*Our scrutiny of records of Transport, Registration and Stamps and Taxation Departments revealed several cases of non-observation of the provisions of Acts/Rules/departmental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test-checks carried out by us. Though we point out such omissions on the part of the departmental officers each year, not only do the irregularities persist, these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system including strengthening of internal audit.*

## AGRICULTURAL INCOME TAX

### 5.3 Short levy of interest

[Agricultural Income Tax Officer, Guwahati; January-February 2009]

Section-35(B) of the Assam Agricultural Income Tax (AAIT) Act, 1939 provides that if an assessee fails to pay advance tax or pays advance tax less than 75 per cent of the tax assessed within the stipulated date, simple interest at two per cent is leviable on the first day of April of the assessment year upto the month of the assessment. Section 35 (H) of the Act further provides that where in any financial year the assessee has failed to pay advance tax by the prescribed date, he shall be liable to pay simple interest at one and half per cent per month with effect from the next day of the prescribed date of payment of advance tax for the respective quarter, on the unpaid amount by which the tax to be paid for the quarter falls short till the payment of such shortfall.

M/s Dunkenhegra Tea Private Limited was assessed (November 2007) to tax of ₹ 31.22 lakh for the years 1998-99 and 1999-2000. Since the assessee did not pay the assessed advance tax within the prescribed date or paid the same belatedly, interest of ₹ 7.05 lakh was leviable on the assessed tax. The AO however, levied interest of only ₹ 10,000. This resulted in short levy of interest of ₹ 6.95 lakh.

After we pointed out (March 2009) the mistake, the AITO stated (December 2009) that

demand notice was issued (April 2009) for payment of the balance interest. The reply was, however, silent on the reasons for such mistake in simple calculation of interest.

We reported the case to the Department/Government in March 2009; we are yet to receive their reply/comment (November 2010).

## TAXES ON MOTOR VEHICLES

### 5.4 Non-realisation of tax

[DTOs, Cachar, Jorhat, Kamrup (Registration & Licensing) and Karbi Anglong; December 2008 and February 2010]

The Assam Motor Vehicles Taxation (AMVT) Act, 1936 provides that taxes on motor vehicles are to be paid in advance on or before 15 April of each year or optionally in four equal installments payable on or before 15 April, 15 July, 15 October and 15 January respectively. The Act also provides that every owner of a motor vehicle who fails to pay the appropriate road tax in time shall be liable to pay a fine at a rate of ₹ five per day for each day of such delayed payment with effect from 9 May 2002.

As per the provisions of the AMVT Act, the District Transport Officer (DTO) is required to maintain a combined register to watch the recovery of tax. He is also required to review the register at periodic intervals and issue demand notices to defaulters.

The owners of motor vehicles in 340 cases did not pay road tax of ₹ 46.93 lakh for the period between July 2004 and December 2009. The DTOs were unaware of such non-payment of tax as the combined registers were not being reviewed. Consequently, they did not issue any demand notice to the defaulting vehicle owners for recovery of the dues. This resulted in non-realisation of road tax of ₹ 58.99 lakh including fine of ₹ 12.06 lakh for non-payment of dues within the stipulated time.

After we pointed this out, the DTOs, Jorhat and Karbi Anglong stated (August–November 2009) that

action/demand notices would be taken/issued soon. We have not received any further communication (November 2010).

We reported the cases to the Department/Government between April 2009 and February 2010; we are yet to receive their replies (November 2010).

## ENTRY TAX

### 5.5 Short payment of entry tax

[Assistant Commissioner of Taxes, Bongaigaon; August 2009]

As per serial number 55(e) of schedule of the Assam Entry Tax Act, 2008 (which came into force from 17 April 2008), caustic soda is taxable at the rate of 12.5 per cent.

We observed from Form No. ET - 4<sup>1</sup> that M/s Bongaigaon Refinery and Petrochemicals Limited, Dhaligaon imported (January–May 2009) caustic soda valued at ₹ 38.15 lakh and paid entry tax at the rate of two per cent instead of the prescribed rate of 12.5 per

cent. This resulted in short payment of entry tax of ₹ 4.02 lakh.

<sup>1</sup> Statement of purchase value.

After we pointed this out, the ACT, Bongaigaon while accepting our observation stated (February 2010) that the dealer had been assessed (January 2010) and a demand for ₹ 4.01 lakh raised against the dealer. We have not received the report on realisation of the amount (November 2010).

We reported the case to the Department/Government in September 2009; we have not received their replies (November 2010).

## PROFESSIONAL TAX

### 5.6 Non-payment of professional tax

[Assistant Commissioners of Taxes, Dhubri, Guwahati Unit-B, Jorhat, Tezpur and Superintendents of Taxes (ST), Morigaon and Naharkatia; May 2009 and December 2009]

The Assam Professions, Trades, Callings and Employments Taxation Act, 1947, provides that every person who carries on a trade, or who follows a profession or calling, or who is in employment within the State is liable to pay for each financial year a tax at the prescribed rates. Further, as per amendment made to the Act in April 1992, if a non-Government employer or enrolled person fails to pay tax within the due date, he shall be liable to pay simple interest at the rate of two *per cent* of the amount due for each month or part thereof for the period for which the tax remains unpaid.

Twenty eight registered dealers, under six unit offices, did not pay professional tax of ₹ 2.18 lakh for the years from 2002-03 to 2008-09. The failure of the AOs to detect the cases resulted in non-realisation of ₹ 2.18 lakh and interest of ₹ 1.69 lakh.

After we pointed this out, ST, Guwahati Unit-B and Morigaon stated (February 2010) that an amount of tax and interest of ₹ 53,000 was realised from seven dealers. We have not received any reply from other unit offices.

We reported the cases to the Department/Government between June 2009 and January 2010; we are yet to receive their replies (November 2010).

## STAMP DUTY AND REGISTRATION FEES

### 5.7 Short-realisation of stamp duty

[Senior Sub-Registrar, Silchar; February 2009]

The Indian Stamp (Assam Amendment) Act, 2004 modified the rate of stamp duty which became effective from 18 September 2004 as mentioned below:

Value of property	Stamp duty leviable
₹ 1,000 to ₹ 10,000	₹ 60 per ₹ 1,000
₹ 10,001 to ₹ 50,000	₹ 65 per ₹ 1,000
₹ 50,001 to ₹ 1,00,000	₹ 80 per ₹ 1,000
For every ₹ 1,000 or part thereof in excess of ₹ 1,00,001	₹ 120 per ₹ 1,000

The Senior Sub-Registrar, Silchar realised stamp duty of ₹ 66,000 against ₹ 3.29 lakh realisable on 29 conveyance/sales deeds registered between 6 June 2007 and 5 September 2008. This resulted in short-realisation of stamp duty of ₹ 2.63 lakh due to application of lower rates.

The Senior Sub-Registrar, Silchar and the Inspector General of Registration, Assam stated (May 2010) that the said 29 deeds were impounded and forwarded to the District Collector (DC), Cachar for realisation of the deficit stamp duty. The DC returned nine deeds on adjudication and realisation of stamp duty of ₹ 89,000. The balance 20 deeds were lying with the DC for realisation of deficit stamp duty of ₹ 1.74 lakh.

We reported the cases to the Government in April 2009; we are yet to receive any reply from them (November 2010).



## **CHAPTER-VI**

# **NON-TAX RECEIPTS**



## CHAPTER-VI : NON-TAX RECEIPTS

### 6.1 Results of audit

Our test check of records of 32 units dealing with mining and forest receipts during the year 2009-10 revealed loss of revenue due to illegal felling and removal/delay in disposal of timber and other deficiencies involving ₹ 347.84 crore in 84 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Mining Receipts - assessment, levy and collection of royalty, fees and rent (A review)	1	334.91
2.	Forest Receipts	83	12.93
<b>Total</b>		<b>84</b>	<b>347.84</b>

During the course of the year, the departments accepted audit observations involving ₹ 290.75 crore in nine cases, of which one case involving ₹ 289.70 crore was pointed out in audit during 2009-10 and the rest in earlier years. An amount of ₹ 57.18 crore was realised in six cases during the year 2009-10.

A review on 'Mining Receipts - assessment, levy and collection of royalty, fees and rent' involving of ₹ 334.91 crore and other audit observations involving ₹ 40.61 lakh are mentioned in the following paragraphs.



## **6.2 Mining Receipts - assessment, levy and collection of royalty, fees and rent**

### **Highlights**

Annual budget estimates were prepared without reference to past trends and future potential.

**(Paragraph 6.2.6)**

Suppression of production of crude oil, condensate and natural gas by Oil India Limited and Oil and Natural Gas Corporation Limited led to short payment of royalty and interest of ₹ 168.48 crore.

**(Paragraph 6.2.8.1)**

Non-payment of royalty (April 2008 to March 2009) on deducted discount on well head prices of crude oil distributed to oil marketing companies deprived the State of revenue of ₹ 525.04 crore.

**(Paragraph 6.2.8.2)**

Differential royalty of ₹ 10.48 crore, payable by the Central Government from Oil Industry Development Board Fund, was not claimed and realised by the State Government.

**(Paragraph 6.2.8.3)**

Due to computation of oil price at lower side during 2004-05 and 2008-09, ONGCL evaded royalty of ₹ 119.01 crore including interest.

**(Paragraph 6.2.8.4)**

Failure of the department to enforce payment of royalty on natural gas at well head price resulted in short realisation of ₹ 24.56 crore including interest.

**(Paragraph 6.2.12)**

Adoption of incorrect method for determination of royalty payable on natural gas resulted in loss of revenue of ₹ 11.97 crore.

**(Paragraph 6.2.13)**

Payment of royalty on the quantity of coal dispatched from the leased area instead of actual quantity extracted at pit mouth resulted in short payment of royalty of ₹ 6.45 crore.

**(Paragraph 6.2.15)**

### **6.2.1 Introduction**

For conservation, systematic development and regulation of mining activities in India, the Government of India (GoI) enacted the Mines and Minerals (Development and Regulation) (MMD&R) Act, 1957, the Mineral Concession Rules (MCR), 1960, the Mineral Conservation and Development Rules, 1988, the Granite Conservation and Development Rules, 1999 and the Colliery Control Rules, 2004. The mining activities in Assam are governed under the above Acts and the Assam Minor Mineral Rules, 1994 framed by the State

Government in exercise of the powers under the MMD&R Act. The levy and collection of royalty, dead rent and surface rent on minerals are regulated under the above cited Acts/Rules. The conservation, development and extraction of oil and natural gas are regulated under the Oilfield (Regulation and Development) (ORD) Act, 1948 and the Petroleum and Natural Gas (PNG) Rules, 1959.

Coal, crude oil and natural gas are the major minerals and limestone, boulder, stone and sand are the minor minerals in the State. The Geology and Mining Department of the Government of Assam realises revenue from major minerals and from limestone (minor mineral), which comprises of application fees for mining lease/prospecting licence, royalty, dead rent, surface rent, fines/penalties and interest on belated payment of dues. Levy and collection of royalty from other minor minerals are entrusted to the Forest and Environment Department. As of March 2009, there were 13<sup>1</sup> petroleum exploration licences (PEL) comprising an area of 6,299<sup>2</sup> sq km and 36<sup>3</sup> petroleum mining leases (PML) covering lease area of 4,637.78<sup>4</sup> sq km held by Oil and Natural Gas Corporation Limited (ONGCL), Oil India Limited (OIL) and Canoro Resources Limited (CRL). The total leased area as on 31 March 2009 was 10,936.78 sq km, which is 13.94 *per cent* of the total area of the State (78,438 sq km).

**We conducted a review on levy and collection of royalty and surface rent from mines and well heads covering the period from 2004-05 to 2008-09.**

### 6.2.2 Organisational setup

The Commissioner & Secretary, Mines & Minerals Department, is the head at the Government level and the Director of Geology & Mining (DG&M), Assam is the head of the Department, who is assisted by one Joint Director, four Chief Geologists/Jt. Directors, one Chief Drilling Engineer, one Deputy Chief Chemist, five Deputy Directors/Sr. Geologists, one Mining Engineer, one Sr. Drilling Engineer, two Sr. Chemists, five Chemists, one Assistant Mining Engineer, one Assistant Mechanical Engineer, three Drilling Engineers, 16 Geologists, 27 Assistant Geologists and other ministerial staff.

**The directorate does not have any units in the field unlike other States where there are formations under the Department/directorate in the field/district also.**

### 6.2.3 Audit objectives

We conducted the review to ascertain whether:

- a system was in place and observed for proper assessment, levy and collection of royalty and surface rent including interest and penalty;
- the provisions of the Acts/Rules were being observed; and

<sup>1</sup> Oil and Natural Gas Corporation Limited (7) and Oil India Limited (6).

<sup>2</sup> Oil and Natural Gas Corporation Limited (4010 sqkm) and Oil India Limited (2289 sqkm).

<sup>3</sup> Oil and Natural Gas Corporation Limited (20) Oil India Limited (15) and Canoro Resources Limited (1).

<sup>4</sup> Oil and Natural Gas Corporation Limited (687.69 sqkm) Oil India Limited (3897.34 sqkm) and Canoro Resources Limited (52.75 sqkm).

- an internal control mechanism including internal audit existed within the Department which was effective in checking leakage of Government revenue.

#### **6.2.4 Audit scope and methodology**

We checked the records of the DG&M in respect of holding licences and mining leases for exploration and extraction of crude oil, natural gas, coal, limestone etc., for the period from 2004-05 to 2008-09 during October 2009 to May 2010. We collected information from the Sales Tax Department and Annual Accounts and Reports of OIL, ONGCL, CRL and the web site of the Ministry of Petroleum and Indian Bureau of Mines (IBM) for cross examination/verification with the records of the directorate. We also scrutinised the records relating to levy and collection of royalty, dead rent and surface rent and challans showing remittance into the treasury and lease files relating to the aforesaid period. Besides, we verified the relevant Government records maintained at the Secretariat.

#### **6.2.5 Acknowledgement**

We acknowledge the co-operation of the Mines and Minerals Department for providing necessary information to audit. We organised an entry conference in December 2009 wherein the audit criteria, objectives and methodology were discussed. We communicated our findings of the review to the Department in June 2010 and discussed the same with the joint Secretary to the Government of Assam and the DG&M in the exit conference held in July 2010. The DG&M furnished the replies on the draft review in August 2010, which has been incorporated suitably in the respective paragraphs of the review.

#### **Audit findings**

##### **6.2.6 Trend of revenue**

As per the provisions of the Assam Budget Manual, the estimates of revenue should be prepared taking into consideration the actual demand including arrears due for past years and the probability of its realisation during the year. Again, according to the provisions of the Assam Financial Rules, the responsibility for preparation of estimates of revenue rests with the Finance Department. The Commissioner & Secretary, Mines and Minerals Department is required to compile correct estimates and send the same to the Finance Department within the due date. The Finance Department/Mines & Minerals Department had not taken the inputs/criteria (as mentioned in the budget manual) into consideration while preparing the estimates of revenue as would be evident from Table II and III.

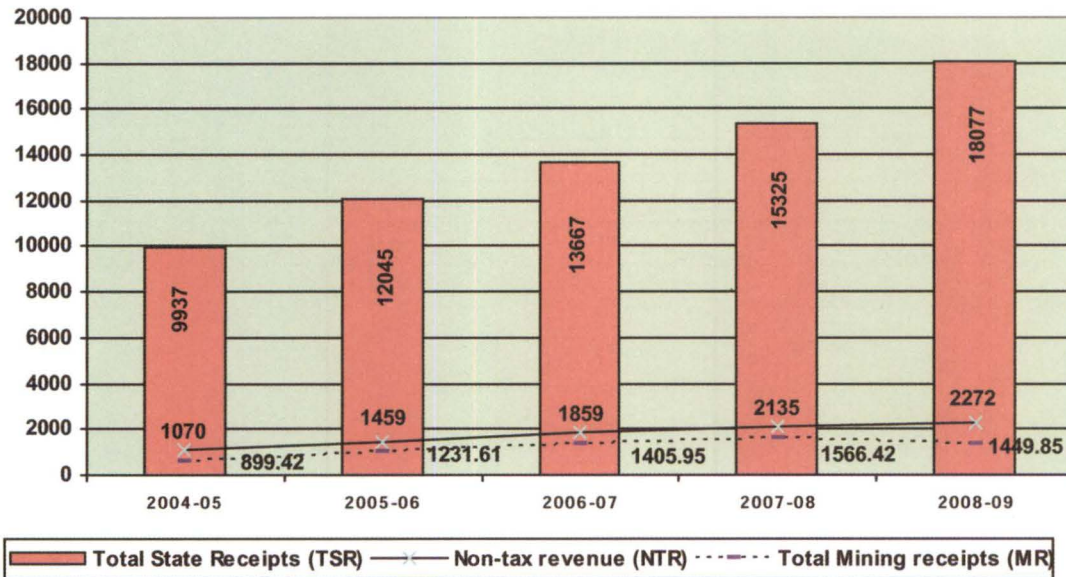
The following table and chart show Assam's mining receipts in a five year time series up to 2008-09 in relation to the total state receipts and non-tax receipts.

**Table-I**  
**Mining Receipts in perspective**

Sl. No.	Year	Total State Receipts (TSR)	Non-tax revenue (NTR)	Oil & Natural gas (Royalty)	Coal & Lignite (Royalty)	Other Mining Receipts	Total Mining receipts (MR)	Total MR as percentage of TSR	Total MR as percentage of NTR
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	2004-05	9,937	1,070	885.87	12.79	0.76	899.42	9.05	84.06
2.	2005-06	12,045	1,459	1,216.16	15.02	0.43	1,231.62	10.22	84.41
3.	2006-07	13,667	1,859	1,385.82	19.71	0.42	1,405.95	10.28	75.63
4.	2007-08	15,325	2,135	1,547.88	17.88	0.66	1,566.42	10.22	73.37
5.	2008-09	18,077	2,272	1,430.12	19.20	0.53	1,449.85	8.02	63.81

Source: TSR, NTR and Royalty – Finance Accounts,

(₹ in crore)



The share of total mining receipts which was around 10 per cent of the total State receipts between 2005-06 and 2007-08 fell to 8.02 per cent in 2008-09. The percentage share of total mining receipts in the non-tax receipts which had been increasing steadily every year and had reached 84.41 per cent in 2005-06 declined to 63.81 per cent in 2008-09, mainly due to allowance of royalty on post discount prices on crude oil.

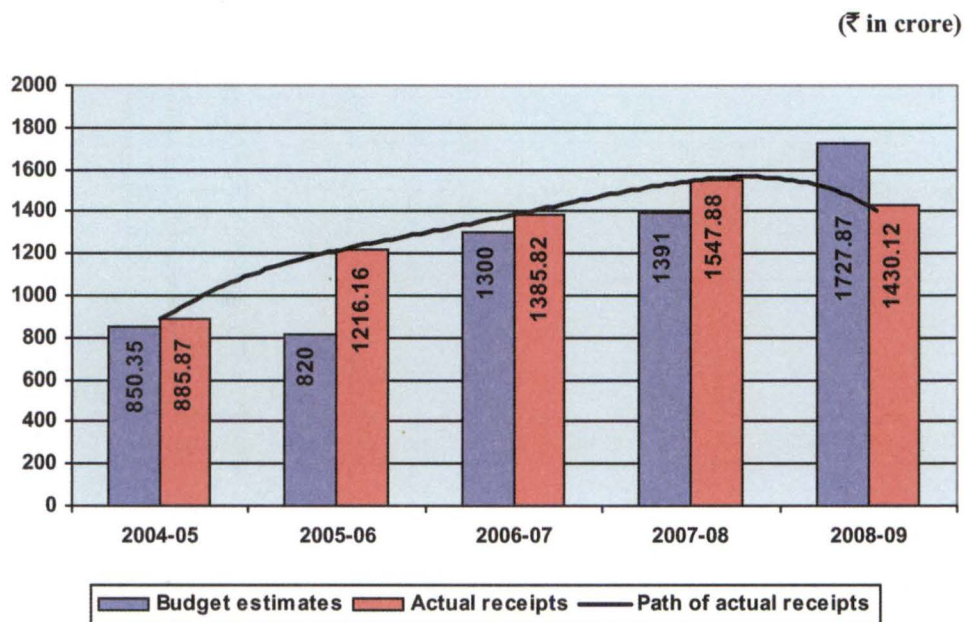
The table and chart below show the actual receipts in respect of oil and natural gas *vis-a-vis* budget estimates over a five year time series up to 2008-09.

**Table-II**

**Budget estimates *vis-à-vis* actual receipts in respect of oil & natural gas**

Sl. No	Period	Budget estimates	Actual receipts of Royalty	Variation (+) excess (-) shortfall	Percentage of variation	Royalty as percentage of TSR	Royalty as percentage of NTR
(₹ in crore)							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	2004-05	850.35	885.87	35.52	4.18	8.91	82.79
2.	2005-06	820.00	1,216.16	396.16	48.31	10.10	83.35
3.	2006-07	1,300.00	1,385.82	85.82	6.60	10.14	74.55
4.	2007-08	1,391.00	1,547.88	156.88	11.28	10.10	72.00
5.	2008-09	1,727.87	1,430.12	(-) 297.75	(-) 17.23	7.91	62.95

**Source:** Budget estimates – Detailed estimates of revenue receipts of Finance Department.



Thus, there was increasing trend in the collection of revenue over the budget estimates except in 2008-09. The increase ranged between 4.18 and 48.31 *per cent* for the period 2004-05 and 2007-08. In 2008-09 the actuals decreased to 17.23 *per cent* over the budget estimate.

The table and chart below show the actual receipts in respect of minerals other than oil and natural gas *vis-a-vis* budget estimates over a five year time series upto 2008-09.

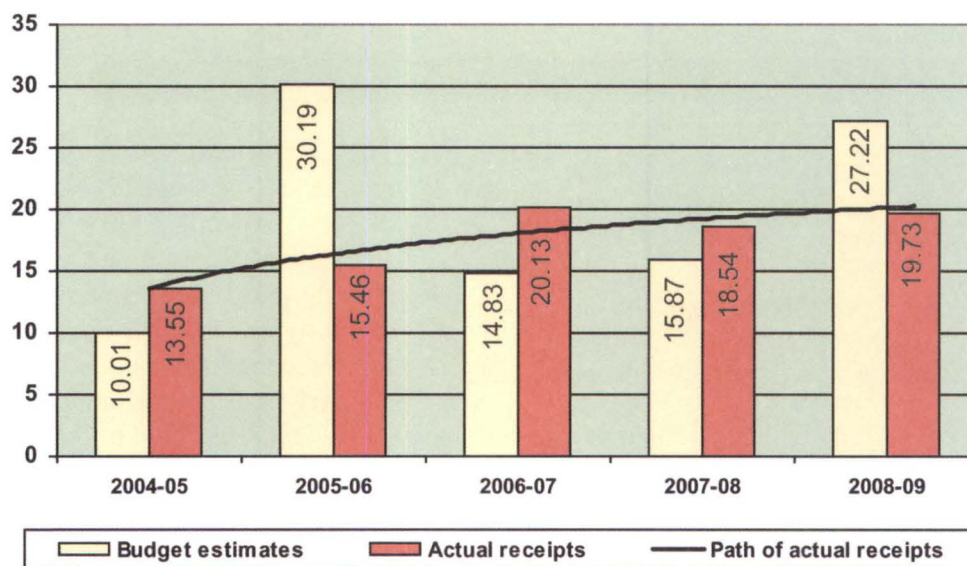
Table-III

**Budget estimates *vis-a-vis* actual receipts in respect of receipts other than oil and natural gas**

Sl. No.	Period	Budget estimates	Actual receipts	Excess(+)/shortfall (-) over budget estimates	Percentage of excess/shortfall	Royalty as percentage of TSR	Royalty as percentage of NTR
(₹ in crore)							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	2004-05	10.01	13.55	3.54	35.36	0.14	1.27
2.	2005-06	30.19	15.46	(-)14.73	(-) 48.79	0.13	1.06
3.	2006-07	14.83	20.13	5.30	35.73	0.15	1.08
4.	2007-08	15.87	18.54	2.67	16.82	0.12	0.87
5.	2008-09	27.22	19.73	(-) 7.49	(-) 27.51	0.11	0.87

**Source:** Budget estimates – Detailed estimates of revenue receipts of Finance Department.

(₹ in crore)



The share of other mining receipts remained less than one *per cent* of the total State receipts between 2004-05 and 2008-09. The percentage share of other mining receipts in the non-tax receipts declined to 0.87 *per cent* in 2008-09 from 1.27 *per cent* in 2004-05.

The following table shows the budget estimates for mining receipts as prepared by the Finance Department and those prepared by the DG&M.

**Table-IV**

**Budget estimates as per Finance Department vis-à-vis Budget estimates as per directorate in respect of royalty on account of oil & natural gas and those other than oil & natural gas**

Sl. No.	Period	Budget Estimates of Finance Department	Budget Estimates of Directorate of Mines and Minerals (₹ in crore)	Variation (+) excess / (-) shortfall	Percentage variation	Actual mining receipts (₹ in crore)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	2004-05	860.36	628.96	(-) 231.40	(-) 26.89	899.42
2.	2005-06	850.19	750.70	(-) 99.49	(-) 11.70	1,231.62
3.	2006-07	1,314.83	1,214.58	(-) 100.25	(-) 7.62	1,405.95
4.	2007-08	1,406.87	1,315.50	(-) 91.37	(-) 6.49	1,566.42
5.	2008-09	1,755.09	1,318.50	(-) 436.59	(-)24.88	1,449.85

**Source:** Budget estimates – Detailed estimates of revenue receipts of Finance Department and those of the Administrative Department.

From the above, it is evident that the framing of budget estimates of mining receipts by the DG&M was not done in a scientific manner.

#### 6.2.7 Non-reconciliation of figures with those of AG/Treasury

Rule 117 of the Assam Financial Rules, 1939 stipulates that the head of the Department should ensure regular reconciliation of departmental figures with those booked by the Accountant General (A&E).

The Directorate did not reconcile its figures with those booked by the Accountant General (A&E) though they were requested regularly by the AG (A&E) for reconciliation on a quarterly basis. We noticed

variations (as indicated below) during 2004-05 to 2008-09 due to non-compliance of the provision of the Assam Financial Rules.

**Table-V**

**Variation of royalty figures between the records of Finance Accounts and the directorate**

Sl. No.	Year	Royalty as per Finance Accounts (₹ in crore)	Royalty as per Departmental records	Variation increase (+) decrease (-)
(1)	(2)	(3)	(4)	(5)
1.	2004-05	899.42	893.07	6.35
2.	2005-06	1,231.62	1,230.87	0.75
3.	2006-07	1,405.95	1,404.58	1.37
4.	2007-08	1,566.42	1,568.89	(-) 2.47
5.	2008-09	1,449.85	1,590.07	(-)140.22

We also observed that no reconciliation of figures was carried out by the directorate with the treasuries during the period covered in audit to ascertain the correctness of the deposits made by the lessees. Such lapses on the part of

the department may lead to misappropriation, defalcation and embezzlement of Government money.

The Department stated (August 2010) that receipt schedules in respect of four treasuries have been collected and reconciled with departmental figures and it would be easier to carry out reconciliation, if royalty receipt statements are received from the AG (A&E). We do not agree with this as it is the responsibility of the Department to carry out the reconciliation.

### System deficiencies

#### 6.2.8 Absence of a mechanism for obtaining relevant data/records from the lease-holder

The ORD Act and the Rules made thereunder provide for levy of royalty in respect of oil and natural gas extracted from the leased area at the prescribed rates. The Rules also provide that a lease holder of oil and natural gas shall furnish full and proper return showing the quantity of crude oil, condensate and natural gas extracted by him during the preceding month from the mining operations undertaken under the provisions of the lease.

We observed that DG&M finalised the royalty on the basis of the monthly returns submitted by the lease-holders and there was no system prescribed for raising a demand after calling, collecting and cross linking the following important data/details, essential for making a correct assessment:

- i) Lease-wise annual quantity tally statement for oil and natural gas separately;
- ii) Trading and manufacturing account;
- iii) Profit and loss account and balance sheet, wherever required; and
- iv) Monthly details of opening stock, gross production, details of dispatch, internal use (purpose-wise), transit losses, wastages, losses due to human errors, losses due to theft and closing stock etc.

Thus, the assessments were being finalised exclusively on the basis of the monthly returns furnished by the lease-holders. We did not find any records relating to any inspection/monitoring of the leased areas conducted by the officers/officials of the Department/Directorate. As the Department did not have field units, no periodical reports or returns were being generated for the latter to examine and monitor the operations undertaken by the lease-holders. Besides, no internal audit of the Department/Directorate was conducted during 2004-05 to 2008-09. Thus, the Department/Directorate accepted as receipts whatever was paid by the lease-holders. Some cases which we noticed in audit are discussed in the following paragraphs, bringing out the above issues.



### 6.2.8.1 Short payment of royalty on crude oil, condensate and natural gas due to suppression of production

(I) We found from the monthly returns of net production of crude oil and condensate obtained from the nine<sup>5</sup> oil fields in the State furnished by OIL that production of crude oil and condensate during the period from April 2004 to March 2009 was 177.25 lakh KL on which royalty was paid. We cross-checked these figures with those depicted in the Annual Accounts of the lessee and found that the actual production during the aforesaid period was 179.52 lakh KL from those nine oil fields. This resulted in suppression of production of 2.27 lakh KL crude oil and condensate leading to short payment of royalty of ₹ 72.40 crore including interest of ₹ 14.05 crore [(Annexure-II(A))].

The Department stated (August 2010) that the actual production of crude oil was 177.24 lakh KL on which royalty was paid. This is not correct as actual production of crude oil (as per annual accounts) was 177.72 lakh KL and condensate was 1.80 lakh KL on which royalty was also payable.

Similarly, ONGCL submitted return of net production of crude oil for 65.39 lakh MT from fourteen<sup>6</sup> oil fields for the period 2004-05 to 2008-09 whereas the net production figure was 66.74 lakh MT as depicted in the records of the Ministry of Petroleum/Annual Accounts. This resulted in suppression of production of 1.35 lakh MT and short payment of royalty of ₹ 46.68 crore including interest of ₹ 9.54 crore [(Annexure-II (B))] to the State Government.

The Department stated that the matter was taken up (August 2010) with the ONGCL to clarify the position on difference between the two sets of figures.

(II) As per the monthly returns of production of natural gas furnished to the Directorate by OIL, extraction/production of gas during the period from April 2004 to March 2009 was 78,445.76 lakh SCUM<sup>7</sup> on which royalty was paid. We cross checked these figures with those in the Annual Accounts of the lessee and observed that the actual extraction/production during the aforesaid period was 99,763.68 lakh SCUM gas from those six<sup>8</sup> gas fields in the State. This resulted in suppression of production of 21,317.92 lakh SCUM gas and consequent short realisation of royalty of ₹ 49.40 crore including interest of ₹ 9.81 crore [(Annexure-II(C))].

The Department stated that the figures shown by us were inclusive of the production figures of OIL in Arunachal Pradesh. We do not accept the reply as the production figures of Assam only was taken into consideration.

<sup>5</sup> (1) Dibru PML, (2) Digboi, (3) Dum Duma, (4) Hugrijan, (5) Moran, (6) Moran Extn, (7) Naharkatia, (8) Naharkatia Extn and (9) Tinsukia PML.

<sup>6</sup> (1) Badarpur, (2) Borholla, (3) Changmaigaon, (4) Charali+ Extn-I, (5) Geleki+Extn-I & II, (6) Khoraghat, (7) Kor-Extn (I), (8) LKW+DML+LPPA, (9) Merapani, (10) Nambar, (11) Namti, (12) Rudrasagar, (13) Sivasagar (Desangmukh) and (14) Sonari/Safrai.

<sup>7</sup> Standard Cubic Metre.

<sup>8</sup> (1) DumDuma, (2) Hoogrijan, (3) Moran, (4) Moran Extn., (5) Naharkatia and (6) Naharkatia Extn.

**The Government may consider instituting a system for cross-checking the returns of the lessees with the primary records of the Department as well as other records of the lessees such as annual accounts etc.**

#### **6.2.8.2 Short realisation of royalty due to deduction of discount from well head price**

Section 10 read with Section 6A of the Oil Fields Regulation and Development Act, 1948 stipulates that any amendment for revision of rate of royalty has to be notified by the Central Government in the Official Gazette and should be laid before each House of Parliament while it is in session.

We found that the Ministry of Petroleum and Natural Gas (MoPNG), GoI framed a mechanism in October 2003 through an administrative order for sharing of under-recoveries<sup>9</sup> of oil marketing companies on account of non-revision of the selling prices of PDS<sup>10</sup> kerosene and domestic LPG<sup>11</sup> without affecting the revenue of the State

Government in terms of royalty on crude oil. The MoPNG subsequently withdrew (May 2008) the provision of the said order without any consultation with the State Government.

OIL and ONGCL accordingly paid royalty for the period from April 2008 to February 2009 after deducting discount from the well head price for non-recovery/under recoveries (as per the directive of May 2008 of MoPNG) in respect of crude oil supplied to Indian Oil Company Limited-Assam Unit and Bongaigaon Refineries and Petrochemicals Limited.

The issue of the administrative order (instead of a notification) by MoPNG without consultation with the State Government was in violation of the provision of the ORD Act. This adversely impacted the State revenues and as such, the State Government belatedly took up the matter in August 2009 with the MoPNG to withdraw the order of May 2008 and to restore the provisions of the order of October 2003 for calculation of royalty at pre-discount price but with no result. Thus, the state was deprived of revenue of ₹ 525.04 crore (OIL: ₹ 477.99 crore and ONGCL: ₹ 47.05 crore) (Annexure III & IV).

The Department stated (August 2010) that the discount factor had adversely affected the State revenue and the matter was again taken up (July 2010) with the MoPNG on the basis of the audit observation but no response has since been received (November 2010).

<sup>9</sup> Discount on account of subsidy on the product distributed.

<sup>10</sup> Public Distribution System.

<sup>11</sup> Liquefied Petroleum Gas.

### 6.2.8.3 Non-submission of claim for additional royalty on crude oil

The Government of Assam granted (27 August 2004) a petroleum mining lease for an area of 52.75 sq. km to CRL for Amguri Block under Production Sharing Contract (PSC) to extract crude oil. For this, the State Government agreed to realise royalty on crude oil at the fixed rate of ₹ 528 per MT and the additional royalty in excess of ₹ 528 per MT would be realised from the Oil Industry Development Board<sup>12</sup> (OIDB) Fund as decided by GoI. The claims of the State Government for the additional royalty are to be scrutinised by the Director General of Hydrocarbons and submitted to OIDB for payment to the concerned State Government.

CRL started commercial production from April 2006 and extracted 32,645.536 MT crude oil from Amguri block and paid royalty at the rate of ₹ 528 per MT to the tune of ₹ 1.73 crore during the years 2006-07 to 2008-09. The State Government, however, had not submitted the claim for the additional royalty to the OIDB on a monthly basis as required. We observed from the Annual Accounts of OIDB for the year ended 31 March 2009 that while OIDB had considered liability for payment of additional royalty for the Governments of Arunachal Pradesh and

Gujarat for the year 2008-09, no such liability had been provided for the Government of Assam due to non-submission of claim. This resulted in non-realisation of additional royalty of ₹ 10.48 crore for the months from April 2006 to March 2009 (Annexure-V).

The Directorate in December 2008 and April 2010 requested the Government to submit the claim but the Government preferred the claim for ₹ 12.33 crore for the period from April 2006 to December 2009 in July 2010 only after the issue was raised by audit.

<sup>12</sup> The primary objective of OIDB is to collect cess for creation of the Fund and to provide financial assistance to the companies and oil industries for development as per directives of GoI.

#### 6.2.8.4 Short realisation of royalty due to computation of price of crude oil at lower side

As per the PNG Rules, the royalty on crude oil was prescribed at 20 per cent of the value of the crude oil obtained at the well head. The lessee is required to furnish every month a production return and a royalty return in respect of quantity of oil and natural gas obtained and royalty payable during the month. The refinery-wise well head price is arrived at after deducting the sales/value added tax, octroi and post well head expenses from the all inclusive price as intimated by the Commercial group of the ONGCL, New Delhi.

ONGCL paid royalty of ₹ 792.69 crore for the years 2004-05 to 2008-09 in respect of oil marketing companies<sup>13</sup> determining the price of crude on a lower side compared to the price fixed by the Commercial group of ONGCL, New Delhi against ₹ 900.30 crore payable. This resulted in short realisation of royalty amounting to ₹ 119.01 crore including interest of ₹ 11.40 crore (Annexure-VI (A), (B), (C), (D), (E),

(F) & (G)).

The Department while accepting the point stated that the difference occurred due to deduction of discount on price to IOCL and the ONGCL had already paid ₹ 56.95 crore in adjustment of IOCL price discount and the matter for payment of balance amount would be taken up. The reply of the department is not tenable as the payment of ₹ 56.95 crore made by the ONGCL during January 2007 and May 2008 was the adjustment of deduction of discount amount and not against the short payment as we observed.

#### 6.2.9 Internal controls

Internal control is a management tool that provides reasonable assurance that the organisation's objectives are being achieved in an efficient, effective and adequate manner. It ensures that the financial interests and resources of the organisation are safeguarded, reliable information is available to the management and the activities of the entity comply with applicable rules, regulations and laws.

The directorate had a weak internal control mechanism as would be evident from the succeeding paragraphs.

##### 6.2.9.1 Non-inspection of leased areas of oil and natural gas

The ORD Act and the Rules made thereunder empower the State Government to sanction lease of oil and natural gas on the land vested in the State with prior approval of the Central Government.

It is inherent the responsibility of the State Government to ensure that surveillance is adequately exercised for systematic development and

<sup>13</sup> Bongaigaon Refinery & Petrochemicals Limited : ₹ 79.43 crore, Indian Oil Company Limited : ₹ 497.79 crore and Numaligarh Refinery Limited : ₹ 323.08 crore.

regulation of the minerals in the State.

We observed that the directorate did not prescribe any system or procedure for inspection of the leased areas of oil and natural gas. They had not also inspected any of the 36 leased areas in operation at any time during 2004-05 to 2008-09. Non-inspection of leases is fraught with the risk of non-detection of whether:

- exploration activities were carried out in a lawful manner as per the provisions of the ORD Act and the Rules made thereunder and as per the terms and conditions of the lease agreement;
- adequate measures were adopted for preservation, conservation and development of oil and natural gas, and other minerals, if available, from the leased areas and natural resources available therein and exploration activities were carried out without excessive wastage of minerals; and
- the quantity of oil, natural gas and other major/minor minerals excavated were correctly reflected in the monthly production returns submitted by the lease holders and royalty, dead rent and surface rent were correctly paid thereon.

The Department attributed the reasons for not undertaking inspections to lack of infrastructure facilities like branch/field offices, trained manpower and good vehicles etc., and assured that a system for periodic inspection of the leased areas would be developed.

#### **6.2.9.2 Non-preparation of departmental manual**

We observed that the department did not have a departmental manual setting out the functions and the responsibilities of staff of all categories in accordance with the instructions issued by the Government/Department, which could act as a key document for perspective planning, reference and internal controls. Due to the absence of such a important document, the departmental officers did not have a reference point for their day to day activities.

The Department while noting the point stated that action will be initiated in this regard.

**The Government may consider preparing a departmental manual detailing functions and responsibilities of departmental staff.**

#### **6.2.9.3 Information Technology (IT)**

The activities of the department are three fold: (i) issue of lease for mining activities, (ii) assessment, levy and collection of fees, royalty, dead rent etc., from mining activities and (iii) to attract new investors by sharing mining related information.

We found that the activities of the Department/Government in connection with granting lease, assessment, levy and collection of mining receipts etc, had not been computerised.

The Department while noting the point stated that action will be initiated for introduction of information technology for effective functioning.

**The Government may consider early introduction of computerised system covering entire gamut of activities of the Department and introduce online submission of returns and payment thereof to detect evasion or late payment.**

#### **6.2.9.4 Internal audit**

An independent and effective internal audit is essential for ensuring compliance to the provisions of the Acts/Rules and the Government instructions regarding assessment of revenue, prompt raising of demands, collection and accounting thereof and for overall functioning of the department in an effective, efficient and economical manner.

We found that the Government had neither put in place any internal audit wing in the Directorate nor arranged for any internal audit by the Examiner of Local Audit or otherwise, to help in the management of mining receipts from oil and natural gas. As a result, the records of the directorate were not subjected to internal audit during 2004-05 to 2008-09 and

therefore, the irregularities discussed in this review could not be detected.

The Department stated that it does not have a system of internal audit and will take necessary action in the matter.

**The Government may consider either setting up an internal audit wing in the Directorate or arrange for internal audit by the Finance Department.**

#### **6.2.9.5 Non-maintenance of control registers**

Demand and Collection Register (DCR) is a key control document, required to be maintained for effective monitoring and control over the assessment and collection of royalty and other Government dues

We found that the directorate did not maintain a DCR to watch the licences or leases.

The Department stated that separate registers for each

lease holder for each type of mineral for assessment and collection of royalty etc. are maintained. The registers contain the figures of the quantity of minerals produced, dispatched, gross production, stipulated deductions, net production and amount of royalty payable/paid with challan number and date.

The fact remains that the registers lacked information on month wise opening balance, demand raised, recoveries made and closing balance of mineral. Moreover, the Government has not yet prescribed any format for the DCR.

**The Government may consider prescribing maintaining the DCR incorporating the above information for watching the recovery of Government dues.**

#### 6.2.9.6 Non-enforcement of preventive measures

The Directorate did not have vigilance, enforcement and inspection wings for conducting search and seizure, detecting of fraud and evasion cases and preventing illegal mining. In the absence of these wings, unauthorised activities relating to mining could not be ruled out.

**The Government may consider ensuring establishment of vigilance enforcement/protection squads/wings to enforce search and seizure, detection of fraud, illegal mining and evasion.**

#### 6.2.10 Loss due to absence of standard norms for deduction

Section 6 A (3) of the ORD Act and the PNG Rules stipulate that no royalty shall be payable in respect of any crude oil, casing-head condensate or natural gas used for drilling or other operations, relating to production of petroleum or natural gas. The Rules as well as the PML agreements did not, however, specify any standard norm for such utilisation.

**6.2.10.1** ONGCL and OIL claimed deduction of 11,392.07 lakh SCUM and 20,191.44 lakh SCUM natural gas respectively (on which no royalty was paid) as operational utilisation, out of the total gross production of 23,375.71 lakh SCUM and 99,141.11 lakh SCUM respectively during 2004-05 to 2008-09. The monthly

return of gross production and operational utilisation of natural gas furnished by ONGCL and OIL indicated wide variations which ranged between 18.33 and 52.60 *per cent*.

The Government of Assam had taken up the matter (May 2002 and November 2008) with the Central Government to restrict the operational utilisation of natural gas to five *per cent* but with no result. The Directorate also took up the matter with OIL in October 2004 to restrict operational utilisation to around five *per cent*. Though OIL assured (2004) to bring down the flare level, it has not taken any action in this regard.

Thus, in the absence of any standard norms for use of natural gas in mining operation and non-initiation of appropriate measures to fix the norm at five *per cent*, the State Government was deprived of revenue of ₹ 46.67 crore for allowing operational utilisation above the proposed limit of five *per cent*.

**6.2.10.2** From the monthly returns of gross production and operational utilisation of crude oil furnished annually by ONGCL, we found wide variations in the percentage of operational utilisation to total production, ranging from 0.93 *per cent* in 2004-05 to 1.98 *per cent* in 2006-07, which declined to 1.82 to 1.14 *per cent* in the subsequent years. In the absence of any specified standard norm for utilisation of crude oil in mining operations, excess utilisation, if any, was not quantifiable in audit.

**6.2.10.3** The Government of Assam sanctioned 20 leases during 2004-05 to 2008-09 in favour of ONGCL. We observed from the monthly production statements of the lessee (ONGCL-Assam assets) that during the above period, 99,028.702 MT crude was deducted as unavoidable loss from gross production

for the purpose of computation of realisable royalty without specifying the cause of the unavoidable loss. The Government/MoPNG had not fixed any norms in this regard.

The Department stated that MoPNG in clarification of the above point intimated that ONGCL was paying royalty on the quantity acknowledged by the refineries. These quantities are reconciled with the production quantity on wet basis adjusted for quantity used either internally for operations or quantity unavoidably lost. We do not agree to the contention of the Ministry as the 7.5 per cent deduction allowed from payment of royalty covers all losses including transportation loss from well head to Central Tank Farm (CTF). No loss/deduction is allowable for the supply from CTF to the refineries.

### 6.2.11 Non-registration of lease deed after sanction of lease

The PNG Rules empower the State Government to grant mining lease of petroleum and natural gas on land within the State, with the approval of the Central Government. The Registration Act, 1908 requires that the deeds conveying lease hold rights for the period beyond one year should be compulsorily registered. The Indian Stamp Act, 1899, applicable to Assam, provides that it would suffice if the amount of royalty is estimated by the Collector for the purpose of levy of duty based on assessment of quantity of minerals expected to be mined or extracted during the period of lease.

We found that the Directorate while granting mining lease neither specified the extractable quantity of minerals in the lease deeds executed nor made any assessment of royalty and incorporated the same in the deeds. However, in respect of 17 out of 36 lease deeds, the Directorate levied and realised the stamp duty of ₹ 11.47 lakh based on dead rent which led to short realisation of stamp duty and registration fees. We could not quantify the short realisation due to absence of estimates of extractable

quantity of minerals. The balance 19 lease deeds remained unregistered (May 2010). In the absence of details, the leviable stamp duty and registration fee could not be quantified.

The department accepted the fact but remained silent as regards realisation of dues in respect of the remaining 19 lease deeds.

**The Government may consider issuing instructions to the Department to specify the extractable quantity of minerals and royalty estimated thereon in the lease deed itself and ensure the execution of lease deeds only after payment of stamp duty and registration fee.**



## Compliance deficiencies

### 6.2.12 Short realisation of royalty

The MoPNG, GoI revised (June 2006) the price of natural gas from ₹ 1,920 per thousand SCUM to ₹ 2,304 per thousand SCUM, effective from 5 June 2006 for the North-Eastern Region Consumers<sup>14</sup>.

ONGCL and OIL paid royalty during 2007-08 and 2008-09 at different rates based on the selling price of natural gas to the consumers<sup>14</sup> instead of royalty payable at 10 per cent on the value/price of natural

gas at the well head. This led to short realisation of ₹ 24.56 crore including interest of ₹ 1.28 crore as indicated below:

**Table-VI**  
Short realisation of royalty

Sl. No.	Lease Holder	Period	Net production (in SCUM)	Royalty payable @ ₹ 230.40 per scum	Royalty paid (₹ in crore)	Short payment	Interest leviable
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	ONGCL	April 2007 to March 2009	52,13,95,653	12.01	9.79	2.22	0.16
2.	OIL	April 2007 to March 2009	3,28,13,60,168	75.60	54.54	21.06	1.12
<b>Total</b>				<b>87.61</b>	<b>64.33</b>	<b>23.28</b>	<b>1.28</b>

The Department stated that royalty on natural gas is 10 per cent of the value of natural gas obtained by the lessee at the well head. Both OIL and ONGCL work out the well head value from the sale value of natural gas based on the selling price of natural gas to the consumers. The price of natural gas also varies according to the calorific value of natural gas of which ONGCL has been paying royalty on natural gas at different rates. We does not agree as the lessees are required to pay royalty on the price of natural gas at the well head value.

### 6.2.13 Short payment due to levy of royalty at different rates

The PNG Rules stipulate that a lessee shall pay to the State Government a royalty at 10 per cent of the value at well head for the natural gas obtained by the lessee from the leased area. Gas collection cost is not deductible for the purpose of calculation of royalty.

OIL paid royalty to the State Government on 31,91,094.971 thousand SCUM of natural gas between April 2004 and May 2006 at rates ranging from ₹ 113.42 to ₹ 143.28 per thousand SCUM after deducting gas collection cost whereas ONGCL during the same period

paid royalty at rates ranging from ₹ 160.70 to ₹ 180.73 per thousand SCUM without deducting gas collection cost. The deduction of gas collection cost by OIL for payment of royalty on natural gas resulted in short payment of royalty to the extent of ₹ 11.97 crore as indicated in the following table:

<sup>14</sup> Gas Authority of India Ltd. and Assam Gas Company.

**Table-VII**  
**Short payment of royalty due to levy of different rates**

Sl. No.	Period	M/s. ONGCL		M/s OIL		Difference in rate of royalty	Short payment of royalty by OIL	
		Qty. of natural gas M <sup>3</sup> per thousand	Average rate of royalty (₹)	Qty. of natural gas M <sup>3</sup> per thousand	Average rate of royalty (₹)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(₹ in lakh) (8)	
1.	2004-05	2,38,499.171	160.70	13,52,340.734	113.42	47.28	639.39	
2.	2005-06	1,89,522.936	172.49	15,89,950.699	143.28	29.21	464.42	
3.	April,06 to May,06	37,952.130	180.73	2,48,803.498	143.28	37.45	93.18	
<b>Total</b>								<b>1,196.99</b>

The department stated that the matter was taken up with MoPNG which clarified that the deduction of post well head cost of collection is also in line with international practice for determination of royalty on well head value basis. But ONGC paid royalty on the sale value or producer's price. The ministry further stated that GoI by Gazette Notification of August 2007 modified the schedule of ORD Act whereby well head value has been clearly defined and it is provided that per unit rate of post well head cost shall be determined based on actual post well head expenditure reported in previous year's audited account and OIL has been following this. Hence, Government of Assam is not in a position to claim royalty from OIL without deducting post well head cost. We do not accept the contention of the ministry/department as stated by quoting notification *ibid* is specifically for other than nominated block. OIL and ONGCL are under nominated block.

#### 6.2.14 Non-levy/realisation of penal interest on delay in adjustment of discount/payment of royalty on crude oil

The ORD Act and the Rules made thereunder provide that the lessee shall pay royalty in respect of any mineral oil mined, quarried, excavated or collected by him from the leased area at the rates specified in the Schedule of the Act. The royalty is to be paid on monthly basis on the last day of the month succeeding the period in respect of which it is payable. The PNG Rules further provide that all licence fees, lease fees, royalties and other payments, if not paid within the specified time, would be increased by 200 basis points over the prime lending rate (PLR)<sup>15</sup> of State Bank India (SBI) for the delayed period.

**6.2.14.1** We observed that ONGCL had paid the royalty for the period from April 2005 to December 2007 after deducting discount of ₹ 23.32 crore from the royalty payable. The discounted amount was subsequently paid by the lessee after delays ranging between 26 and 149 days. But the lessee had not paid the penal interest on the

<sup>15</sup> 13 per cent from April 2004 to March 2007 and 14.75 per cent from April 2007 to March 2008.

amount for delayed period. This resulted in non-levy of penal interest of ₹ 1.30 crore (Annexure-VII).

The Department stated that the matter would be examined and taken up with ONGCL. We did not receive further information on raising the demand (November 2010).

**6.2.14.2** ONGCL had made payment of royalty on crude oil during the period between March 2005 and April 2008 with delays on account of arrear royalty due to revision of IOCL/Numaligarh Refineries Limited price, Wholesale Price Index deduction etc., ranging from 27 to 183 days as detailed below:

**Table-VIII**  
**Non-realisation of penal interest due to delayed payment of royalty on crude oil**

Sl. No.	Period/Month	Royalty <sup>16</sup> paid (₹)	Date of payment	Period of delay	No. of days	PLR	Penal Interest Payable (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	April-December 2004	55,42,500	26.03.05	1.02.05 to 25.03.05	53	13.00	1.05
2.	April 2004-February 2006	4,95,33,794	28.04.06	1.04.06 to 27.04.06	27	13.00	4.76
3.	2006-07	15,60,46,410	28.06.07	1.05.07 to 27.06.07	58	14.75	36.57
4.	March 2007	4,91,456	31.10.07	1.05.07 to 30.10.07	183	14.75	0.36
5.	April-August 2007	3,94,87,752	31.10.07	1.10.07 to 30.10.07	30	14.75	4.79
6.	April 2007-February 2008	20,81,95,955	29.04.08	1.04.08 to 28.04.08	28	14.75	23.56
<b>Total</b>		<b>45,92,97,867</b>					<b>71.09</b>

The Directorate did not raise any demand for realisation of the penal interest. This resulted in non-realisation of penal interest of ₹ 71.09 lakh.

The Department stated that the matter will be examined and if any irregularities are noticed, the same will be taken up with ONGCL for realisation of the penal interest.

#### **6.2.15 Short payment of royalty on coal**

Section-9 of the MMDR Act regulates the payment of royalty by the lessee on quantity of minerals removed or consumed from the leased area. According to the judgment of the Supreme Court of India (Case No.AIR-1998 SC-3052), the entire mineral extracted/raised is exigible to royalty.

We found that payment of royalty on coal by North Eastern Coals Fields Ltd (NECFL) was based on the quantity of coal dispatched from the leased area for sale rather than the quantity of coal extracted. During 2004-05 to 2008-09, NECFL extracted 51.99 lakh MT coal (including opening balance of 3.31 lakh MT), but paid royalty on dispatched quantity of 49.66 lakh MT. This resulted in short payment of royalty amounting to ₹ 6.45 crore (2.33 lakh MT x ₹ 276.76 per MT).

<sup>16</sup> Royalty was paid by the lessee in lump sum and hence interest was calculated from the first day of the succeeding month to which the royalty related i.e. after the period of 30 days.

The Department stated that the lessee dispatched 49.66 lakh MT coal on which royalty was paid and as such there was no loss of revenue. We do not agree with this contention in light of the Apex Court's judgement.

#### 6.2.16 Short payment of royalty and interest on coal and limestone

Section-9 of MMDR Act regulates the payment of royalty by the lessee on quantity of minerals extracted from the leased area in a month by 10<sup>th</sup> of the following month. In case of default in payment of royalty in time, the lessee shall be liable to pay simple interest at the rate of 24 per cent per annum from the date after a grace period of 60 days from the due date i.e., 10<sup>th</sup> of the following month.

The Assam Mineral Development Corporation Ltd. (AMDCL) extracted and dispatched two lakh MT coal during 2004-05 to 2008-09 from the leased area but paid royalty of ₹ 72.29 lakh only on 1.13 lakh MT. This resulted in short payment of royalty of ₹ 55.23 lakh and interest of ₹ 47.79 lakh. No action was initiated to recover the

balance amount of ₹ 1.03 crore.

Similarly, Vinay Cement Ltd. and North East Cement limited (NECEM) extracted and dispatched 8.46 lakh MT limestones during 2004-05 to 2008-09 from their leased areas. The lessees paid royalty of ₹ 79 lakh against ₹ 1.51 crore. This resulted in short payment of ₹ 1.40 crore (royalty: ₹ 0.72 crore and interest: ₹ 68 lakh).

The Department while accepting our point stated that demand for royalty of ₹ 52.94 lakh, ₹ 62.31 lakh and ₹ 9.95 lakh had been raised against AMDCL, Vinay Cements and NECEM respectively and the matter of the interest component would be taken up on receipt of the principal amount. We are yet to receive report on realisation of royalty and interest (November 2010).

#### 6.2.17 Short realisation of surface rent

The PNG Rules provide that the lessee shall pay surface rent for the area of land actually used by him/her on operations conducted under the lease at such rates not exceeding the land revenue assessed or assessable on the land or as specified by the State Government with the approval of the Central Government. As per the Assam Land Revenue Re-assessment Act, 1997, the rate of land revenue is ₹ 3,750 and ₹ 7,500 per hectare per annum in rural and urban/industrial site respectively.

The State Government sent a proposal (1995) to the MoPNG to raise the surface rent to ₹ 5,597 per hectare per year on the basis of prevailing and assessable rates of land revenue. The matter was however not pursued further. We noticed that during January 2004 to December 2008, the area of land occupied by OIL and ONGCL was 6,136.17 hectare (15 PML) and 17,172 hectare (20 PMLs) respectively. OIL paid surface rent of ₹ 1.37 lakh at rates ranging from ₹ 16.40 to ₹ 58.86 per hectare per year while

ONGCL paid ₹ 55,000 in respect of four PMLs during 2004-05 to 2008-09. Thus, failure of the Department/Government to obtain the approval of the GOI for revision of the proposed rate and non-collection of surface rent at the prescribed rate of Land Revenue Department resulted in short realisation of revenue of ₹ 8.72 crore<sup>17</sup>.

The Department stated that OIL and ONGCL were requested (December 2009) to pay surface rent at the prevailing rates of land revenue till the Government of Assam received approval of the revised rate from GoI. But OIL informed that pending the disposal of the writ petition challenging the validity of section 3A and 25B of the Assam Land Revenue Re-Assessment (Amendment) Act, 1977 they were paying surface rent at the old rates as per order (2003) of the Hon'ble Gauhati High Court and would pay at the enhanced rate in the event of disposal of the writ petition. We found that the court order of 2003 gave an opportunity to the respondent (Government) to move the court for modification/cancellation/alteration of the order, which the State Government has not done and as a result had to forgo the revenue.

#### 6.2.18 Non-initiation of action under Public Demand Recovery Act resulted in non-recovery of outstanding royalty

Section 25 of the MMDR Act enables the Government to recover any sum due under a mining lease as an arrear of land revenue.

We found from the records of the DG&M that royalty on coal, limestone etc., against three<sup>18</sup> lessees/agencies for the period from January 1979 to March 2009 for ₹ 4.66 crore including interest of ₹ 3.03 crore was realisable against which ₹ 4.22 lakh

was realised from ONGCL. The Department, however, did not institute *Bakijai* cases against them for realisation of the balance amount even after a lapse of 31 years.

The Department stated that the matter was taken up with the lessees on several occasions but with no result and they were considering instituting *Bakijai* cases against them.

#### 6.2.19 Conclusion

The review revealed that the Department failed to effectively perform its role to ensure optimum exploration of the State's vital natural resources and in turn augment the revenue by harnessing the same. The budget estimates were prepared by the department without taking into consideration the past trend and future potential. There were contentious issues which need early resolution. There was no system to scrutinise the various agreements for licences and leases to ensure the protection of the interest of the State. Several discrepancies and instances of loss of revenue were noticed by audit as no checks were undertaken by the Department to ensure the correctness of the revenue deposited by the licensees/lessees. The Government had not specified

<sup>17</sup> ₹ 3750x(6136.17+17172) Ha-(1,37,000 + 55000).

<sup>18</sup> (1) M/s AMDCL, (2) M/s ONGCL (Lakwa and Rudrasagar) and (3) M/s Vinay Cement Ltd.

any system for cross verification of returns submitted by the lessees. No vigilance enforcement and inspection wings were in existence for surveillance and detection of illegal mining. The internal controls were weak as evidenced by absence of system for inspection of the leases of oil and natural gas, non-maintenance of control register and non-availability of departmental manual. Besides, there was no internal audit wing in the department leading to non-detection of the deficiencies pointed out in the review.

#### **6.2.20 Recommendations**

The Government may consider:

- instituting a system for cross-checking of the returns of the lessees with the primary records of the department as well as other records of the lessees such as annual accounts etc.;
- compiling all orders detailing functions and responsibilities of departmental staff and making a departmental manual;
- introducing computerised system covering the entire gamut of activities of the Department and introducing online submission of returns and payment thereof to detect evasion and late payment;
- ensuring internal audit of the directorate; and
- establishing vigilance enforcement/protection squads/wings to enforce search and seizure, detection of fraud, illegal mining and evasion.

## FOREST RECEIPTS

### 6.3 Other audit observations

Our scrutiny of records of Divisional Forest Offices revealed several cases of non-observation of the provisions of Acts/Rules/departmental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by us. Such omissions on the part of the departmental officers are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system including strengthening of internal audit.

#### 6.3.1 Loss of revenue due to non-realisation of residual mahal fee from the mahaldar

[Divisional Forest Officer (DFO), Kamrup East Division; September 2009]

The Assam Sale of Forest Produce, Coupes and *Mahal* (ASFPCM) Rules, 1977, provide that the tenderer of forest produce would have to implement the settlement order within the stipulated date. In case of failure to do so, the settlement is to be cancelled and the forest produce re-sold at the risk & cost of the earlier tenderer.

We observed that Digaru Sand *Mahal*<sup>19</sup> No. I (A) was settled for ₹ 42.55 lakh in September 2006 with a *mahaldar*<sup>20</sup> for extraction of 10,000 cum of sand for two years commencing from 15 October 2007. The *mahaldar*, on payment of first *kist*<sup>21</sup> money of ₹ 5.32 lakh on 20 March 2007, took possession of the *mahal* on 15

October 2007. He extracted 1250 cum of sand but failed to deposit the second *kist* money due on the rescheduled date of 15 June 2008. Though the DFO was aware of the fact of non-deposit of the second *kist*, the required action for resale was initiated after lapse of six months (December 2008) and offered the *mahal* to the second highest tenderer for extraction of balance quantity of 8,750 cum sand at ₹ 33 lakh as per his bid. The settlement, however, could not come into effect as the second *mahaldar* also failed to deposit the first *kist* money. The invitation of subsequent tender for resale was finally postponed due to declaration of general elections. Thus, failure to resell 8,750 cum sand to another *mahaldar* resulted in loss of revenue of ₹ 37.23 lakh.

The DFO neither took any action to recover the amount from the original *mahaldar* nor instituted any *Bakijai*<sup>22</sup> case against him.

We reported the case to the Department/Government in November 2009; we have not received their replies (November 2010).

19 A defined geographical area from where sand is sold on the condition of its removal within a specified period.

20 A person authorised to collect produces from mahal.

21 Installment

22 A process of recovery of dues as arrears of land revenue through the District Collector.

**6.3.2 Non-realisation of annual renewal fee from timber depots**

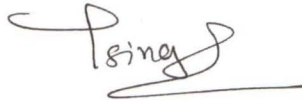
[DFO, Jorhat; August-September 2009]

The Government of Assam, Department of Environment & Forest, in their Notification dated 26 June 2003 instructed to realise annual renewal fee at the revised rate of ₹ 5,000 from each timber depot from 1 April 2003.

The DFO, Jorhat did not realise annual renewal fee of ₹ 3.38 lakh from 34 timber depots, due for the years from 2007-08 to 2009-10.

After we pointed out the case, the DFO stated (June 2010) that the timber shops/depots were physically verified and it was found that the owners of 17 shops had closed their business and as such renewal of these shops did not arise. The DFO further added that an amount of ₹ 1.56 lakh was realised from the other 17 timber depots. However, he did not inform since when the shops were closed and when the physical verification was conducted.

We reported the case to the Government in November 2009; we have not received their replies/comments (November 2010).



**GUWAHATI**

**THE**

26 MAR 2011

**(MOHINDER SINGH)**

**Principal Accountant General (Audit), Assam**

**Countersigned**



**NEW DELHI**

**THE**

01 APR 2011

**(VINOD RAI)**

**Comptroller and Auditor General of India**





# ANNEXURES



**ANNEXURE-I**  
**Reference : Paragraph- 1.4**

Sl. No.	Name of the department	Total number of auditee units	Total number of units due for audit during 2009-10	Units planned for audit during 2009-10	Units actually audited during 2009-10	Shortfall/excess with reference to audit plan 2009-10 (+) excess/(-) shortfall
1.	Sales Tax	212	210	95	120	(+) 25
2.	State Excise	43	43	12	11	(-) 1
3.	Stamp Duty & Registration Fee	72	60	17	09	(-) 8
4.	Motor Vehicles Tax	52	46	18	16	(-) 2
5.	Land Revenue	144	124	17	16	(-) 1
6.	Forest	88	83	38	31	(-) 7
7.	Geology and Mining	01	01	01	01	0
8.	Agricultural Income Tax	01	01	01	01	0
<b>Total</b>		<b>613</b>	<b>568</b>	<b>199</b>	<b>205</b>	<b>(+) 06</b>

**Note:** Target in respect of Stamp duty & Registration fee and Forest could not be achieved as planned on requests made by the concerned DDOs for deferment of audit due to floods etc. The available parties were engaged for audit of units under Sales Tax.

**Annexure-II (A)**  
**Reference : Paragraph 6.2.8.1**

**Statement showing the difference in net production of crude oil, condensate between monthly production return as submitted to the Directorate by the OIL compared with Annual Account (Schedule 25) of OIL during the year 2004-05 to 2008-09**

Year	Net production of crude oil and Condensate as per Monthly return (KL)	Net production as per Annual Accounts			Difference between Monthly return and Annual Accounts of OIL in KL	Royalty paid by OIL (₹)	Average rate of Royalty on crude oil and condensate (₹ per KL)	Short Payment (in ₹)	Delay in Month	Rate of interest in percent	Interest (₹)
		Crude Oil	Condensate	Total							
1	2	3	4	5=3+4	6=5-2	7	8=7/2	9= 6x8	10	11	12=(9x10x11)/1200
2004-05	3485241	3486850	34505	3521355	36114	5989637204	1718.57	62064505	47	10	24308598
2005-06	3530006	3530885	35072	3565957	35951	8489510751	2404.96	86460590	35	13	32782974
2006-07	3431203	3484515	35143	3519658	88455	9377361329	2732.97	241744512	23	14.75	68343188
2007-08	3436913	3432953	37680	3470633	33720	11324155028	3294.86	111102756	11	14.75	15022019
2008-09	3841225	3836973	37067	3874040	32815	9623468947	2505.31	82211829	0	0	0
<b>Total</b>	<b>17724588</b>	<b>17772176</b>	<b>179467</b>	<b>17951643</b>	<b>227055</b>	<b>44804133259</b>		<b>583584193</b>			<b>140456778</b>

**Annexure-II (B)**  
**Reference : Paragraph 6.2.8.1**

**Statement of difference between quantity between Directorate and Ministry of Finance**

Year	Departmental records Gross production of Crude (MT)	Net as per records of Ministry of Petroleum (MT)	Departmental records Unavoidable loss (MT)	Crude Used for Petroleum Mining Use (MT)	ONGC CRUDE				Average rate of Royalty per MT	Total Royalty due to difference between Ministry of Petroleum and Directorate Records ( ` )	Total Royalty due to unavoidable loss as per Directorate Records ( ` )	Delay in Month	Rate of interest in percent	Interest ( ` ) 14=(10x11x12)/1200
					Departmental records Net production of Crude (MT)	Percentage of unavoidable loss	Difference between Ministry of Petroleum and Directorate Records (MT)	6=2-(3+4)						
1	2	3	4	5	6=2-(3+4)	7=4/2	8=3-6	9	10=8x9	11=9x4	12	13	14=(10x11x12)/1200	
2004-05	1515453	1547000	14116	3943	1497394	0.93147	49606	1897.76	94140282.56	26788780.16	47	10.00	36871611	
2005-06	1287261	1285000	21082	4448	1261731	1.63774	23269	2709.87	63055965.03	57129479.34	35	13.00	23908720	
2006-07	1330460	1331000	26336	0	1304124	1.97947	26876	3105.94	83475243.44	81798035.84	23	14.75	23599147	
2007-08	1290233	1289000	23503	0	1266730	1.82161	22270	3644.26	81157670.20	85651042.78	11	14.75	10973193	
2008-09	1222852	1222000	13992	0	1208860	1.144210	13140	3776.19	49619136.60	52836450.48	0	0	0	
<b>Total</b>	<b>6646259</b>	<b>6674000</b>	<b>99029</b>	<b>8391</b>	<b>6538839</b>		<b>135161</b>		<b>371448297.83</b>	<b>304203788.60</b>			<b>95352671</b>	

**Annexure-II (C)**  
**Reference : Paragraph 6.2.8.1**

**Statement showing the difference in net production of natural Gas between monthly return of Production as submitted to the Department compared with Annual Accounts of Oil India Limited**

Period	Total production	Total deduction	Net production as per Monthly Return	Net production as per Annual Accounts of Oil India Limited (SCUM)	Difference in quantity	Rate of Royalty per 1000 SCUM	Amount	Delay in Month	Rate of interest	Amount of interest
1	(SCUM) 2	(SCUM) 3	(SCUM) 4	5	(SCUM) 6	(₹) 7	(₹) 8	9	10	11=*8x9x10/1200 (₹)
2004-05	178,05,58,977	42,82,18,203	135,23,40,774	184,33,68,000	49,10,27,226	113.42	5,56,92,307.97	47	10.00	2,18,12,821
2005-06	200,32,07,750	41,32,57,051	158,99,50,699	214,80,00,000	55,80,49,301	162.59	9,07,33,235.85	35	13.00	3,44,03,019
4/06 & 5/06	31,98,19,459	5,64,46,175	26,33,73,284	26,33,73,284	0	0	0	0	0	0
6/06 to 3/07	169,13,57,621	33,67,36,248	135,46,21,373	185,46,26,716	50,00,05,343	230.40	11,52,01,231.03	23	14.75	3,25,68,348
2007-08	207,65,45,273	41,33,18,907	166,32,26,366	196,30,00,000	29,97,73,634	230.40	6,90,67,845.27	11	14.75	93,38,548
2008-09	204,26,21,686	42,15,58,084	162,10,63,602	190,40,00,000	28,29,36,398	230.40	6,51,88,546.10	0	0	0
<b>Total</b>	<b>991,41,10,766</b>	<b>206,95,34,668</b>	<b>784,45,76,098</b>	<b>997,63,68,000</b>	<b>213,17,91,902</b>		<b>39,58,83,166.20</b>			<b>9,81,22,736</b>

**Annexure-III**  
**Reference : Paragraph- 6.2.8.2**

**Statement showing the position short payment of Royalty due to deduction of discount from well head price of crude Oil by Oil India Limited**

Month	Quantity in KL	Discount deducted (in ₹)	Rate of discount deducted (₹/KL)	Rate of royalty not paid 20/120 (₹/KL)	Quantity considered for royalty (KL)	Total Royalty not paid (₹)
1	2	3	4=3/2	5	6	7=5x6
April' 08	306973.738	3036088310.652	9890.384	1648.3973	311925	514176338.20
May '08	343663.109	3574232780.507	10400.397	1733.3995	331678	574930479.36
June '08	315541.685	3452923667.413	10942.845	1823.8075	320680	584858589.10
July '08	338389.050	4260819114.436	12591.480	2098.5800	331163	694972048.54
August '08	337783.107	4331666656.417	12823.810	2137.3017	331531	708581758.85
Sept. 08	324455.482	4387509450.403	13522.685	2253.7808	318522	717878778.60
Oct'08	332720.356	1629795700.924	4898.395	816.3992	330597	269899115.30
Nov'08	279972.069	1822432244.914	6509.336	1084.8893	313236	339826395.22
Dec'08	336434.347	1404340467.193	4174.189	695.6982	320385	222891257.13
Jany'09	280338.530	483440798.251	1724.489	287.4148	300465	86358097.90
Feb'09	313187.500	411258750.099	1313.139	218.8565	299448	65536141.21
<b>Total</b>	<b>3509458.97</b>	<b>28794507941.209</b>			<b>3509630</b>	<b>4779908999.40</b>

**Annexure-IV**  
**Reference : Paragraph- 6.2.8.2**

**Statement showing the discount deducted from the treasury challan by ONGCL**

Month	Discount deducted (₹)
1	2
Jun-08	52130820
Sep-08	310966144
Dec-08	26353737
April-09	81026708
<b>Total</b>	<b>470477409</b>



**Annexure-V**

**Reference : Paragraph- 6.2.8.3**

Statement showing non-realisation of balance amount of royalty from Government of India in respect of crude oil extracted by M/S Canoro Resource Ltd., for the year 2006-07 to 2008-09

Month	Production of crude oil	Rate of royalty paid	Amount of Royalty paid	Rate of royalty payable as per ONGC (Average rate)	Amount payable as per ONGC (Average rate)
1	(MT)	(₹/MT)	(₹)	(Average rate)	(₹)
2	3	4	5	6	
April'06	1,880.00	528	9,92,725	3,394.41	63,81,490.80
May'06	369.00	528	1,94,832	3,415.09	12,60,168.20
June'06	607.00	528	3,20,496	3,337.17	20,25,662.19
July'06	458.00	528	2,41,824	3,620.30	16,58,097.40
Aug'06	538.00	528	2,84,064	3,597.60	19,35,508.80
Sept'06	477.00	528	2,52,188	3,019.52	14,40,311.04
Oct'06	456.00	528	2,41,013	2,820.89	12,86,325.84
Nov'06	507.00	528	2,68,746	2,802.05	14,20,639.35
Dec'06	489.00	528	2,49,744	2,950.39	14,42,740.71
Jan'07	442.00	528	2,33,561	2,558.19	11,30,719.98
Feb'07	439.61	528	2,32,113	2,747.24	12,07,714.17
March'07	511.43	528	2,70,038	2,914.10	14,90,358.16
<b>Total</b>	<b>7174.04</b>	<b>528</b>	<b>37,81,344</b>		<b>2,26,79,736.64</b>
April'07	442.20	528	2,51,328	3,057.72	13,52,123.78
May'07	526.35	528	2,92,436	2,946.81	15,51,053.44
June'07	511.64	528	2,84,360	3,084.82	15,78,317.30
July'07	597.36	528	3,32,008	3,323.93	19,85,582.82
Aug'07	596.29	528	3,14,689	3,162.03	18,85,486.86
Sept'07	616.08	528	3,25,291	3,433.79	21,15,489.34
Oct'07	551.38	528	2,92,483	3,585.00	19,76,697.30
Nov'07	386.00	528	2,03,857	4,044.20	15,61,061.20
Dec'07	421.91	528	2,25,177	3,975.74	16,77,404.46
Jan'08	374.30	528	1,99,338	3,994.53	14,95,152.57
Feb'08	1,555.60	528	6,10,158	4,206.56	65,43,724.73
March'08	1,091.86	528	5,89,688	4,897.65	53,47,548.12
<b>Total</b>	<b>7,270.97</b>	<b>528</b>	<b>39,20,813</b>		<b>2,90,69,641.92</b>
April'08	1,630.760	528	8,61,040	4,310.90	70,30,043.28
May'08	1,886.164	528	9,95,894	5,117.28	96,52,029.31
June'08	1,772.710	528	9,35,995	5,608.59	99,42,403.57
July'08	1,842.093	528	9,62,490	5,695.20	10,49,1088.05
Aug'08	1,782.648	528	9,41,238	4,796.61	85,50,667.22
Sept'08	1,529.374	528	8,07,510	4,312.72	65,95,761.83
Oct'08	1,336.011	528	7,05,414	2,768.10	36,98,212.04
Nov'08	1,266.572	528	6,68,616	1,510.79	19,13,524.31
Dec'08	1,363.784	528	7,20,078,	2,250.29	30,68,909.49
Jan'09	1,372.160	528	7,24,504	2,416.76	33,16,181.40
Feb'09	1,130.110	528	5,96,698	2,421.26	27,36,290.13
March'09	1,288.140	528	6,80,138	2,626.06	33,82,732.92
<b>Total</b>	<b>18,200.560</b>	<b>528</b>	<b>95,99,615</b>		<b>7,03,77,843.55</b>
<b>Grand total</b>	<b>32,645.536</b>		<b>173,01,772</b>		<b>12,21,27,222.11</b>

Amount payable as per ONGC (Average Rate)	=	₹ 12,21,27,222.11
Amount actually paid	=	₹ 1,73,01,772.00
<b>Amount of royalty realizable from GOI</b>	=	<b>₹ 10,48,25,450.11</b>

**Annexure-VI (A)**  
**Reference : Paragraph 6.2.8.4**

**Computation of Royalty payable on crude price build up for Assam crude to IOCL for 2007-08 before considering Sales Tax and discount**

Month	Crude price	Conversion	Crude price	Deduction towards post well head expenses @ 7.50% and with effect from September 2007 @ ₹ 1251 per MT	Rate of Royalty 20/120	Rate of Royalty paid on account of IOCL	Quantity for Royalty	Royalty Payable	Royalty paid	Deduction due to VAT inclusion	Royalty paid after VAT deduction	Short payment	Delay in month	Interest for wrong calculation @ 14.75%
1	(/BBL)	(BBL/MT)	(₹/ MT)	5	6	7	(MT)	(₹)	(₹)	(₹)	12=10-11	13=9-12	14	15=(13x14/12)x 14.75%
Apr-07	2890.057	7.2160	20854.651	19290.552	3215.092	3054.61679	24695.322	79397734.108	75434745.216		75434745.216	3962988.892	33	1607487.369
May-07	2794.735	7.1869	20085.481	18579.07	3096.51165	2940.80622	23083.450	71478171.842	67883953.339		67883953.339	3594218.503	32	1413725.944
Jun-07	2928.509	7.1841	21038.702	19460.799	3243.46648	3082.32125	23771.544	77102206.197	73271535.217	4199851	69071684.217	8030521.980	31	3059963.000
Jul-07	3149.365	7.2021	22682.042	20980.889	3496.81476	3325.55570	24595.356	86005403.812	81793226.339		81793226.339	4212177.473	30	1553240.443
Aug-07	2996.719	7.2060	21594.357	20343.357	3390.55952	3162.53518	24486.849	83024118.967	77440521.410		77440521.410	5583597.557	29	1990319.879
Sep-07	3162.293	7.2265	22852.31	21601.310	3600.21839	3453.74376	23255.181	83723730.394	80317436.266		80317436.266	3406294.128	28	1172332.896
Oct-07	3295.806	7.1740	23644.112	22393.112	3732.18537	3595.75650	27294.817	101869316.793	98145515.644		98145515.644	3723801.149	27	1235836.506
Nov-07	3690.282	7.1828	26506.558	25255.558	4209.260	4055.23958	28855.445	121460058.636	117015742.663		117015742.663	4444315.974	26	1420329.313
Dec-07	3630.491	7.1905	26105.046	24854.046	4142.34092	3987.34737	26702.143	110609379.670	106470719.664		106470719.664	4138660.005	25	1271775.731
Jan-08	3656.134	7.1982	26317.584	25066.584	4177.76396	4004.92530	28850.329	120529864.725	115543412.525		115543412.525	4986452.199	24	1471003.399
Feb-08	3826.833	7.2170	27618.254	26367.254	4394.54229	4219.74480	21987.954	96626993.801	92783554.554		92783554.554	3843439.246	23	1086572.304
Mar-08	4241.755	7.2144	30601.717	29350.717	4891.78621	4927.18750	28522.991	139528374.099	140538124.718		140538124.718	-1009750.619		
<b>Total</b>								<b>117135353.043</b>	<b>1126638487.555</b>	<b>4199851</b>	<b>1122438636.555</b>	<b>48916716.488</b>		<b>17282601.784</b>

**Annexure-VI (B)**  
**Reference : Paragraph 6.2.8.4**

**Computation of Royalty payable on crude price supplied to NRL during 2008-09 before considering sales tax**

Month	Crude price	Quantity	Quantity	Conversion	Crude price	Deduction towards post well head expenses (₹ 1251 per MT)	Rate of Royalty 20/120	Rate of Royalty paid on account of NRL	Quantity for Royalty	Royalty Payable	Royalty paid	Difference	Delay in month	Interest for wrong calculation @ 14.75%
1	(₹/BBL) 2	(Barrel) 3	(MT) 4	(BBL/MT) 5	(₹/MT) 6	7	8	9	(MT) 10	(₹) 11	(₹) 12	(₹) 13	14	(₹) 15=(13x14/12)x 14.75%
Apr-08	4519.114	449697.207	62227.673	7.226643	32658.026	31407.026	5234.50	4971.65070	64505.418	337653886.79	320698406.55	16955480.24	11	2292522.22
May-08	5380.309	495286.594	68824.323	7.196389	38718.80	37467.80	6244.63	5929.46730	68495.893	427731690.50	406144157.73	21587532.77	10	2653467.57
Jun-08	5838.470	485318.261	67288.497	7.212500	42109.963	40858.963	6809.83	6523.7501	65601.644	446735855.59	427968731.61	18767123.98	9	2076113.09
Jul-08	5917.864	451683.354	62633.802	7.211495	42676.647	41425.647	6904.27	6582.3476	68259.376	471281469.43	449306939.79	21974529.64	8	2160828.75
Aug-08	5066.746	492890.515	68449.448	7.200796	36484.60	35233.60	5872.27	5606.5825	65229.220	383043424.30	365713003.34	17330420.96	7	1491138.30
Sep-08	4652.627	471210.614	65550.345	7.188530	33445.548	32194.548	5365.76	5210.6263	64040.596	343626342.80	333691613.79	9934729.01	6	732686.26
Oct-08	3576.182	363129.177	50359.633	7.210719	25786.845	24535.845	4089.31	4094.3431	49558.896	202661561.17	202911123.88	-249562.71	5	-15337.71
Nov-08	2613.620	134930.755	18718.399	7.208456	18840.165	17589.165	2931.53	2932.2208	25125.852	73657124.80	73674545.85	-17421.05	4	-856.54
Dec-08	2082.137	481300.891	66600.972	7.226635	15046.843	13795.843	2299.31	2245.1521	65391.628	150355442.82	146814150.93	3541291.89	3	130585.14
Jan-09	2218.570	170056.910	23520.982	7.230009	16040.281	14789.281	2464.88	2402.7613	29687.752	73176750.71	71332581.59	1844169.12	2	45335.82
Feb-09	2251.942	414558.347	57382.574	7.224464	16269.074	15018.074	2503.01	2413.5070	58578.064	146621618.41	141378567.51	5243050.90	1	64445.83
Mar-09	2491.128	460227.516	64033.596	7.187282	17904.44	16653.44	2775.57	2622.8388	62764.417	174207237.85	164620948.17	9586289.68	0	0.00
<b>Total</b>										<b>3230752405.17</b>	<b>3104254770.74</b>	<b>126497634.43</b>		<b>11630928.75</b>

**Annexure-VI (C)**  
**Reference : Paragraph 6.2.8.4**

**Computation of Royalty payable on crude price build up for Assam crude to IOCL for 2004-05 after considering Sales Tax**

Month	Pre-Discount	Conversion	Crude price	Deductions towards VAT 4/104	Deduction towards post well head expenses @ 7.50%	Crude price after deduction of VAT and post well expenses	Rate of Royalty 20/120	Rate of Royalty paid on account of IOCL	Quantity for Royalty in MT	Royalty Payable	Royalty paid	Deduction due to VAT inclusion	Royalty paid after VAT deduction	Short payment	Delay in month	Interest for wrong calculation @ 14.75%
1	2	(BBL/MT) 3	(₹/MT) 4	(₹) 5	(₹) 6	(₹/MT) 7	(₹/MT) 8	(₹/MT) 9	10	(₹) 11	(₹) 12	(₹) 13	(₹) 14=11-(12+13)	(₹) 15=11-14	16	(₹) 17=(15x16/12)x 14.75%
Apr-04	1867.183	7.0760	13212.19	508.16	952.80	11751.22	1958.54	1456.8391	28209.772	55249891	41097098.9		41097098.85	14152792	59	1217730
May-04	1867.183	7.1267	13306.85	511.80	959.63	11835.42	1972.57	1711.9050	32805.353	64710867	56159647.8		56159647.83	8551219	58	723291
Jun-04	1556.374	7.1312	11098.81	426.88	800.40	9871.54	1645.26	1609.2962	34213.789	56290473	55060120.6	1077650	53982470.63	2308003	57	191853
Jul-04	1722.264	7.0907	12212.06	469.69	880.68	10861.69	1810.28	1774.1210	39516.841	71536584	70107657.5		70107657.47	1428926	56	116696
Aug-04	1949.844	7.1145	13872.17	533.54	1000.40	12338.22	2056.37	2014.7059	18025.222	37066537	36315521.1		36315521.11	751016	55	60238
Sep-04	1969.737	7.2366	14254.20	548.24	1027.95	12678.01	2113.00	2071.3262	31123.933	65764940	64467817.9	1315184	63152633.87	2612306	54	205719
Oct-04	2242.226	6.9626	15611.72	600.45	1125.85	13885.43	2314.24	2272.5804	27549.178	63755348	62607722.0		62607722.00	1147626	53	88702
Nov-04	1907.687	7.1237	13589.79	522.68	980.03	12087.07	2014.51	1972.8547	36923.621	74383082	72844939.2		72844939.23	1538143	52	116643
Dec-04	1652.415	7.1258	11774.78	452.88	849.14	10472.76	1745.46	1703.7939	38842.396	67797849	66179437.4	2054567	64124870.37	3672978	51	273178
Jan-05	1896.058	7.0924	13447.60	517.22	969.78	11960.61	1993.43	1951.7638	29548.372	58902746	57671442.8		57671442.82	1231303	50	89783
Feb-05	1962.271	7.1083	13948.41	536.48	1005.90	12406.04	2067.67	2025.9983	29787.294	61590386	60349006.8		60349006.8	1241379	49	88707
Mar-05	2296.683	7.1274	16369.38	629.59	1180.48	14559.30	2426.55	2377.5143	32998.812	80073283	78455147.2	1233758	77221389.18	2851894	48	199633
<b>Total</b>										<b>757121986</b>	<b>721315559</b>	<b>5681159</b>	<b>715634400.1</b>	<b>41487586</b>		<b>3372170</b>

**Annexure-VI (D)**  
**Reference : Paragraph 6.2.8.4**

**Computation of Royalty payable on crude price build up for Assam crude to IOCL for 2005-06 after considering Sales Tax**

Month	Pre-Discount	Conversion	Crude price	Deductions towards VAT 4/104	Deduction towards post well head expense @ 7.50%	Crude price after deduction of VAT and post well expense	Rate of Royalty 20/120	Rate of Royalty paid on account of IOCL	Quantity for Royalty	Royalty Payable	Royalty paid	Deduction due to VAT inclusion	Royalty paid after VAT deduction	Short payment	Delay in month	Interest for wrong calculation @ 14.75%
1	2	3 (BBL/MT)	4 (₹/MT)	5	6	7	8 (₹/MT)	9 (₹/MT)	10 (MT)	11 (₹)	12 (₹)	13 (₹)	14 (₹)	15=11-14	16	17 (₹)
Apr-05	2296.683	7.0981	16302.09	627.00	1175.63	14499.45	2416.58	2375.6588	35115.420	84859053	83422257		83422257	1436796	47	98480
May-05	2155.769	7.1343	15379.90	591.53	1153.49	13634.88	2272.48	2238.9959	27544.670	62594690	61672403		61672403	922287	46	61870
Jun-05	2416.108	7.1439	17260.43	663.86	1294.53	15302.04	2550.34	2518.2309	18599.815	47435848	46838629	3733237	43105392	4330456	45	284186
Jul-05	2532.765	7.1239	18043.16	693.97	1353.24	15995.96	2665.99	2639.6592	5953.636	15872353	15715570		15715570	156783	44	10060
Aug-05	2829.929	7.1497	20233.14	778.20	1517.49	17937.46	2989.58	2958.6989	26474.800	79148443	78330962		78330962	817482	43	51263
Sep-05	2859.192	7.1552	20458.09	786.85	1534.36	18136.88	3022.81	2991.7639	20691.070	62545257	61902796	2732692	59170104	3375152	42	206728
Oct-05	2676.695	7.1186	19054.32	732.86	1429.07	16892.39	2815.40	2789.3821	28437.642	80063283	79323450		79323450	739833	41	44236
Nov-05	2584.980	7.1559	18497.86	711.46	1387.34	16399.06	2733.18	2707.5159	25055.084	68479983	67837038		67837038	642945	40	37505
Dec-05	2621.040	7.1821	18824.57	724.02	1411.84	16688.71	2781.45	2755.6978	25318.092	70421035	69769010	3710683	66058327	4362707	39	248129
Jan-06	2825.616	7.1209	20120.93	773.88	1509.07	17837.98	2973.00	2947.3575	23986.161	71310766	70695792		70695792	614975	38	34080
Feb-06	2747.662	7.1765	19718.60	758.41	1478.89	17481.29	2913.55	2887.5236	23663.837	68945749	68329888		68329888	615861	37	33231
Mar-06	2817.630	7.1795	20229.17	778.05	1517.19	17933.94	2988.99	2963.5769	30812.055	92096931	91313894	2070925	89242969	2853962	36	149833
<b>Total</b>										<b>803773391</b>	<b>795151689</b>	<b>12247537</b>	<b>782904152</b>	<b>20869239</b>		<b>1259602</b>

**Annexure-VI (E)**  
**Reference : Paragraph 6.2.8.4**

**Computation of Royalty payable on crude price build up for Assam crude to IOCL for 2006-07 after considering Sales Tax and discount**

Month	Pre-Discount	Conversion	Crude price	Deductions towards VAT 4/104	Deduction towards post well head expenses @7.50%	Crude price after deduction of VAT and post well expenses	Rate of Royalty 20/120	Rate of Royalty paid on account of IOCL	Quantity for Royalty	Royalty Payable	Royalty paid	Deduction due to VAT inclusion	Royalty paid after VAT deduction	Short payment	Delay in month	Interest for wrong calculation @ 14.75%
1	2	(BBL/MT) 3	(₹/MT) 4	5	6	7	(₹/MT) 8	(₹/MT) 9	(MT) 10	(₹) 11	(₹) 12	13	(₹) 14	(₹) 15=11-14	16	(₹) 17
Apr-06	3203.856	7.1648	22954.987	882.88	1655.41	20416.70	3402.783	3503.3282	24335.651	82808930	85255772		85255772.41	-2446843	46	-1383486
May-06	3226.971	7.1643	23118.988	889.19	1733.92	20495.87	3415.979	3528.8435	23425.383	80020610	82664511		82664510.53	-2643901	45	-1462408
Jun-06	3182.838	7.1539	22769.700	875.76	1707.73	20186.22	3364.370	3340.1682	16234.576	54619118	54226214	5068957	49157257.50	5461860	44	2953956
Jul-06	3452.675	7.1489	24682.828	949.34	1851.21	21882.28	3647.046	3623.2191	26450.940	96467798	95837551		95837551.02	630247	43	333112
Aug-06	3437.258	7.1450	24559.208	944.58	1841.94	21772.68	3628.780	3605.4387	26759.676	97104990	96480371		96480371.45	624618	42	322459
Sep-06	2881.439	7.1631	20640.036	793.85	1548.00	18298.19	3049.698	3023.3061	23843.009	72713967	72084715	6270869	65813845.55	6900121	41	3477374
Oct-06	2688.050	7.1740	19284.071	741.70	1446.31	17096.07	2849.345	2822.1722	22998.522	65530725	64905789		64905789.43	624936	40	307260
Nov-06	2665.032	7.1828	19142.392	736.25	1435.68	16970.47	2828.411	2800.9751	21505.472	60826316	60236292		60236291.59	590024	39	282843
Dec-06	2800.086	7.1905	20134.018	774.39	1510.05	17849.58	2974.930	2947.8031	22392.999	66617611	66010152	2440188	63569963.87	3047647	38	1423505
Jan-07	2428.264	7.1982	17479.130	672.27	1310.93	15495.92	2582.653	2554.3484	25697.152	66366839	65639479		65639479.1	727360	37	330797
Feb-07	2597.005	7.2170	18742.585	720.87	1405.69	16616.02	2769.337	2741.7450	22047.433	61056774	60448439		60448439.19	608335	36	269188
Mar-07	2751.743	7.2144	19852.175	763.55	1488.91	17599.72	2933.286	2905.8028	23692.827	69497839	68846683	5238832	63607851.04	5889988	35	2533922
<b>Total</b>										<b>873631516</b>	<b>872635968</b>	<b>19018846</b>	<b>853617123.00</b>	<b>20014394</b>		<b>9388523</b>

**Annexure-VI (F)**  
**Reference : Paragraph- 6.2.8.4**

**Computation of Royalty payable on crude price supplied to BRPL during 2008-09 before considering sales tax and discount as allowed at per directive of MOP&NG instruction**

Month	Crude price	Quantity Barrel	Quantity	Conversion	Crude price	Deduction towards post well head expenses (₹ 1251 per MT)	Rate of Royalty 20/120	Rate of Royalty paid on account of BRPL	Quantity for Royalty	Royalty Payable	Royalty paid	Difference	Delay in month	Interest for wrong calculation @ 14.75%
	(₹/BBL)		(MT)	(BBL/MT)	(₹/MT)		(₹/MT)	(₹/MT)	(MT)	(₹)	(₹)	(₹)		(₹)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Apr-08	4543.939	71201.645	9847.929	7.2301136	32853.19	31602.195	5267.0325	5015.1862	10208.397	53767958.737	51197011.759	2570946.978	11	347613.46
May-08	5405.134	96785.063	13440.736	7.2008752	38921.70	37670.70	6278.4493	5987.2104	13376.597	83984285.539	80088500.675	3895784.864	10	478856.89
Jun-08	5863.294	98755.458	13693.001	7.2121121	42286.73	41035.734	6839.2889	6574.0672	13349.732	91302674.150	87762035.270	3540638.880	9	391683.18
Jul-08	5764.052	78629.310	10899.878	7.2137789	41580.60	40329.60	6721.5995	6636.3519	11878.871	79845012.847	78832368.131	1012644.716	8	99576.73
Aug-08	4912.934	87042.246	12089.240	7.1999767	35373.01	34122.01	5687.0017	5640.4045	11520.498	65517091.708	64980268.761	536822.946	7	46189.14
Sep-08	4498.815	93295.040	12975.646	7.1900112	32346.53	31095.53	5182.5884	5250.6958	12676.792	65698594.774	66561978.512	-863383.738	6	-63674.55
Oct-08	3536.073	177866.831	24678.437	7.2073783	25485.82	24234.816	4039.136	1559.7332	24286.041	98094621.540	37879744.444	60214877.096	5	3700705.99
Nov-08	2573.511	155017.666	21501.652	7.209570	18553.91	17302.908	2883.818	1018.0046	28861.833	83232272.532	29381478.758	53850793.773	4	2647664.03
Dec-08	2042.028	101088.971	13989.438	7.2260924	14755.88	13504.883	2250.8138	2280.6792	13735.417	30915866.412	31326079.855	-410213.443	3	-15126.62
Jan-09	2243.394	127739.474	17667.950	7.2300111	16219.76	14968.763	2494.7939	2424.2610	22300.163	55634310.784	54061415.455	1572895.329	2	38667.01
Feb-09	2276.767	112130.443	15522.826	7.2235844	16446.42	15195.418	2532.570	2417.8019	15846.224	40131667.489	38313030.495	1818636.994	1	22354.08
Mar-09	2515.952	117958.944	16419.822	7.1839356	18074.44	16823.437	2803.9062	2630.1320	16419.822	46039640.625	43186299.277	2853341.349	0	0.00
<b>Total</b>										<b>794163997.14</b>	<b>663570211.39</b>	<b>130593785.74</b>		<b>7694509.38</b>

**Annexure-VI (G)**  
**Reference : Paragraph- 6.2.8.4**

**Computation of Royalty payable on crude price supplied to IOCL during 2008-09 before considering sales tax and discount as allowed at per directive of MOP&NG instruction**

Month	Crude price	Quantity	Quantity	Conversion	Crude price	Deduction towards post well head expenses (₹1251 per MT)	Rate of Royalty 20/120	Rate of Royalty paid on account of IOCL	Quantity for Royalty	Royalty Payable	Royalty paid	Difference	Delay in month	Interest for wrong calculation @ 14.75%
1	(₹/ BBL)	(Barrel)	(MT)	(BBL/MT)	(₹/ MT)	(₹/MT)	(₹/MT)	(₹/MT)	(MT)	(₹)	(₹)	(₹)	14	(₹)
Apr-08	4389.015	178610.707	24717.017	7.2262242	31716.007	30465.007	5077.5011	2366.79320	25621.744	130094432.978	60641369.471	69453063.506	11	9390632.96
May-08	5250.210	180963.478	25148.723	7.1957323	37779.106	36528.106	6088.0176	2429.64570	25028.713	152375245.234	60810904.917	91564340.317	10	11254783.50
Jun-08	5708.371	165420.599	22933.738	7.2129802	41174.367	39923.367	6653.8945	2347.4369	22358.813	148773183.666	52485902.676	96287280.990	9	10651780.46
Jul-08	5752.945	171306.158	23752.361	7.2121739	41491.24	40240.24	6706.7066	2923.94480	25885.724	173607956.690	75688428.084	97919528.606	8	9628753.65
Aug-08	4901.827	203307.485	28252.947	7.1959745	35273.422	34022.422	5670.4036	2473.22750	26923.778	152668689.015	66588628.153	86080060.862	7	7406471.90
Sep-08	4487.708	180760.560	25151.976	7.186734	32251.963	31000.963	5166.8272	1488.74050	24572.678	126962782.181	36582340.932	90380441.248	6	6665557.54
Oct-08	3524.966	220646.073	30605.587	7.2093397	25412.677	24161.677	4026.9462	1560.21440	30118.947	121287379.565	46992014.822	74295364.743	5	4566069.29
Nov-08	2562.403	216251.979	29995.767	7.2094165	18473.431	17222.431	2870.4051	977.0256	40263.549	115572696.344	39338518.120	76234178.224	4	3748180.43
Dec-08	2020.921	183340.570	25374.344	7.2254309	14602.025	13351.025	2225.1709	2280.4514	24913.595	55437005.376	56814242.597	-1377237.221	3	-50785.62
Jan-09	2232.287	190232.350	26311.493	7.2300097	16139.457	14888.457	2481.4094	2424.2605	33209.885	82407322.451	80509412.415	1897910.036	2	46656.96
Feb-09	2265.66	195942.178	27126.732	7.2232135	16365.346	15114.346	2519.0577	2444.8590	21594.554	54397926.809	52795639.698	1602287.111	1	19694.78
Mar-09	2504.845	197668.599	27505.435	7.1865287	18001.141	16750.141	2791.690	2631.1566	20968.854	58538542.014	55172338.597	3366203.417	0	0.00
										1372123162.32	684419740.48	687703421.84		63327795.84



**Annexure-VII**  
**Reference : Paragraph 6.2.14**  
**Statement of non-levy of penal interest on discount**

Period 1	Royalty paid (₹) 2	Due date of payment 3	Date of payment 4	Delay in days 5	Rate of interest 6	Interest leviable (₹) 7
April-June 2005	37,33,240	31.7.05	30.8.05	29	13.00	38,559.76
April-June 2006	50,88,957	31.7.06	31.8.06	30	13.00	54,375.15
Oct-Dec 2006	24,40,188	31.1.07	27.2.07	26	13.00	22,596.80
Jan-March 2007	52,38,832	30.4.07	30.5.07	29	13.00	54,110.67
April-June 2007	41,99,851	31.7.07	31.8.07	30	14.75	50,910.00
Oct-Dec 2007	2,12,522,560	31.1.08	29.6.08	149	14.75	1,27,96,478.25
<b>Total</b>	<b>2,33,223,628</b>					<b>1,30,17,030.63</b>

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**2010**