सत्यमेव जयते

Report of the Comptroller and Auditor General of India

for the year ended March 2007

Revenue Receipts

Government of West Bengal

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PREFACE

This report for the year ended 31 March 2007 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

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

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2006-07 as well as those noticed in earlier years but could not be covered in previous years' reports.

OVERVIEW

I. General

This Report contains 56 paragraphs including three reviews relating to underassessment/non-realisation/loss of revenue etc. involving Rs. 2,483.81 crore. Some of the major findings are mentioned below:

The total receipts of the Government for the year 2006-07 were Rs. 25,828.31 crore against Rs. 23,725.89 crore in the previous year. Of this, 50 *per cent* was raised by the Government through tax revenue (Rs. 11,694.77 crore) and non-tax revenue (Rs. 1,248.76 crore). The balance 50 *per cent* was received from the Government of India in the form of State's share of net proceeds of divisible Union taxes (Rs. 8,505.60 crore) and grants-in-aid (Rs. 4,379.18 crore).

(Paragraph 1.1)

Test check of the records of sales tax, land revenue, state excise, motor vehicles tax, amusement tax, electricity duty, forest and other departmental receipts conducted during the year 2006-07 revealed underassessment/ non-realisation/loss of revenue etc. of Rs. 3,103.67 crore in 777 cases. During the year 2006-07, the concerned departments accepted underassessments etc. of Rs. 429.05 crore in 431 cases of which 322 cases involving Rs. 409.15 crore were pointed out in audit during 2006-07 and the rest in earlier years. Of this, Rs. 9.41 crore has been recovered in 88 cases.

(Paragraph 1.10)

As on 30 June 2007, 1,059 inspection reports containing 2,886 audit observations involving Rs. 784.32 crore were outstanding for want of response or final action by the concerned departments.

(Paragraph 1.13)

II. Sales Tax

Failure of the assessing authority to levy minimum penalty on concealed sales/purchases of Rs. 98.61 crore of 28 dealers led to non-levy of penalty of Rs. 9.78 crore.

(Paragraph 2.2)

Incorrect determination of gross turnover by the assessing authority in 29 cases led to short levy of tax of Rs. 9.23 crore.

(Paragraph 2.3)

Irregular allowance of concessional rate of tax on turnover of Rs. 19.63 crore resulted in short levy of tax of Rs. 86.91 lakh in 18 cases.

(Paragraph 2.9)

Incorrect determination of contractual transfer price by the assessing authority in five cases resulted in short levy of tax of Rs. 85.89 lakh.

(Paragraph 2.10)

Irregular adjustment of excess tax collected by six dealers against their assessed dues resulted in short realisation of Rs. 68 lakh.

(Paragraph 2.11)

III. Land Revenue

Failure of the department to monitor the land held by mills, factories etc. and restore/resume the unused/excess land led to non-realisation of revenue of Rs. 260.20 crore.

(Paragraph 3.2.8)

Failure of the department to execute lease agreement within the prescribed timeframe and advance handing over of land without execution of lease agreement led to non-realisation of revenue of Rs. 93.63 crore.

(Paragraph 3.2.9)

Failure of the department to review the use and requirement of land transferred to authorities under the Central Government and resume these for further settlement led to non-realisation of revenue of Rs. 19.75 crore.

(Paragraph 3.2.10)

Failure to vest land of non-agricultural tenant resulted in non-realisation of *salami* and rent of Rs.102.60 crore

(Paragraph 3.2.14)

Failure of the department to assess and levy capitalised value and other charges on transfer of land resulted in non-realisation of revenue of Rs. 152.39 crore.

(Paragraph 3.2.17.1)

Non-approval of transfer of lease hold interest of tea gardens resulted in non-realisation of *salami*, stamp duty and registration fees of Rs. 48 crore.

(Paragraph 3.2.17.2)

Lack of timely action to settle land with unauthorised occupiers resulted in non-realisation of rent and *salami* of Rs. 6.97 crore.

(Paragraph 3.3)

Realisation of rent at non-commercial rate from eight *raiyats* and non-realisation of rent and cess, surcharge etc. from 82 *raiyats* resulted in non/short realisation of Rs. 20.10 lakh on land used for commercial purposes.

(Paragraph 3.5)

Failure to recover cess from *raiyats* exempted from payment of rent of land resulted in non-realisation of cess of Rs. 12.84 lakh.

(Paragraph 3.7)

IV. State Excise

Failure of two distillers to achieve minimum production of alcohol from molasses on the basis of yield fixed by the Government resulted in short realisation of revenue of Rs. 25 crore.

(Paragraph 4.2)

Allowance of excess transport charges on import of country spirit led to reduction of additional fee payable by 14 licensees and resultant short realisation of Rs. 4.28 crore.

(Paragraph 4.5)

Non-levy of privilege fee on 218.74 lakh bulk litre of spirit imported and received by three distilleries resulted in non-realisation of Rs. 1.31 crore.

(Paragraph 4.6)

Departmental failure to levy pass fee on export of 152.89 lakh bulk litre of bottled India made foreign liquor resulted in non-realisation of pass fee of Rs. 69.44 lakh.

(Paragraph 4.7)

Failure of the department to levy pass fee on 2.71 lakh london proof litre of spirit imported by two India made foreign liquor manufacturers from outside India resulted in non-realisation of Rs. 67.75 lakh.

(Paragraph 4.8)

Production and issue of India made foreign liquor with under/over strength ranging between 0.2 and 4.7 degree proof by three manufacturers resulted in evasion of duty of Rs. 47.96 lakh.

(Paragraph 4.10)

Non-initiation of action by the departmental authority for realisation of establishment cost of excise personnel deployed in foreign liquor warehouse resulted in non-realisation of Rs. 27.95 lakh.

(Paragraph 4.12)

V. Motor Vehicles Tax

Delayed incorporation of the revised business rules regarding increase of taxes/fees resulted in short levy of taxes/fees of Rs. 2.99 crore.

(Paragraph 5.2.6.2)

Lack of proper validation checks of the data input into the system rendered the database incomplete and unreliable.

(Paragraph 5.2.9.2)

Lack of monitoring on the part of the taxing authorities resulted in non-realisation of tax, additional tax and penalty of Rs. 103.49 crore from goods, contract and stage carriages.

(Paragraph 5.2.10)

Difference of life time tax and one time tax including penalty of Rs. 23.78 crore was not realised.

(Paragraph 5.2.12)

Failure of the department to realise difference of life time tax and one time tax from 2,605 motor cycle owners resulted in non-realisation of tax and penalty of Rs. 1.10 crore.

(Paragraph 5.3)

Non-levy of one time tax and special tax on 63 non-transport vehicles resulted in non-realisation of revenue of Rs. 14.83 lakh.

(Paragraph 5.7)

VI. Amusement Tax

Non-levy of tax on entry fee collected by Science City authorities for joy rides resulted in non-realisation of entertainment tax of Rs. 4.59 crore.

(Paragraph 6.2)

Non-raising of demand of entertainment tax on entrance fee, subscription and entry money received by Royal Calcutta Turf Club during 2004-05 resulted in non-levy of entertainment tax of Rs. 23.77 lakh.

(Paragraph 6.4)

VII. Other Tax Receipts

Non-realisation of stamp duty and registration fees of Rs. 2.28 crore due to non/delay in determination of market value of properties.

(Paragraph 7.2)

Failure of the department to enroll 556 professionals and traders resulted in non-realisation of profession tax of Rs. 26.32 lakh.

(Paragraph 7.3)

VIII. Mines and Minerals

Inaction of the department to recover price of brick earth from 152 brick field owners on 2.98 crore cft. of brick earth extracted without quarry permit resulted in non/short realisation of revenue of Rs. 1.50 crore.

(Paragraph 8.2)

IX. Other Non-Tax Receipts

Lack of monitoring by the Finance Department led to disbursement of loans by the loan sanctioning departments without fixing of the terms and conditions for their repayment. This resulted in non-levy of interest of Rs. 91.97 crore.

(Paragraph 9.2.9)

Failure of the loan sanctioning departments to monitor payment of stipulated instalments by the loanees and redetermine interest payable led to short realisation of interest of Rs. 571.26 crore.

(Paragraph 9.2.10)

Failure of the Government to specify a time limit for initiation of certificate proceedings led to non-realisation of interest of Rs. 89.14 crore as well as principal of Rs. 112.21 crore.

(Paragraph 9.2.11)

Failure of the loans sanctioning departments to recover the instalments from defaulters in case of current loans led to non-recovery of interest of Rs. 1,962.70 crore.

(Paragraph 9.2.15)

The loan sanctioning departments failed to include/recover outstanding interest of Rs. 602.57 crore while converting loans into equity share capital/interest free loans.

(Paragraph 9.2.16)

Inaction of the department to make assessment of irrigated land as per test notes of the engineering divisions resulted in non/short realisation of water rate of Rs. 88 lakh.

(Paragraph 9.6)

CHAPTER I
GENERAL

1.1 Trend of revenue

The tax and non-tax revenue raised by the Government of West Bengal during the year 2006-07, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)

	Receipts	2002-03	2003-04	2004-05	2005-06	2006-07
I.	**Revenue raised by the State Government**					
	• **Tax revenue**	7,046.40	8,767.91	9,924.46	10,388.38	11,694.77
	• **Non-tax revenue**	654.33	605.84	1,345.66	1,018.81	1,248.76
	Total	**7,700.73**	**9,373.75**	**11,270.12**	**11,407.19**	**12,943.53**
II.	**Receipts from the Government of India**					
	• **State's share of net proceeds of divisible Union taxes**	4,586.74	5,341.65	6,384.89	6,668.33	8,505.60[1]
	• **Grants-in-aid**	2,237.98	1,893.10	2,263.18	5,650.37[#]	4,379.18
	Total	**6,824.72**	**7,234.75**	**8,648.07**	**12,318.70**	**12,884.78**
III.	**Total receipts of the State Government (I+II)**	**14,525.45**	**16,608.50**	**19,918.19**	**23,725.89**	**25,828.31**
IV.	**Percentage of I to III**	**53**	**56**	**57**	**48**	**50**

The above table indicates that during the year 2006-07, the revenue raised by the State Government was 50 *per cent* of the total revenue receipts (Rs. 25,828.31 crore) against 48 *per cent* in the preceding year. The balance 50 *per cent* of receipts during 2006-07 was from the Government of India.

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[1] Figures under the heads 0020 - corporation tax, 0021 - Taxes on income other than corporation tax, 0028 - Other taxes on income and expenditure, 0032 - Taxes on wealth, 0037 - Customs, 0038 - Union excise duties, 0044 - Service tax, 0045 - Other taxes and duties on commodities and services - 'Share of net proceeds assigned to States' booked in the Finance Accounts under A - Tax revenue have been excluded from revenue raised by the State and included in State's share of divisible union taxes in this statement.

[#] The steep increase in grants-in-aid was mainly attributable to

(i) increase in non-plan grants of Rs. 2,576.62 crore of which grants to cover revenue deficit of Rs. 2,438.90 crore and Rs. 139.10 crore as compensation to states for revenue loss due to introduction of VAT;

(ii) increase in grants for State plan schemes on Accelerated Power Development Reforms Programme of Rs. 282.50 crore;

(iii) increase in grants for centrally sponsored scheme mainly due to payment of excess grant under Accelerated Rural Water Supply Programme of Rs. 68.70 crore, Integrated Child Development Scheme of Rs. 133.10 crore and Rs. 282.70 crore under National Programme of Nutritional Support to Primary Education.

1.1.1 Tax revenue

The following table presents the details of the tax revenue raised during the period from 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+)/ decrease (-) in 2006-07 over 2005-06
1.	• Sales tax	3,668.41	4,276.12	5,086.33	5,394.81	6,279.83	(+) 16.41
	• Central sales tax	523.10	554.46	629.97	713.97	799.20	(+) 11.94
2.	State excise	566.85	619.96	671.56	743.46	817.36	(+) 9.94
3.	Stamp duty and registration fees	720.41	794.52	1,006.54	1,177.59	1,258.57	(+) 6.88
4.	Taxes and duties on electricity	145.42	396.16	269.65	382.46	526.35	(+) 37.62
5.	Taxes on vehicles	249.40	535.37	527.66	537.56	508.97	(-) 5.32
6.	Other taxes on income and expenditure-tax on professions, trades, callings and employment	223.34	229.89	237.43	249.15	264.85	(+) 6.30
7.	Other taxes and duties on commodities and services	287.33	366.17	359.68	269.36	284.73	(+) 5.71
8.	Land revenue	658.29	993.26	1,132.55	917.11	952.69	(+) 3.88
9.	Other taxes	3.85	2.00	3.09	2.91	2.22	(-) 23.71
	Total	**7,046.40**	**8,767.91**	**9,924.46**	**10,388.38**	**11,694.77**	**(+) 12.58**

The reasons for variations in receipts for 2006-07 from those of 2005-06 in respect of the principal heads of revenue were as follows:

- **Sales tax**: The increase (16.41 *per cent*) was mainly due to increase in number of registered dealers which rose by 29,602 during the year 2006-07 and collection of amount from one time settlement of disputed cases pending at various stages of appeal.
- **Taxes and duties on electricity**: The increase (37.62 *per cent*) was mainly due to enhanced collection of electricity duty by two major licensees.

1.1.2 Non-tax revenue

The following table presents the details of major non-tax revenue raised during the years 2002-03 to 2006-07:

(Rupees in crore)

Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+)/ decrease (-) in 2006-07 over 2005-06
1.	Interest	102.75	110.11	589.31	378.08	683.66[2]	(+) 80.82
2.	Dairy development	59.30	50.27	38.42	26.44	22.25	(-) 15.85
3.	Roads and bridges	22.30	22.08	19.57	19.98	18.11	(-) 9.36
4.	Forestry and wildlife	56.52	45.97	40.44	38.61	40.87	(+) 5.85
5.	Non-ferrous mining and metallurgical industries	6.87	13.91	18.94	19.88	11.56	(-) 41.85
6.	Food, storage and warehousing	81.29	27.67	180.23	191.50	87.67	(-) 54.22
7.	Housing	9.94	11.12	13.96	9.67	10.43	(+) 7.86
8.	Medical and public health	48.62	47.71	71.51	53.16	68.13	(+) 28.16
9.	Education, sports, art and culture	17.28	21.20	30.67	22.64	16.22	(-) 28.36
10.	Public works	4.78	6.39	7.29	6.73	5.42	(-) 19.47
11.	Police	64.30	44.69	56.85	57.05	71.33	(+) 25.03
12.	Others	180.38	204.72	278.47	195.07	213.11	(+) 9.25
	Total	**654.33**	**605.84**	**1,345.66**	**1,018.81**	**1,248.76**	**(+) 22.57**

The reasons for variations in receipts for 2006-07 from those of 2005-06 in respect of the principal heads of revenue were as follows:

- **Interest receipts**: The increase (80.82 *per cent*) was mainly due to larger receipts of interest from public sector and other undertakings.
- **Police receipts**: The increase (25.03 *per cent*) was mainly due to larger receipts from fees, fines and other receipts.
- **Medical and public health**: The increase (28.16 *per cent*) was mainly due to larger receipts from hospital services and ESI schemes.

1.2 Initiative for mobilisation of additional resources

In the budget for the year 2006-07, the Government had emphasised the need for reducing deficit and protecting plan expenditure through mobilisation of additional resources by introducing a modified scheme for settlement of disputes of sales tax till August 2006, enhancing the rate of sales tax on some commodities and by simplifying the procedure of payment/filing of tax return etc. Additional resource of Rs. 46 crore comprising Rs. 34 crore from sales tax, Rs. 10 crore from profession tax and Rs. 2 crore from luxury tax was estimated to be raised in the budget for the year 2006-07. The Government also expected that tax compliance would be made easier through a modern and improved tax administration. The budget estimate (BE) for collection of tax and non-tax revenue in 2006-07 was Rs. 13,970 crore against which the actual

[2] Includes Rs. 124.66 lakh, Rs. 3,102.55 lakh and Rs. 3,520.62 lakh by book adjustment per contra debit "2701-Major and medium irrigation", "2711 - Flood control and drainage" and "2700 - Major irrigation" respectively.

collection was Rs. 12,944 crore only, indicating a shortfall in collection of revenue of Rs. 1,026 crore (7.34 *per cent*) against the estimated revenue. The shortfall was mainly due to less collection from sales tax, motor vehicles tax, profession tax, other taxes and duties on commodities and services and non-tax revenue except interest receipts, police receipts and receipts from minor irrigation.

1.3 Variations between budget estimates and actuals

The variations between the BEs and actuals of revenue receipts for the year 2006-07 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
	Tax revenue				
1.	Sales tax	7,622	7,079	(-) 543	(-) 7.12
2.	State excise	870	817	(-) 53	(-) 6.09
3.	Land revenue	895	953	(+) 58	(+) 6.48
4.	Taxes on vehicles	760	509	(-) 251	(-) 33.03
5.	Stamp duty and registration fees	1,340	1,259	(-) 81	(-) 6.04
6.	Profession tax	300	265	(-) 35	(-) 11.67
7.	Electricity duty	480	526	(+) 46	(+) 9.58
8.	Other taxes and duties on commodities and services	455	285	(-) 170	(-) 37.36
9.	Agricultural income tax	2	1	(-) 1	(-) 50
10.	Others	2	1	(-) 1	(-) 50
	Total	**12,726**	**11,695**	**(-) 1,031**	**(-) 8.10**
	Non-tax revenue				
11.	Forest receipts	51	41	(-) 10	(-) 19.61
12.	Interest receipts	280	684	(+) 404	(+) 144.29
13.	Dairy development	49	22	(-) 27	(-) 55.10
14.	Food storage and warehousing	203	88	(-) 115	(-) 56.65
15.	Medical and public health	123	68	(-) 55	(-) 44.72
16.	Education, sports, art and culture	38	16	(-) 22	(-) 57.89
17.	Public works	9	5	(-) 4	(-) 44.44
18.	Roads and bridges	25	18	(-) 7	(-) 28
19.	Police	124	213	(+) 89	(+) 71.77
20.	Major and medium irrigation	5	7	(+) 2	(+) 40
21.	Minor irrigation	27	19	(-) 8	(-) 29.63
22.	Others	311	68	(-) 243	(-) 78.13
	Total	**1,245**	**1,249**	**(+) 4**	**(+) 0.32**

The reasons for variation between BEs and actuals as furnished by the departments concerned were as follows:

- **Motor vehicles tax**: Realisation of one time tax for five years on private four wheelers and difference of life time tax and one time tax on two wheelers on existing vehicles was almost completed by the end of the first quarter of 2005-06. As there was hardly any scope for realisation of such tax from existing four/two wheelers, the collection of tax decreased.

- **Agricultural income tax**: The decrease in collection was due to losses incurred by most of the tea companies in West Bengal and grant of exemption of agricultural income tax by the Government.

- **Receipts from minor irrigation**: The decrease in collection was due to shortage of man power and apathy of cultivators to pay the tax.

The other departments did not inform (September 2007) the reasons for variation despite being requested (June 2007).

1.4 Analysis of collection

The break-up of the total collection at pre-assessment stage and after regular assessment of sales tax, agricultural income tax, amusement tax for the year 2006-07 and the corresponding figures for the preceding two years as furnished by the department is as follows:

(Rupees in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection[3]	Percentage of column 3 to 7
1	2	3	4	5	6	7	8
Sales tax	2004-05	5,572.88	81.23	23.95	33.95	5,644.11	99
	2005-06	5,919.51	86.28	25.44	36.10	5,995.13	99
	2006-07	6,993.04	94.57	31.03	39.62	7,079.02	99
Agricultural income tax	2004-05	1.17	0.40	Nil	0.17	1.40	84
	2005-06	2.04	0.26	Nil	0.78	1.52	134
	2006-07	0.95	0.17	0.03	0.10	1.05	90
Amusement tax	2004-05	55.36	2.33	0.31	0.01	57.99	95
	2005-06	57.19	8.51	0.11	7.11	58.70	97
	2006-07	59.09	7.72	0.09	0.03	66.87	88

Thus, in case of amusement tax, the percentage of tax collected before regular assessments declined from 95 to 88 *per cent* reflecting decline in voluntary compliance with the provisions of Acts and Rules. In case of agricultural income tax, the percentage increased showing improvement in compliance with the Acts and Rules. The position in respect of the Sales Tax Department remained unchanged.

1.5 Cost of collection

The gross collection in respect of the major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2004-05 to 2006-07 along with the relevant all India average percentage of expenditure on collection to gross collection were as follows:

[3] The discrepancy in the net collection of revenue furnished by the department with that in the Finance Accounts needs reconciliation.

(Rupees in crore)

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection for the year 2005-06
Sales tax	2004-05	5,716.00	75.20	1.32	0.91
	2005-06	6,109.00	80.10	1.31	
	2006-07	7,079.00	83.79	1.18	
State excise	2004-05	672.00	38.45	5.72	3.40
	2005-06	743.00	39.38	5.30	
	2006-07	817.00	42.38	5.19	
Stamp duty and registration fees	2004-05	1,007.00	39.65	3.94	2.87
	2005-06	1,178.00	42.94	3.65	
	2006-07	1,259.00	44.97	3.57	
Taxes on vehicles	2004-05	528.00	9.32	1.77	2.67
	2005-06	538.00	9.70	1.80	
	2006-07	509.00	9.89	1.94	

The above table indicates that the percentage of expenditure on collection in respect of sales tax, state excise and stamp duty and registration fees was higher than the all India average cost of collection while in case of taxes on vehicles, it was lower.

1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2007 in respect of some principal heads of revenue as furnished by the departments amounts to Rs. 1,512.25 crore, of which Rs. 90.23 crore was outstanding for more than five years as mentioned in the following table:

(Rupees in crore)

Head of revenue	Amount outstanding as on 31 March 2007	Amount outstanding for more than five years as on 31 March 2007
Sales tax	1,432.72	58.13
Amusement tax	40.99	15.62
Agricultural income tax	22.66	11.08
Excise duty	15.88	5.40
Total	**1,512.25**	**90.23**

1.7 Arrears in assessments

The details of pending assessment cases at the beginning of the year, cases becoming due for assessment during the year, cases disposed during the year and number of cases pending at the end of each year during 2004-05 to 2006-07 as furnished by the departments are mentioned below:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Arrears in percentage (against total cases)
Sales tax						
2004-05	1,95,416	1,62,071	3,57,487	1,73,289	1,84,198	52
2005-06	1,84,198	1,30,038	3,14,236	1,45,160	1,69,076	54
2006-07	1,69,076	80,077	2,49,153	1,34,054	1,15,099	46
Profession tax						
2004-05	1,52,136	48,331	2,00,467	39,505	1,60,962	80
2005-06	1,60,962	61,765	2,22,727	90,614	1,32,113	59
2006-07	1,32,113	54,536	1,86,649	51,514	1,35,135	72
Amusement tax						
2004-05	6,349	2,890	9,239	1,986	7,253	79
2005-06	7,253	3,872	11,125	3,085	8,040	72
2006-07	8,040	3,126	11,166	2,499	8,667	78
Agricultural income tax						
2004-05	2,475	495	2,970	324	2,646	89
2005-06	2,646	467	3,113	553	2,560	82
2006-07	2,560	665	3,225	676	2,549	79

Thus, the percentage of cases pending disposal at the end of each financial year was between 46 and 89 *per cent*. Immediate action needs to be taken to finalise the pending sales tax assessment cases as value added tax has been introduced in the state from 2005-06. The department may initiate concrete steps to complete the pending assessments within a definite time frame.

1.8 Evasion of tax

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

(Rupees in crore)

Name of tax/duty	Cases pending as on 31 March 2006	Cases detected during 2006-07	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc. raised		No. of cases pending finalisation as on 31 March 2007
				No. of cases	Amount demanded	
Sales tax	9	27	36	20	1.10	16
State excise	6[4]	Nil	6	Nil	Nil	6
Amusement tax	19	14	33	4	NA*	29

* Not available.

[4] As per revised figure received from the department.

1.9 Refunds

The number of refund cases pending at the beginning of the year 2006-07, claims received and refunds made during the year and balance at the close of the year 2006-07, as reported by the departments are mentioned below:

	Sales tax		Amusement tax		Agricultural income tax	
	No. of cases	Amount (Rs. in crore)	No. of cases	Amount (Rs. in crore)	No. of cases	Amount (Rs. in crore)
Claims outstanding at the beginning of the year	233	2.34	Nil[5]	Nil	19	3.34
Claims received during the year	407	3.63	2	0.03	22	2.52
Refunds made during the year	356	4.57	2	0.03	6	0.10
Balance outstanding at the end of the year	284	1.40	Nil	Nil	35	5.76

1.10 Results of audit

Test check of the records of sales tax, land revenue, stamp duty and registration fees, motor vehicles tax, state excise, electricity duty, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2006-07 revealed underassessment/short levy/loss of revenue amounting to Rs. 3,103.67 crore in 777 audit observations. During the course of the year, the departments accepted Rs. 429.05 crore in 431 audit observations of which 322 audit observations involving Rs. 409.15 crore were pointed out in audit during 2006-07 and the rest in earlier years. Rs. 9.41 crore was recovered at the instance of audit. No replies have been received in respect of the remaining cases.

This Report contains 56 paragraphs including three reviews relating to non/short levy of taxes, duties, interest and penalties etc., involving Rs. 2,483.81 crore. The departments accepted audit observations involving Rs. 1,008.60 crore of which Rs. 33.15 lakh had been recovered. The departments have contested paragraphs involving Rs. 518.80 crore and no reply has been furnished in other cases.

In respect of the observations not accepted by the department, gist of the reasons for department's non-acceptance has been included in the related paragraph itself along with further comments of audit. Replies from the Government have not been received (September 2007).

1.11 Status of recovery against audit observations accepted by the Government

A review of the replies of the Government to the paragraphs of the Audit Reports for the last five years from 2001-02 to 2005-06, shows that against the revenue effect of Rs. 1,372.33 crore of the audit observations accepted by the departments, the actual recovery is extremely low at Rs. 160.57 crore only

[5] As per revised figure received from the department.

(11.70 *per cent* of the amount accepted). A year-wise break-up of the recovery of revenue till October 2007 is mentioned below:

(Rupees in crore)

Year of Audit Report	Revenue effect of the Audit Report	Amount accepted by the departments	Amount recovered
2001-02	133.89	125.27	130.56[6]
2002-03	204.77	150.96	0.29
2003-04	1,335.20	483.13	29.44
2004-05	554.93	442.16	0.21
2005-06	711.36	170.81	0.07
Total	2,940.15	1,372.33	160.57

1.12 Departmental audit committee meetings

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

The total number of meetings held and number of paragraphs settled during the last three years are mentioned below:

(Rupees in crore)

Year	Name of the department	Number of meeting(s) held	Number of paragraphs settled	Money value of the paragraphs settled
2004-05	Public works	1	Nil	Nil
	State excise	1	16	0.17
2005-06	State excise	2	45	2.17
2006-07	State excise	1	59	2.83

Thus, out of eight departmental audit committees, only one committee held meetings regularly during the last three years and settled 120 paragraphs involving money value of Rs. 5.17 crore. The other departments did not hold any audit committee meeting till September 2007 despite several reminders.

1.13 Failure to enforce accountability and protect interest of the Government

Accountant General (Receipt, Works and Local Bodies Audit), West Bengal arranges periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounts and other records as per the prescribed rules and procedures. These inspections are followed up with IRs. Important irregularities are included in IRs issued to the

[6] Includes recovery made by the offices not covered by audit in similar nature of cases.

heads of offices inspected with copies to the next higher authorities for taking prompt corrective action. The Government have provided that first replies to the IRs should be furnished within three weeks of receipt thereof by the heads of offices. The heads of the offices/Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the office of the Accountant General within two months from the dates of issue of the IRs. Serious irregularities are also brought to the notice of the heads of the departments by the office of the Accountant General.

Inspection reports issued upto December 2006 disclosed that 2,886 paragraphs involving Rs. 784.32 crore relating to 1,059 IRs remained outstanding at the end of June 2007. Of these, 257 IRs containing 445 paragraphs involving Rs. 58.56 crore had not been settled for more than 10 years by the Finance Department in respect of sales tax, amusements tax, agricultural income tax, profession tax, electricity duty and stamp duty and registration fees, by the Forest Department in respect of forest receipts, by the Land and Land Reforms/Commerce and Industries Department in respect of mines and minerals, by the Transport Department in respect of taxes on motor vehicles, by the Land and Land Reforms Department in respect of land revenue and other departments in respect of other departmental receipts. Even the first replies were not received in respect of 1,752 paragraphs of 467 IRs issued between August 1987 and December 2006. As a result, the serious irregularities commented upon in these IRs remained unattended as on 30 June 2007.

Department wise break-up of the IRs and audit observations outstanding as on 30 June 2007 is mentioned below:

(Rupees in crore)

Sl. No.	Department	Position of IRs issued up to December 2006 but not settled at the end of June 2007			Position of IRs and paragraphs not settled for more than 10 years			Position of IRs in respect of which even the first reply has not been received		
		No. of IRs	No. of Para-graphs	Money value	No. of IRs	No. of Para-graphs	Money value	No. of IRs	No. of Para-graphs	Earliest year to which IR relates
1.	**Finance**									
	Sales tax	116	555	59.92	10	18	0.38	78	421	2000-01
	Profession tax	88	218	13.09	21	28	3.95	26	135	2000-01
	Stamp duty and registration fees	271	425	28.86	41	50	2.52	141	216	1995-96
	Electricity duty	51	89	144.39	21	28	3.11	4	20	1998-99
	Agricultural income tax	17	25	1.84	3	6	0.04	5	6	1992-93
	Amusement tax	67	123	20.45	21	30	0.96	22	47	1987-88
	Luxury tax	17	25	0.69	-	-	-	11	11	2002-03
2.	**Forest**									
	Forest receipts	106	260	65.50	22	31	0.13	48	193	1995-97
3.	**Land and Land Reforms/Commerce and Industries**									
	Mines and minerals	72	235	21.76	20	38	1.05	28	165	1992-93
4.	**Land and Land Reforms**									
	Land revenue	95	549	148.25	41	130	15.40	33	289	1992-93
5.	**Excise**									
	State excise	43	118	69.96	1	1	10.07	24	109	1992-93
6.	**Transport**									
	Motor vehicles	13	43	1.80	23	28	0.17	13	43	2000-01
7.	**Other**									
	Departmental receipts	103	221	207.81	33	57	20.78	34	97	1994-95
	Total	**1,059**	**2,886**	**784.32**	**257**	**445**	**58.56**	**467**	**1,752**	-

The above indicates the failure of the departmental officials in initiating action in regard to defects, omissions and irregularities pointed out in the IRs by the Accountant General. The Principal Secretaries/Secretaries of the departments, who were informed of the position through half yearly reports, also failed to ensure that the concerned officers took prompt and timely action.

1.14 Settlement of paragraphs of the Audit Reports

The State Legislature have constituted a Committee on Public Accounts (PAC) for discussion of all the paragraphs of the Receipt Audit Reports after laying of the Reports in the State Legislature and to recommend comments for compliance by the Government. Normally 20 *per cent* of the total numbers of paragraphs of the Audit Report are selected every year for such discussion on the basis of questionnaires to the replies of the Government. The remaining

paragraphs not selected for discussion are disposed only on the basis of replies of the Government.

The number of selected and unselected paragraphs in respect of which explanatory notes have not been furnished by the Government stood at 46 and 821 + 446 (Part)[7] respectively.

This inaction on the part of the Government would have an adverse impact on the revenues realisable.

1.15 Follow-up on Audit Reports - summarised position

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

Particulars of the PAC Report	Date of presentation in the Assembly	Name of the Department	Year of Audit Report	No. of ATNs due
Sixth Report of 1987-88	20 April 1988	Excise	1978-79 1980-81	3 3
Seventeenth Report of 1988-89	5 May 1989	Irrigation and Waterways	1978-79 1983-84	3 1
Twenty second Report of 1990-91	26 March 1991	Transport	1979-80 1980-81	1 1
Second Report of 1991-92	9 April 1992	Board of Revenue	1980-81 1982-83 1983-84	4 1 1
Seventh Report of 1991-93	23 March 1993	Finance	1983-84	1
Seventeenth Report 1993-94	31 March 1994	Land and Land Reforms	1985-86 1986-87	2 2
Twenty second Report of 1994-95	17 April 1995	Excise	1984-85	2
Twenty fifth Report of 1994-96	1 August 1995	Transport	1983-84	1
		Home (Police)	1988-89	1
Seventeenth Report of 1998-99	28 June 1999	Land and Land Reforms	1988-89 1992-93	1 1
Twenty ninth Report of 1999-2000	2 December 1999	Irrigation and Waterways	1990-91	1
Sixteenth Report of 2002-03	8 July 2003	Finance	1997-98 1998-99	1 2
Twenty second Report of 2003-04	7 July 2004	Finance	1998-99	8
Thirty fifth Report of 2004-05	8 July 2005	Land and Land Reforms	1999-2000	5
Total				**46**

The departments, thus, failed to submit ATNs within six months in respect of 46 paragraphs included in the Audit Reports upto the year ended March 2000.

[7] Sub-paragraphs of Audit Reports for the years 1981-82 to 1991-92 which remained unselected have since been included in the outstanding list awaiting replies from the Government.

CHAPTER II
SALES TAX

2.1 Results of audit

Test check of the records relating to sales tax conducted during the year 2006-07 revealed underassessment of tax and other irregularities involving Rs. 28.91 crore in 246 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of tax due to incorrect determination of gross turnover	23	9.43
2.	Non/short levy of tax/penalty	27	6.15
3.	Non/short levy of interest	59	2.29
4.	Underassessment of tax due to incorrect deduction	24	1.52
5.	Non/short levy of tax due to application of incorrect rate of tax and mistake in computation	23	0.91
6.	Other irregularities	90	8.61
	Total	**246**	**28.91**

During the course of the year 2006-07, the concerned department accepted underassessment and other deficiencies of Rs. 7.97 crore in 143 cases of which 118 cases involving Rs. 7.01 crore were pointed out in audit during the year 2006-07 and the rest in earlier years. An amount of Rs. 16.51 lakh was realised in 10 cases.

A few illustrative cases involving Rs. 37.64 crore highlighting important observations are mentioned in the following paragraphs.

2.2 Non-levy of penalty for concealment of sales/purchases

Under the West Bengal Sales Tax (WBST) Act, 1994 if a dealer has concealed any turnover or furnished incorrect particulars thereof with intent to reduce the amount of tax payable, the assessing authorities (AAs) in addition to the tax, may impose by way of penalty a sum which shall not be less than one and half times and not more than thrice the amount of tax that would have been avoided by him. According to instructions (June 1991) of the Commissioner of Commercial Taxes (CCT), West Bengal, where the AAs did not initiate penal proceedings in a case, he should record the reasons for not doing so in the assessment order.

Scrutiny of the records of seven[1] charge offices between January 2005 and February 2006 revealed that, while assessing 28 cases of 28 dealers between May 1998 and February 2005 for different assessment periods ending between March 1996 and March 2003, the AAs observed that the dealers had concealed sales/purchases aggregating Rs. 98.61 crore with the intention to evade tax of Rs. 6.52 crore. Though the AAs levied tax on the concealed turnover, yet they neither levied minimum penalty of Rs. 9.78 crore nor recorded any reasons in the assessment order which was mandatory as per the CCTs' standing instructions.

After the cases were pointed out, the department in 12 cases involving Rs. 7.32 crore stated that imposition of penalty was discretionary and optional. The reply is not tenable as incorporating the reasons for non-imposition of penalty in the assessment orders was mandatory as per the instructions of the CCT. In two cases involving Rs. 43.19 lakh the dealers preferred appeal. In the remaining 14 cases involving Rs. 2.03 crore, the department did not furnish any reply.

The cases were reported to the Government between March 2005 and June 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

2.3 Incorrect determination of gross turnover

Under the WBST Act, turnover of sales in relation to any period, means the aggregate of the sale prices or parts of sale prices receivable by a dealer or if a dealer so elects, actually received by the dealer during such period. A dealer is liable to pay tax at the prescribed rate on the amount of such turnover after allowing permissible deductions.

[1] Barrackpore, Coochbehar, Corporate Division I and II, Salkia, Salt Lake and Shibpur.

2.3.1 Scrutiny of the records of 11[2] charge offices during April 2004 to July 2006 revealed that while assessing 19 cases of 19 dealers between June 2001 and June 2006 for different assessment periods ending between March 2000 and March 2003, the AAs incorrectly determined gross turnover (GT)/taxable balance (TB) as Rs. 326.25 crore instead of Rs. 417.71 crore. Short determination of GT/TB by Rs. 91.46 crore due to errors/omissions/ irregularities resulted in short levy of tax of Rs. 9.10 crore as mentioned below:

(Rupees in lakh)

Nature of irregularity	No. of cases	GT/TB to be determined	GT/TB determined	Short determination of GT/TB	Tax effect
Stock transfer not supported by documents	01	19,358.10	10,580.56	8,777.54	877.75
Erroneous calculation of TB	10	19,878.44	19,607.55	270.89	19.20
Non-inclusion of sale value of goods exempted irregularly	02	2,088.55	2,043.19	45.36	8.29
Non-inclusion of excise duty	01	278.18	266.04	12.14	1.82
Non-inclusion of sale value of goods imported through way bills	03	99.33	69.87	29.46	1.84
Non-detection of difference between sales figures of final accounts and sale returns	01	57.86	53.31	4.55	0.46
Discrepancy between closing stock of previous year and opening stock of current year	01	10.32	4.73	5.59	0.56
Total	**19**	**41,770.78**	**32,625.25**	**9,145.53**	**909.92**

After the cases were pointed out, the department between February 2005 and August 2006, admitted audit observations in nine cases involving Rs. 8.96 crore. Of these, two cases had been/were being proposed to the higher/appellate authority for revision. In one case involving Rs. 1.20 lakh, the department in August 2004 stated that as the certified accounts were rejected and GT enhanced, exemption on consignment sales was also enhanced accordingly and thus there was no excess allowance of claim. The reply is not tenable as exemption is to be allowed on the basis of the actual claim to the extent of the documents produced. In the remaining nine cases involving Rs. 12.52 lakh, the department did not furnish any reply.

The cases were reported to the Government between December 2004 and November 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

[2] Barrackpore, Baruipur, Bhowanipore, Colootola, Corporate Division I and II, Durgapur, Esplanade, Jorabagan, Serampore and Suri.

2.3.2 Scrutiny of the records of two[3] charge offices between February and March 2006 revealed that while assessing 10 cases of 10 dealers between June 2003 and April 2005 for different assessment periods ending between March 2001 and March 2004, the AAs incorrectly determined sales turnover of bricks as Rs. 76.29 lakh instead of Rs. 1.96 crore calculated at the minimum rate as per the schedule of rates of the Public Works division. This resulted in short determination of turnover of sales of Rs. 1.20 crore with consequent short levy of tax of Rs. 12.75 lakh including surcharge and additional surcharge.

The cases were reported to the department/Government between March and May 2006 followed by reminders issued upto July 2007; their reply has not been received (September 2007).

2.4 Incorrect exemption of export sales

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

Scrutiny of the records of two[4] charge offices in Kolkata between March 2005 and July 2006 revealed that while assessing 12 cases of 10 dealers between June 2001 and June 2005 for different assessment periods ending between March 1995 and March 2003, the AAs allowed exemption on account of export sales of Rs. 52.68 crore though the dates of bill of lading were prior to the dates of bill of invoice. This resulted in incorrect exemption of export sales of Rs. 52.68 crore and consequent non-levy of tax of Rs. 4.34 crore.

After the cases were pointed out, the department between March 2005 and July 2006 admitted the audit observations in three cases involving Rs. 5.11 lakh. Of these, two cases involving Rs. 2.33 lakh had been sent for revision to higher authority. In three cases involving Rs. 14.38 lakh, the AAs stated in May 2005 that the date of bill of lading might be beyond the bill date. The reply is not tenable as bills of lading also known as shipping bills are required to be filed alongwith all original documents such as invoices in the absence of which shipping bills cannot be processed as per the Custom Law Manual. In the remaining six cases involving Rs. 4.15 crore, the department did not furnish any reply.

The cases were reported to the Government between May and November 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

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[3] Diamond Harbour and Tamluk.
[4] Bhowanipore and Corporate Division I.

2.5 Incorrect exemption on account of transfer of goods

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

Scrutiny of the records of three[5] charge offices between March 2005 and May 2006 revealed that while assessing 30 cases of 30 dealers between June 2002 and June 2005 for different assessment periods ending between March 1995 and March 2003, the AAs allowed claim of transfer of goods to their branches/agents outside the State for Rs. 892.55 crore on the basis of declarations in form F. Further scrutiny revealed that in 16 cases involving transfer of goods of Rs. 34.63 crore, single F form covered transactions beyond one calendar month and in 14 cases involving Rs. 4.34 crore, transfer of goods were made to non-existent dealers. Incorrect allowance of exemption on such transfer of goods of Rs. 38.97 crore resulted in underassessment of tax of Rs. 3.95 crore.

After the cases were pointed out, the department between October 2005 and May 2006 admitted audit observations in two cases involving Rs. 3.69 lakh. Of these, one case involving Rs. 2.73 lakh had been proposed for *suo motu* revision to the concerned authority. In the other case involving Rs. 96,000, the department stated that measures would be taken to rectify the mistake. In three cases involving Rs. 2.81 crore, the department between May 2005 and February 2006 stated that the date of receipt of goods had been treated as the date of transaction. The reply is not tenable as the date of effecting the transfer of goods i.e. the date of despatch, should be treated as the date of transaction. In nine cases involving Rs. 23.51 lakh, the department between April and May 2005 stated that the consignee dealers were valid. The reply is not tenable as cross verification of records available with the department indicates that those dealers had already been declared non-existent by the Sales Tax Department of the concerned States. In the remaining 16 cases involving Rs. 86.57 lakh, the department did not furnish any reply.

The cases were reported to the Government between May and June 2006, followed by reminders issued upto June 2007; their reply has not been received (September 2007).

[5] Alipore, Corporate Division I and II.

2.6 Non/short levy of interest

Under the WBST Act, a dealer who

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

is liable to pay simple interest at the prescribed rate for each calendar month of default. In case of non-payment, interest is to be included in the demand upto the month preceding the month of initiation of certificate proceedings.

Scrutiny of the records of 15[6] charge offices between July 2004 and August 2006 revealed that while assessing/initiating certificate proceedings between February 2002 and June 2006 in 48 cases of 46 dealers for different assessment periods ending between December 1988 and March 2004, the AAs levied interest of Rs. 40.84 lakh instead of Rs. 3.14 crore realisable for delayed payment of tax of Rs. 5.17 crore resulting in non/short levy of interest of Rs. 2.73 crore.

After the cases were pointed out, the department between January 2005 and August 2006 accepted audit observations in 31 cases involving Rs. 1.58 crore of which nine cases involving Rs. 11.50 lakh were being/had been proposed for revision/*suo motu* revision to the higher/appellate authorities and in 17 cases involving Rs. 1.27 crore, fresh demand notices were issued/referred to the certificate officer/tax recovery officer for realisation. One case involving Rs. 40,000 was sent to higher authority for considering audit observation at the appellate stage. In four cases involving Rs. 12.06 lakh, the department stated that action would be taken. In the remaining 17 cases involving Rs. 1.15 crore, the department did not furnish reply. A report on further development has not been received (September 2007).

The cases were reported to the Government between August 2004 and November 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

[6] Alipore, Ballygunge, Barrackpore, Baruipur, Beliaghata, Bhowanipore, China Bazar, Corporate Division I and II, Durgapur, New Market, ND Sarani, Salkia, Salt Lake and Serampore.

2.7 Non/short raising of demand

Under the provisions of the WBST Act, the AA shall serve a notice of demand in the prescribed form to the dealer after final assessment showing, *inter alia*, the amount of tax, interest, penalty etc. and the date of payment of such dues.

Scrutiny of the records of four[7] charge offices between May 2005 and April 2006 revealed that while assessing seven cases of seven dealers between June 2002 and May 2005 for different assessment periods ending between March 1998 and March 2003, the AAs assessed tax including interest and penalty at Rs. 4.75 crore but raised demand short by Rs.71.32 lakh involving tax and interest in six cases and demand of penalty of Rs.1.55 crore in the remaining case was not raised. This resulted in short demand of revenue by Rs. 2.26 crore.

After the cases were pointed out, the department in October 2005 and April 2006 admitted audit observations in four cases involving Rs. 1.66 crore. In one case involving Rs. 1.83 lakh, the department in May 2006 stated that the issue of demand notice was not an integral part of the assessment procedure. The reply is not tenable as demand notice is issued to communicate the amount of tax, interest and penalty determined in the assessment proceedings along with the date by which such dues are payable by the dealer. In the remaining two cases involving Rs. 58.73 lakh, the department did not furnish any reply. A report on further development has not been received (September 2007).

The cases were reported to the Government between January and July 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

2.8 Undue benefit to the dealers due to irregular adjustment of excess tax

Under the provisions of the WBST Act, if a dealer, collects any amount in excess of the amount of tax payable by him, he should deposit such excess collected tax into the Government account within 30 days from the date of collection under intimation to the CCT for arranging refund to the purchaser on application and submission of relevant documents. In case of failure to deposit the tax collected in excess, the dealer has to pay a penalty not less than the amount of tax so collected and not exceeding twice the amount of tax.

Scrutiny of the records of three[8] charge offices between May 2005 and January 2006 revealed that during the period ending between March 2000 and March 2002, six dealers collected tax of Rs. 3.45 crore against tax of Rs. 2.76 crore resulting in excess collection of tax of Rs. 68.85 lakh. The AAs while

[7] Ballygunge, Baruipur, Corporate Division I and II.
[8] Corporate Division I and II and Serampore.

assessing those cases between December 2001 and June 2004, allowed the dealers to adjust the excess tax collected against their assessed dues in contravention of the provision of the Act. This resulted in irregular adjustment of excess tax of Rs. 68.85 lakh and non-imposition of minimum penalty of Rs. 68.85 lakh.

The cases were reported to the department and the Government between January and June 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

2.9 Incorrect allowance of concessional rate of tax

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

Scrutiny of the records of seven charge offices[9] between October 2004 and June 2006 revealed that while assessing 18 cases of 17 dealers between August 2005 and July 2006 for different assessment periods ending between March 1998 and March 2003, the AAs levied tax at concessional rates ranging between three and five *per cent* instead of at 5 and 12 *per cent* on the turnover of Rs. 19.63 crore. Levy of tax at concessional rate in these cases was incorrect as the sales were either not supported by the requisite declaration forms or supported by defective forms and/or not made to registered dealers/Government organisations. In two cases, statements supporting the claim for concessional rate of tax included sales prior to the period of assessment/date of purchase order. Allowance of incorrect concessional rate resulted in short levy of tax of Rs. 86.91 lakh.

After the cases were pointed out, the department between June 2005 and February 2006 accepted audit observations in seven cases involving Rs. 26.42 lakh of which two cases involving Rs. 10.98 lakh had been/were being sent to the higher/appellate authority for revision. In the remaining 11 cases involving Rs. 60.49 lakh, the department did not furnish any reply.

The cases were reported to the Government between August 2005 and July 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

[9] Baruipur, Coochbehar, Corporate Division I, II and III, Durgapur and ND Sarani.

2.10 Incorrect determination of contractual transfer price

Under the WBST Act, any transfer of property in goods involved in the execution of works contract shall be deemed to be a sale by the person making such transfer attracting levy of tax at the prescribed rates on such contractual transfer price (CTP).

Scrutiny of the records of four[10] charge offices between August 2005 and March 2006 revealed that while assessing five cases of five dealers between December 2003 and June 2004 for different assessment periods ending between March 2002 and March 2003, the AAs determined CTP as Rs. 40 lakh instead of Rs. 21.55 crore due to non/less inclusion of the value of taxable materials involved in the execution of works contract. This resulted in non/short determination of CTP of Rs. 21.15 crore with consequential tax effect of Rs. 85.89 lakh.

After the cases were pointed out, the department between August 2005 and March 2006 admitted audit observations in all the five cases and stated that four cases involving Rs. 85.29 lakh would be sent for revision. A report on further development has not been received (September 2007).

The cases were reported to the Government between January and May 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

2.11 Short realisation of tax due to excess credit

Under the WBST Act, a dealer is liable to pay admitted tax on the basis of self assessment at the time of furnishing the returns of his turnover. The amount of tax so paid is adjusted against the tax assessed at the time of final assessment.

Scrutiny of the records of two[11] charge offices in August and December 2005 revealed that while assessing six cases of five dealers between December 2001 and June 2004 for different assessment periods ending between March 1999 and March 2002, the AAs adjusted Rs. 5.41 crore though the dealers actually deposited admitted tax of Rs. 4.73 crore. The allowance of excess credit resulted in short realisation of tax of Rs. 68 lakh.

After the cases were pointed out, the department in December 2005 stated in one case involving Rs. 1.50 lakh that the matter would be sent for revision. In the remaining five cases involving Rs. 66.50 lakh, the department did not furnish any reply.

The cases were reported to the Government between January and May 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

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[10] Alipore, Bally, Barrackpore and Baruipur.
[11] Baruipur and Corporate Division I.

2.12 Misclassification of goods/transaction

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

Scrutiny of the records of four[12] charge offices between April 2005 and May 2006 revealed that while assessing six cases of five dealers between June 2003 and May 2005 for different assessment periods ending between March 2001 and March 2003, the AAs did not levy/short levied tax of Rs. 50.66 lakh due to misclassification of goods/transaction.

After the cases were pointed out, the department between May 2005 and March 2006 admitted audit observations in three cases involving Rs. 5.27 lakh and did not furnish any reply in one case involving Rs. 46,000. Replies as furnished in the remaining two cases involving tax of Rs. 44.93 lakh are not tenable as mentioned below:

(Rupees in lakh)

Item sold	Classified by AA	Reply of the department	Comment of Audit	Involvement of tax
Polypropelene woven fabric	High density polyethylene (HDPE) fabric	HDPE fabric is exempted from tax according to Court judgments.	Court judgments do not cover polypropelene woven fabric which is different from HDPE fabric.	33.86
Adhesive	Resin based adhesive	Resin based adhesive is taxable at five *per cent.*	There is no separate item in the schedule of goods as resin based adhesive. The basic character of the item is adhesive which is taxable at the rate of 12 *per cent.*	11.07
Total				**44.93**

The cases were reported to the Government between June 2005 and July 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

2.13 Underassessment of tax due to incorrect deduction

Under the WBST Act and the Rules made thereunder, in determining the taxable turnover of a dealer, deduction of tax collected and paid by him is allowable from the aggregate of sales turnover in accordance with the prescribed formula[13]. The CCT, West Bengal, reiterating the provisions in a circular of December 1998, instructed all the AAs to restrict the deduction to the amount of sales tax collected and included in the turnover by the dealers. This provision is also applicable to assessments made under the CST Act.

[12] Bally, Ballygunge, Barrackpore and Park Street.

[13] $\frac{\text{Rate of tax X the balance of gross turnover of sales after making deduction therefrom under clause (a)}}{100 + \text{rate of tax}}$

Scrutiny of the records of eight[14] charge offices between November 2004 and February 2006 revealed that while assessing 17 cases of 14 dealers between May 2001 and March 2005 for different assessment periods ending between March 1999 and March 2003, the AAs allowed deduction of Rs. 13.75 crore against actual collection of tax of Rs. 10.17 crore as shown in the returns. Excess allowance of deduction of Rs. 3.58 crore by the AAs resulted in short levy of tax of Rs. 44.26 lakh.

After the cases were pointed out, the department between November 2004 and February 2006 accepted audit observations in nine cases involving Rs. 11.40 lakh. In one case involving Rs. 52,000, modified demand notice had been issued to the dealer. In another case involving Rs. 48,000, it was stated that the matter would be proposed for *suo motu* revision. In four cases involving Rs. 1.68 lakh, the department stated that deduction was allowed as the gross turnover was inclusive of tax elements. The reply is not tenable as the AAs in those cases allowed deduction of Rs. 46.44 lakh against actual collection of Rs. 4.25 lakh in contravention of the provisions of the Act and departmental circular of December 1998. In the remaining four cases involving Rs. 31.18 lakh, the department did not furnish any reply.

The cases were reported to the Government between January 2005 and May 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

2.14 Application of incorrect rate of tax

Under the WBST Act, the rate of tax depends on the nature of sales and also on the nature of goods/commodities sold. Further, after finalisaton of any assessment by an AA, if it is found that there was mistake in the assessments as apparent from the records, the revisional authority having jurisdiction over such AA may, on his own motion, revise the assessment and the dealer shall be liable to pay the differential tax so assessed.

Scrutiny of the records of seven[15] charge offices between February 2005 and February 2006 revealed that while assessing 12 cases of 11 dealers between June 2001 and June 2003, for different assessment periods ending between March 2000 and March 2003, the AAs short levied tax of Rs. 31.58 lakh inclusive of surcharge and additional surcharge due to the application of incorrect rate as mentioned below:

[14] Baruipur, Coochbehar, Corporate Division I and III, Serampore, Suri, Tamluk and Ultadanga.

[15] Baruipur, Bally, Corporate Division I and III, Serampore, Shibpur and Siliguri.

(Rupees in lakh)

Sl. No.	Item	Turnover on which tax short levied	No. of cases	Rate of tax leviable *(per cent)*	Rate of tax levied *(per cent)*	Short levy of tax
1	Plastic cane	520.00	01	8	5	15.60
2	Glass sheet	208.13	02	12	10	3.78
3	Arms	45.28	01	20	12	3.10
4	Other items	51.59	04	8 - 15	4 - 8	2.93
5	Medicine	69.60	01	8	4	2.68
6	Tea	160.00	01	8	7	1.60
7	Paint	27.00	01	12	8	1.08
8	RCC[16] pipe	44.26	01	12	10	0.81
Total			**12**			**31.58**

After the cases were pointed out, the department between September 2005 and August 2006 accepted audit observations in five cases involving Rs. 7.72 lakh. Of these, in two cases involving Rs. 3.13 lakh, the department stated that process for *suo motu* revision would be initiated. In three cases involving Rs. 4.59 lakh, the department stated that action would be taken. In the remaining seven cases involving Rs. 23.86 lakh, the department did not furnish any reply.

The cases were reported to the Government between November 2005 and November 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

2.15 Mistake in computation of tax

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

Scrutiny of the records of six[17] charge offices between August 2005 and July 2006 revealed that while assessing six cases of six dealers between June 2003 and October 2005 for different assessment periods ending between March 2001 and March 2004, the AAs assessed tax, surcharge, additional surcharge and penalty of Rs. 3.26 crore instead of Rs. 3.43 crore due to mistake in computation. This resulted in short assessment and short levy of tax including surcharge of Rs. 16.47 lakh.

After the cases were pointed out, the department between August 2005 and July 2006 accepted audit observations in five cases involving Rs. 11.69 lakh. In two cases involving Rs. 6.27 lakh, it was stated that the audit observation would be considered at the appellate stage. In two other cases involving

[16] Reinforced cement concrete.

[17] Ballygunge, Bhowanipore, Corporate Division I and II, Durgapur and Shibpur.

Rs. 4.42 lakh, notice had been already/would be served for revision of the assessment order. In one case involving Rs. 1 lakh, the department agreed to take action. In the remaining case involving Rs. 4.78 lakh, the department did not furnish any reply.

The cases were reported to the Government between April and November 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

2.16 Non-levy of purchase tax

Under the WBST Act, a manufacturer dealer is liable to pay purchase tax at the rate of four *per cent* on all purchases from unregistered dealers intended for direct use in the manufacture of goods for sale in West Bengal. The dealers shall furnish annexure P with the return indicating the value of goods purchased and tax payable thereon.

Scrutiny of the records of four[18] charge offices in Kolkata between June 2005 and July 2006 revealed that in assessing seven cases of seven dealers between December 2003 and June 2006 for different assessment periods ending between March 2000 and March 2004, the AAs did not levy tax on purchases worth Rs. 3.06 crore though purchase statement in annexure P attached with returns for such purchases were incomplete/not produced at all. This resulted in non-levy of purchase tax of Rs. 12.84 lakh.

The cases were reported to the department/Government between December 2005 and November 2006 followed by reminders issued upto June 2007; their reply has not been received (September 2007).

[18] Bhowanipore, Corporate Division I and II and New Market.

CHAPTER III
LAND REVENUE

3.1 Results of audit

Test check of the records of land revenue in District Land and Land Reforms (DL and LR) offices conducted during the year 2006-07, revealed non/short realisation of revenue amounting to Rs. 968.05 crore in 86 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. no.	Categories	No. of cases	Amount
1.	**'Assessment and Collection of Land Revenue' (A review)**	1	956.62
2.	Non-realisation of revenue due to non-settlement of land	20	4.39
3.	Non-levy/realisation of rent and *salami*.	9	0.62
4.	Blocking/loss of revenue due to non-leasing of *sairati* interest	9	0.21
5.	Non-levy/realisation of revenue due to unauthorised occupation of Government land	3	0.10
6.	Other cases	44	6.11
	Total	**86**	**968.05**

During the course of the year 2006-07, the department accepted observations of Rs. 5.68 crore involved in 55 cases of which 49 cases involving Rs. 5.42 crore were pointed out in audit during the year 2006-07 and the rest in earlier years. Rs. 2.20 lakh was realised in two cases at the instance of audit during the year 2006-07.

A few illustrative cases involving Rs. 7.69 crore highlighting important observations and a review of **'Assessment and collection of land revenue'** with a financial effect of Rs. 954.81 crore are mentioned in the following paragraphs.

3.2 Assessment and Collection of Land Revenue

Highlights

Failure of the department to monitor the land held by mills, factories etc. and restore/resume the unused/excess land led to non-realisation of revenue of Rs. 260.20 crore.

[Paragraph 3.2.8]

Failure of the department to execute lease agreement within the prescribed timeframe and advance handing over of land without execution of lease agreement led to non-realisation of revenue of Rs. 93.63 crore.

[Paragraph 3.2.9]

Failure of the department to review the use and requirement of land transferred to authorities under the Central Government and resume these for further settlement led to non-realisation of revenue of Rs. 19.75 crore.

[Paragraph 3.2.10]

Failure to vest land of non-agricultural tenant resulted in non-realisation of *salami* and rent of Rs. 102 crore.

[Paragraph 3.2.14]

Failure of the department to assess and levy capitalised value and other charges on transfer of land resulted in non-realisation of revenue of Rs. 152.39 crore.

[Paragraph 3.2.17.1]

Non-approval of transfer of lease hold interest of tea gardens resulted in non-realisation of *salami*, stamp duty and registration fees of Rs. 48 crore.

[Paragraph 3.2.17.2]

3.2.1 Introduction

Management of the government land i.e. vesting[1], resumption[2] and settlement[3] of land with mills, factories, industry etc. are regulated under the West Bengal Estate Acquisition (WBEA) Act, 1953, West Bengal Land Reforms (WBLR) Act, 1955 and the West Bengal Land and Land Reforms (WBL and LR) Manual, 1991. Further, acquisition of land for public purposes/company etc., is done under the West Bengal Land (Requisition and Acquisition), 1948 enacted again under the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977.

Land revenue comprises rent on land and cess[4], lease rent, *salami*[5] from long term lease of non-agricultural land and transfer value of land transferred to the Central Government departments.

The assessment and collection of land revenue is governed under the WBLR Act, West Bengal Land Reforms (WBLR) Rules, 1965, the West Bengal Land Acquisition (WBLA) Manual 1991, the WBL and LR Manual and Land Transfer Rules respectively.

A review of the assessment and collection of land revenue has disclosed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

3.2.2 Organisational set up

The assessment and collection of land revenue is administered by the Land and Land Reforms (L and LR) Department, headed by the Principal Secretary who is assisted by the Director of Land Records and Survey, 19 district land and land reforms officers (DL and LRO), 59 sub-divisional land and land reforms officers (SDL and LRO) and 698 block land and land reforms officers (BL and LRO)/special revenue officer (SRO)-II. All matters relating to land management and land utilisation are forwarded to the Principal Secretary, L and LR Department by the DL and LROs through their respective Commissioner (Presidency, Jalpaiguri and Burdwan divisions) for approval.

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1 The property acquired becomes a property of the Government without any condition or limitation either as to title or as to the possession.

2 Act of restoration of right of land.

3 Terms on which property is given to a person.

4 Amount levied on rent/royalty for specific purpose i.e. construction and maintenance of roads, public works, education etc.

5 Lumpsum amount payable by the lessee in the case of long term settlement of Government land.

3.2.3 Audit objectives

The review was conducted to examine whether

- the vesting, resumption and settlement of lands held by mills and factories etc. were done as per the provisions of the Acts and Rules;
- transfer value in respect of the land transferred to the Central Government departments, companies and body corporate was properly assessed, collected and remitted to Government account;
- rent and *salami* was properly assessed in respect of long term settlements;
- rent, cess and interest was properly assessed and collected in time and remitted to Government account; and
- the internal control systems were effective and ensured prevention of leakages in assessment and collection of land revenue.

3.2.4 Scope of audit

Assessment and collection records of 11 out of 19 DL and LROs for the period from 2001-02 to 2005-06 were reviewed during the period from June 2005 to November 2006. The volume of revenue collection was the criterion for selection of the district offices. In addition, the records of the Director of Land Records and Survey were also test checked.

3.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the L. and LR Department in providing necessary information and records for audit. The findings of this review were reported to the Government in June 2007 and discussed in the Audit Review Committee meeting held in July 2007. The Government did not furnish replies to most of the observations except a few which have been appropriately incorporated in the respective paragraphs.

Audit findings

3.2.6 Trend of revenue

The budget estimates (BE), revised estimates (RE) and the receipts from land revenue during 2001-02 to 2005-06 are mentioned below along with the percentage of variation:

(Rupees in crore)

Year	BE	Revised estimate (RE)	Land revenue collected	Variation between budget estimate and collection increase (+)/shortfall (-)	Percentage of variation
2001-02	1,465.39	1,084.96	711.22	(-) 754.17	(-) 51.47
2002-03	1,307.75	726.13	658.29	(-) 649.46	(-) 49.66
2003-04	1,028.80	1,013.56	993.26	(-) 35.54	(-) 3.45
2004-05	1,259.58	1,091.73	1,132.55	(-) 127.03	(-) 10.09
2005-06	742.42	803.13	917.11	(+) 174.69	(+) 23.53

Thus, except for 2003-04, there was a wide variance between the BE and the actual realisation which ranged between (-) 51.47 and (+) 23.53 *per cent.* This indicates unrealistic budget preparation. The estimation remained unrealistic even at the RE stage except for the years 2003-04 and 2004-05, as evidenced by the variation between the RE and actual realisation that ranged between (-) 34.45 and (+) 14.19 *per cent.*

The reasons for variation between BE/RE and actual receipts were not furnished by the department (September 2007) despite being requested.

System deficiencies

3.2.7 Absence of database

Land is one of the most important assets of any Government which is also highly vulnerable to misuse. For effective monitoring of the Government land, it is essential that a database be maintained. **Audit scrutiny revealed that no such database was maintained.** Absence of such a database resulted in rampant misutilisation of land. The Government also remained unaware of the extent of land held, utilised/misutilised. This has also resulted in one of the vital sources of revenue not being tapped optimally.

3.2.8 Resumption and settlement of land held by mills, factories

Under the provisions of the WBEA Act, all rights of the intermediary[6] in each estate including land with mills, factories etc. and held by the intermediary directly or under a lease are vested in the State, free from encumbrances, with

[6] Intermediary means a proprietor, tenure holder, under tenure holder or any other intermediary above a *raiyat.*

effect from 14 April 1955. Land with mills/factories etc. may be retained by the intermediary/lessee to the extent of requirement and necessary correction may be made in the Record of Rights (ROR) and the Register of Government land. The State Government may, after reviewing the circumstances of a case, revise any order made by it earlier specifying the land whose possession the intermediary/lessee shall be entitled to retain. Land in excess of the requirement would be resumed by the Government and details would be noted in the Register of Government land for record which is a tool for monitoring the land retained by the mills/factories. In a judicial pronouncement, the Division Bench of Kolkata High Court[7] held in 1980 that post vesting transferee acquires no title to the property and the right of retention cannot be claimed. Further, land so resumed may be settled with the prospective lessees on long term lease basis for 30 years or more on realisation of *salami* and rent at the prescribed rates. In terms of the Government order of May 2004, long term settlement of the vested land may be made with the unauthorised occupiers/illegal transferee for 30 years or more from the date of occupation.

Audit scrutiny revealed that the Register of Government land was not being maintained properly. There is also no system of periodical monitoring of extent of utilisation of the land vested in the mills, factories, etc. As a result, the department was unaware of the extent of utilisation/ misutilisation of land held by mills/factories. This resulted in non-resumption of excess land and consequent non-realisation of revenue as mentioned below.

3.2.8.1 Failure to resume the vested land of closed mills

- Scrutiny of the records of seven[8] DL and LROs revealed that 8,402.61 acres of land held by 13 mills/factories established prior to 14 April 1955 were vested to the Government, after the enactment of the WBEA Act but were allowed to be retained by the ex-intermediaries. Subsequent to the vesting of the land, the Government did not review the requirement of land with the mills /factories. The mills/factories etc. were closed between 1970 and 1989 and the ex-intermediaries sold the mill areas illegally. **Failure to maintain the prescribed register of vested land properly as well as review of the land held by the mills/factories resulted in non-monitoring of the**

[7] In the case of Iswari Lakshmi Mata Thakurani Vs. State of West Bengal and also verdict in the Division Bench of Kolkata High Court.

[8] Birbhum, Hooghly, Howrah, Murshidabad, Nadia, North 24 Parganas and South 24 Parganas.

cases. Thus, action to restore the land after the closure of the mills and settle it with the illegal transferees on long term lease basis beyond 30 years also could not be taken. This resulted in non-realisation of *salami* and rent of Rs. 177.94 crore on the basis of market value prevailing during 2001-02 as mentioned below:

Sl. No.	Particulars of the mill, factory etc. with their vesting and retention order numbers	Year of closure	Year of sale/ transfer	Area of land transferred (in acres)	Non-realisation of rent[9] and *salami* *(Rupees in crore)*	Reply of the Government/district authority
1.	M/s. Ramnagar Cane and Sugar Co. Ltd., Murshidabad and Nadia. No. 4572-L. Ref. dated 12.3.64	1988	1989	8,046.13	18.97	Did not furnish any reply.
2.	M/s. Oriental Industries, North 24 Parganas No. 19730-L. Ref. dated 18.12.61 Issued u/s. 5	1982	NA	4.10	3.68	Matter has been referred to the department for instruction.
3.	M/s. Bengal National Textile Mills Ltd. North 24 Pargaqnas No. Not available	NA	1998	1.52	2.00	Did not furnish any reply.
4.	M/s. Panchumani Rice Mill, Bolpur, Birbhum No. 13290-L. Ref. dated 20.10.62	1970	Between 1991-1994	9.20	8.43	Admitted the audit observation.
5.	M/s. Mukundalal Gostabehari Rice Mill, Bolpur Birbhum No. 13298-L. Ref. dated 20.10.62	NA	2004	8.47	3.32	Action will be taken as per law on receipt of instructions from the Government.
6.	M/s. Reckitt and Benckiser (India) South 24 Parganas No.4360-L Ref dated 6.04.1962	NA	NA	11.91	13.03	Confirmed the audit observation and stated that action would be taken.
7.	M/s. Ludlow Jute Company Limited, Howrah No. 13158-L. Ref. dated 19.10.62	NA	1979	138.09	53.30	Confirmed the audit observation.
8.	M/s. Fort Gloster Industries Limited., Howrah No. not available	NA	1988	95.77	21.40	Confirmed the audit observation.
9.	M/s. Bengal Porcelain North 24 Parganas No. 14266-L. Ref. dated 6.11.62	NA	NA	2.62	2.30	No reply was furnished.
10.	M/s. Karim Rice Mill, Hooghly No. 50-L. Ref. dated 3.1.64	NA	NA	4.15	0.91[10]	The matter was brought to notice of the department for instruction.
11.	M/s. Mahabir Rice Mill, Hooghly Ref. No. 6196-L dated 3.5.65	NA	NA	1.92	0.61[11]	-do-
12.	M/s. Belvedere Jute Mills, Howrah No. 31186-L.Ref. dated 20.12.75	NA	NA	58.62	28.53[12]	Confirmed the audit observation.
13.	M/s. Fort Willium Jute Co. Ltd., Howrah No. 5360-L Ref. dated 26.03.64	1988-89	27 January 2005	20.11	21.46[13]	Confirmed the audit observation.
Total				**8,402.61**	**177.94**	

[9] Rent calculated for five years from 2001-02 to 2005-06.
[10] Calculated from 2003-04 to 2005-06.
[11] Calculated from 2003-04 to 2005-06.
[12] Calculated from 2004-05 to 2005-06.
[13] Calculated from 2004-05 to 2005-06.

- Scrutiny of the records of the DL and LRO, Howrah revealed that the district authority did not take any initiative to resume 54.75 acres of land of M/s. Guest Keen Williams (GKW) for settlement with any prospective lessee even long time after its closure. The date of closure of the mill was not furnished to audit. **It was seen that there was no system of periodical monitoring in the department to resume the unused land of closed mills. Thus, absence of periodical monitoring system led to non-resumption and non-settlement of land with the closed mill.** This resulted in non-realisation of *salami* and rent of Rs. 69.39 crore (*salami* of Rs. 46.26 crore and rent of Rs. 23.13 crore for five years from 2001-02 to 2005-06 alone).

3.2.8.2 Failure to resume the excess land of mills

Scrutiny of the records of two[14] DL and LROs revealed that though proceedings were initiated for resumption of 12.09 acres of surplus land of two mills by the department between 1960 and 1962, yet the said area was not resumed by the department. Reasons for non-resumption were also not found on record. Thereafter, these cases were left unattended for a period of time ranging between 45 and 47 years. Meanwhile, the mill owner illegally sold 7.01 out of 12.09 acres of land between 1995 and 2004. **Thus, failure to take timely action due to poor monitoring mechanism led to illegal transfer of the land resulting in non-realisation of *salami* and rent of Rs. 12.87 crore (*salami* of Rs. 12.67 crore and rent of Rs. 20 lakh for five years from 2001-02 to 2005-06 alone) on the basis of market value of 2001-02 as mentioned below:**

Sl. no.	Particulars of the mill, factory etc. with their vesting and retention order and date	Area of land transferred (in acres)	Total non-realisation of rent and *salami* *(Rupees in crore)*	Reply of the district authority
1.	M/s. Annapurna Rice Mill, Pandua, Hooghly No. 19230-L. Ref. dated 12.11.63	2.52	0.46	The matter has been brought to the notice of the department by the district authority.
2.	M/s. Howrah Jute Mills Co. Ltd. No. not available	4.49	12.41	Admitted the audit observation.
	Total	**7.01**	**12.87**	

The department may prepare a consolidated district wise database of land with mills, factories etc. vested to the Government for better control of land. A time bound programme for the DL and LROs should also be

[14] Hooghly and Howrah.

formulated to review the status of land with closed mills and also the requirement of land of existing mills, factories etc., and record the vested land in the prescribed register in order to monitor the use of the Government land. The land sold/transferred illegally should either be recovered or settled with the unauthorised transferees on realisation of revenue.

3.2.9 Settlement of land other than mills, factories

As per the provisions of the WBL and LR Manual, settlement of Government land for non-agricultural purpose shall ordinarily be made for a period of 30 years with the prospective lessee and the lease proposal is to be completed within five months from the date of receipt of proposal and lease agreement is also to be executed within the date specified in the sanction order on realisation of *salami* and rent for the first year. Advance possession of the land shall not be handed over except with the express approval of the Government. All proposals for settlement and approval thereagainst shall be entered in the concerned register viz. Register of Proposal for Settlement and Register of leases.

In giving long term lease for the first time, rent shall be fixed at four *per cent* of the market value of land proposed for settlement and *salami* is to be charged at 10 times the rent equalling 40 *per cent* of the market price. After realisation of *salami* and rent for the first year, lease agreement would be executed and possession of the land be handed over.

3.2.9.1 Failure to execute lease agreement

Scrutiny of the records of the DL and LRO, South 24 Parganas revealed that the Government sanctioned a long term lease for 112 *cottah*[15] of vested land for 30 years in October 2002 in favour of a private swimming club with the condition that the lease agreement would be executed after realisation of all dues i.e. Rs. 13.49 crore as *salami* and rent of Rs. 1.35 crore from April 1998. Accordingly, the department raised the demand in February 2002 for recovery of the dues. It was noticed that despite specific provisions in the WBL and LR Manual prohibiting advance handing over of land, it was handed over to the club in April 1998 unauthorisedly without recovering the revenue and executing the agreement. **As there was no system of monitoring in the department, the case remained unattended till the date of audit and the department did not take any further action to realise the arrear revenue by initiating certificate proceedings under the PDR Act.**

[15] Term used for measurement of land. One *cottah* is equal to 720 square feet of land.

Thus, undue benefit to a private club by giving possession of the land without execution of lease and failure of the department to realise the arrear revenue by initiating recovery proceedings resulted in non-realisation of revenue of Rs. 20.23 crore (*salami* of Rs. 13.49 crore and rent of Rs. 6.74 crore for five years from 2001-02 to 2005-06 alone).

3.2.9.2 Advance possession of land without grant of lease

Scrutiny of the records of three[16] DL and LROs revealed that though the L and LR Department handed over 144.13 acres of vested/*khasmahal* land to three requiring bodies between 1992 and 2005 with the express approval of the Government, yet no lease was granted even after lapse of periods ranging between 1 and 16 years and no *salami* and rent could be realised from the proposed lessees. **Due to absence of any control mechanism including periodical review of registers, lease could not be granted for such a long period of time.** This resulted in non-realisation of revenue of Rs. 54.40 crore for the period from 2001-02 to 2005-06 alone as mentioned below:

Sl. no.	Name of the proposed lessee	Area (in acres)	Date of adv. Possession	Rent and *salami* realisable *(Rupees in crore)*	Government reply
1.	ICICI-WBIDCL, Darjeeling	60.00	10.03.2004	1.18	Did not furnish any reply.
2(a)	Haldia Development Authority (HDA), Purba Medinipur	10.67	10.05.2005	1.07	Government order is awaited.
(b)	-do-	69.72	9.06.2004	48.90	Sanction of lease proposal is awaited.
3.	Howrah Municipal Corporation, Howrah	3.74	1992	3.25	Lease proposal is being processed.
Total		**144.13**		**54.40**	

3.2.9.3 Scrutiny of the records of the DL and LRO, Murshidabad revealed that though the L and LR Department handed over 1.73 acres of vested/*khasmahal* land to Murshidabad Zilla Parishad in January and February 2002 without the express approval of the Government, yet no lease proposal was forwarded to the Commissioner concerned by the district authority for settlement of the land even after the lapse of five years till the date of audit. Handing over the possession of land without approval of lease proposal by the Government was in violation of the provision of the WB & LR Manual. **Since there was no control mechanism to watch such case, non-finalisation of lease remained undetected for a period of more than five years and consequently resulted in non-settlement of the land and non-realisation of revenue of Rs. 82.65 lakh for the period from February 2002 to March 2006.**

[16] Darjeeling, Howrah and Purba Medinipur.

3.2.9.4 Non-settlement of land on expiry of short term lease

A short term lease shall not ordinarily be renewed beyond a period of five years. Six months before the expiry of the period of five years, the existing lessee may be offered long term settlement on payment of usual rent and *salami*. If he refuses to accept the offer and does not vacate the land, steps should be taken to eject him by a suit and the land should be settled with other persons on long term lease basis.

Scrutiny of the records of the DL and LRO, Purba Medinipur revealed that M/s. Bengal Salt Company Ltd. was in possession of 1,598.04 and 300.26 acres of Government land on short term lease basis since 1943 and 1959 respectively. Renewal of both the leases was granted several times on short term lease basis in violation of the provision of the rule and no settlement was made after the leases expired in 1980 and 1973 respectively. Though the Government resumed 738.34 out of 1,598.04 acres in 1994, the company continued to occupy the balance area of 859.70 acres as well as 300.26 acres unauthorisedly over a period ranging between 26 and 33 years. The failure of internal control in keeping a close watch over the tenure of lease and its subsequent resettlement/settlement allowed undue benefit to the company. Thereafter, the department neither took any initiative for grant of long term lease in favour of the unauthorised occupier nor was any action taken to eject it for further settlement with other prospective lessees.

Thus non-settlement of the land with the existing company or any other prospective lessee on long term basis resulted in non-realisation of revenue of Rs.18.17 crore (*salami* of Rs. 12.11 crore and rent of Rs. 6.06 crore for five years from 2001-02 to 2005-06 alone).

The Government should consider fixing a time limit for execution of lease agreement where advance possession of the Government land has been given and also for settlement of the Government land with the unauthorised occupants. Instructions should be issued to the DL and LROs to strictly adhere to the provisions of the WBL and LR Manual and ensure that advance possession of land is not given without the express approval of the Government. Review of the Lease Registers should be made mandatory to ensure that the leases are renewed in time.

3.2.10 Land transferred to the Central Government department/ body corporate etc.

As per the principle of disposal of surplus land under the WBLAM, land acquired for public purpose and transferred permanently to any authority under the administrative control of any ministry of the Government of India and which is no longer required for the purposes originally intended for, needs to be relinquished by the ministry in favour of the L and LR Department

which would resume it for the purpose of settlement with the prospective lessee on realisation of *salami* and rent.

Land Transfer Rules read with the Government order of September 1993 prescribe that in case of transfer of land to a company or body corporate, transfer value comprising market value and capitalised value of annual land revenue equal to 25 times the annual rent upto 2 September 1993 and thereafter at 20 times the annual rent at the rate of four *per cent* of market value is realisable from the transferee. **Audit scrutiny revealed that there was no system prescribed for monitoring of the unutilised land like maintenance of a register depicting the land transferred and its review to determine utilisation of the land so transferred. Absence of a review mechanism to watch the actual utilisation of land resulted in irregular transfer/non-relinquishment of land as mentioned below.**

3.2.10.1 Irregular transfer of land under the administrative control of the central Government

- The Damodar Valley Corporation (DVC) transferred 20.35 acres of land to Hooghly Zilla Parishad for tourist spot (New Digha) instead of relinquishing it in favour of the L and LR Department for further settlement. The date of handing over of the land by the DVC to Hooghly Zilla Parishad was not made available to audit despite request. **As there was no system of monitoring of unutilised land, the L and LR Department failed to resume the land not required by the DVC and settle it with the Zilla Parishad.** This not only resulted in unauthorised transfer of land but also in non-realisation of revenue of Rs. 24.42 lakh (*salami* of Rs. 16.28 lakh and rent of Rs. 8.14 lakh for five years from 2001-02 to 2005-06 alone).

- Eastern Railways (ER) transferred 1.461 acres of land to Serampore Municipality instead of relinquishing it in favour of the L and LR Department. It was further observed that the land had been leased out irregularly by the municipal authority to the Life Insurance Corporation of India for 99 years. **Due to the absence of any review mechanism to watch over actual utilisation of land, the L and LR Department failed to resume the land not required by ER and settle it with the unauthorised transferee on realisation of revenue of Rs. 47.43 lakh (*salami* of Rs. 31.62 lakh and rent of Rs. 15.81 lakh for the period from 2001-02 to 2005-06 alone).**

3.2.10.2 Non-relinquishment of unused transferred land

Scrutiny of the records of the DL and LRO, Purba Medinipur revealed that in Dakshin Purusattampur, land measuring 738.34 acres held by M/s. Bengal Salt Company was resumed in 1994 and handed over to the Fisheries Department

in May 1995. Though the said department did not utilise the land till 2006, yet it did not relinquish the unused land. The L and LR Department also did not take any action to resume the land for settlement with the other prospective users. This resulted in non-realisation of *salami* and rent of Rs. 19.03 crore (*salami* of Rs. 12.02 crore and rent of Rs. 7.01 crore for five years from 2001-02 to 2005-06 alone).

The Government should urgently review the use and requirement of land permanently transferred to any authority under the administrative control of any ministry of the Government of India and ensure that the land not in requirement for the purpose for which it was transferred is relinquished in favour of the L and LR Department. Cases where the Government of India, body corporate or any company are in occupation of Government land without obtaining settlement should be reviewed and necessary steps need to be taken for its early settlement. Necessary instruction should also be issued to the DL and LROs to review the status of land transferred interdepartmentally to ensure its proper utilisation.

3.2.11 Internal audit

The internal audit wing of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed systems are functioning reasonably well.

During the course of review, it was noticed that internal audit had not been conducted in any of the 11 DL and LR offices test checked in audit. **This lack of monitoring of adherence to rules, regulations and instructions of the Government, resulted in significant non/short realisation of Government revenue.**

The Government should effectively use internal audit to ensure that the various wings of the department are functioning efficiently for optimum collection of revenue.

Compliance deficiencies

3.2.12 Non-settlement of vested land with unauthorised occupants

Under the provision of the WBL and LR Manual read with the order issued in May 2004, vested/*khasmahal* land under unauthorised occupation may be settled with the occupiers on long term basis on realisation of *salami* and rent.

3.2.12.1 Scrutiny of the records of three[17] DL and LROs revealed that 374.66 acres of vested land had been under unauthorised occupation of 7,814 persons and two companies between 1961 and 1980. In one case, the number of persons occupying the land unauthorisedly was not made available to audit despite request. There was nothing on record to show that the district authorities concerned took any initiative for settlement of the land with the unauthorised occupiers. This resulted in non-realisation of Rs. 40.13 crore as *salami* and rent for the period from 2001-02 to 2005-06 as mentioned below:

Sl. no.	Name of the district	Area under unauthorised occupation (in acres)	Number of persons /companies involved	Rent and *salami* realisable *(Rupees in crore)*	Reply of the Government/ district authority
1.	Jalpaiguri	347.61	7,814	22.68	Prompt action will be taken towards regularisation of Government lands on long term lease.
2.	South 24 Parganas	15.00	NA	8.87	The settlement of lease is being processed.
3.	North 24 Parganas	8.62	M/s. Jenson Nickolson	5.42	Accepted the audit observation.
4.	-do-	3.43	Bengal National Textile Co.	3.16	Accepted the audit observation.
Total		**374.66**	**7,814**	**40.13**	

3.2.12.2 Scrutiny of the records of the DL and LRO, Jalpaiguri revealed that 3,147 persons had been occupying 187.71 acres of vested land in Alipurduar unauthorisedly for more than three decades. The Divisional Commissioner, Jalpaiguri division in a meeting with the *Prabin Nagarik Samstha* and others held in March 2002 adopted a resolution for regularising the matter by granting long term settlement for domestic and commercial purposes for 30 and 99 years respectively from April 1983 onwards. The cases were processed accordingly and the order was issued between December 2002 and April 2003 fixing *salami* of Rs. 7.36 crore and rent of Rs. 10.66 lakh as payable by the occupants between 45 and 90 days from the date of issue of the Government order. Only 13 persons responded and paid Rs. 11.77 lakh. The L and LR Department failed to prevail upon the remaining 3,134 persons for settlement. Thus, failure of the department to settle Government land with the unauthorised occupiers resulted in non-recovery of revenue of Rs. 7.77 crore.

3.2.13 Non-settlement of land with transferees

[17] Jalpaiguri, North 24 Parganas and South 24 Parganas.

Scrutiny of the records of two[18] DL and LROs revealed that in two districts 1,561 acres of Government land are in the possession of or have been occupied by body corporate between 1980 and 1996. No settlement by transfer of the land had been done. The land had either been handed over in advance or on permissive possession without realisation/payment of transfer value.

Failure of the department to settle the land on transfer basis resulted in non-realisation of transfer value of Rs. 163.17 crore as mentioned below:

Sl. No	Name of the transferee/requiring body	Area of land transferred (in acre)	Name of the district	Year/Date of transfer/ possession	Amount of transfer value not realised *(Rupees in crore)*	Reply of district authority	Remarks
1	Kolkata Port Trust (KOPT)	495.39	Purba Medinipur	10.06.1981 to 03.07.1996	71.71	The matter has been brought to the notice of the department for instruction.	Land held on permissive possession.
2.	KOPT (for Haldia Dock Complex)	1,000.30	-do-	01.04.1980	50.91	The matter has been brought to the notice of the department for instruction.	Permissive possession from 1980 and long term settlement given on 22.8.2001.
3	KOPT	43.635	-do-	NA	39.73	-do-	Vested land within the acquired land of KOPT.
4	Food Corporation of India	21.68	Paschim Medinipur	29.11.1981	0.82	-do-	Advance possession given from 29 November 1981.
	Total	**1,561.00**			**163.17**		

[18] Paschim Medinipur and Purba Medinipur.

3.2.14 Non-vesting of land of non-agricultural tenant

Scrutiny of the records of the DL and LRO, Hooghly revealed that M/s. Hindustan Motors Limited, established prior to the introduction of WBEA Act, held 738.75 acres of land of which 333.39 acres was declared in excess of the requirement by the district authority. But the L and LR Department was unable to resume the excess land as the lessee was a non-agricultural tenant. Though subsequent amendment of WBLR Act in 1981 effective from September 1980 empowered the Government to vest the land held with non-agricultural tenancy status by the factory owner, yet the department did not take any initiative to vest and resume the excess land after amendment of WBLR Act in 1981 and to lease it out on long term basis. This resulted in non-realisation of revenue of Rs. 102.60 crore as *salami* and rent for five years from 2001-02 to 2005-06.

The Government to whom the case was reported in June 2007 stated in July 2007 that M/s. Hindusthan Motors Limited applied in May 2006 for *raiyati* settlement which has been granted on realisation of consideration money of Rs. 10.50 crore in September 2006. The reply is not tenable as the department failed to vest the land by issuing notification under the WBEA Act and resume it for settlement.

3.2.15 Loss of Government property due to incorrect record of right

Scrutiny of the records of the DL and LRO, North 24 Parganas revealed that an area measuring 9.95 acres of Janbazar estate was leased out to Union Paper Board Mill Ltd. (UPBM) for 25 years with effect from 14 June 1951. Though the mill was in operation, the department incorrectly recorded the entire land in the name of 125 private parties during revisional settlement in 1957 instead of recording it as vested land and the name of the UPBM as the lessee.

The mill was closed and went into liquidation in May 1981 and the official liquidator disapproved the rights of the private parties. But the Kolkata High Court in their order of December 1982 restored their right. The owners sold the entire land to Sri K.S. Binayak and others in 1992-93. In March 1995, the L and LR Department took initiative to vest and resume the land by revision/correction of ROR and took its possession in September 1996.

Subsequently, the purchasers challenged the order of the L and LR Department before the Kolkata High Court which quashed the order of vesting and resumption on the ground that there was no existence of the mill at the material time. The Government preferred an appeal to the Supreme Court which also upheld the orders of the Kolkata High Court (March 2002) rejecting the efforts of revision/correction of ROR after passage of 38 years.

Thus, non-vesting of land in time due to incorrect recording in the ROR as well as failure of the department to take timely action under the provision of the Act, resulted in loss of land valuing Rs. 38.18 crore on the basis of market value of land of 2005-06.

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

3.2.16 Non-resumption of surplus land

Scrutiny of the records of DL and LRO, North 24 Parganas revealed that M/s. Bhagya Laxmi Cotton Mills Ltd. was allowed to retain 11.44 acres of vested land under the WBEA Act. Of the total area, the company sold 2.50 acres to Sree Saraswati Press in September 1958. The mill was closed in 1970-71. Subsequently in 1989 and 1994, the L and LR Department acquired 1.84 and 1.47 acres of land respectively for transfer to South Bengal State Transport Corporation (SBSTC), a commercial undertaking of the Government, instead of resuming the same and settlement with the corporation on long term lease basis. In February 2000, the Government resumed the balance land.

Thus, failure of the department to resume the surplus vested land during the existence of the mill and also after its closure and non-settlement with the Press and SBSTC on long term lease basis resulted in non-realisation of revenue of Rs. 17.86 crore (Rs. 17.58 crore as *salami* and Rs. 28 lakh as rent for the period from 2001-02 to 2005-06 alone).

3.2.17 Realisation of revenue

3.2.17.1 Non-realisation of capitalised value of land and other charges

The WBLA Manual provides for realisation of the cost of acquisition including establishment charges, contingent charges, law charges and capitalised value of land revenue from the requiring body when land is acquired on the behalf of a company. Further, the requiring body is liable to pay stamp duty and registration fee on the transfer value for execution of the transfer deed.

Scrutiny of the records revealed that the Housing Department with the prior concurrence of L and LR Department acquired 5,710.88 acres of land in 32 *mouzas* under the BL and LRO, Rajarhat, North 24 Parganas till March 2006 on behalf of the West Bengal Housing Infrastructure Development Company Limited (WBHIDCO) for the New Town Project (NTP) at Rajarhat and paid a compensation of Rs. 404.44 crore to the owners of the land between 2002 and 2006.

The land acquisition collector did not assess the capitalised value of the land revenue and other charges i.e. establishment, contingent and law charges payable to the Government. The WBHIDCO has not paid anything to the L and LR Department as yet. The unrealised revenue amounts to Rs. 152.39 crore inclusive of Rs. 36.91 crore realisable from WBHIDCO as stamp duty and registration fee on execution of transfer deed.

3.2.17.2 Non-realisation of *salami* on transfer of tea gardens

The WBEA Rules, as amended in April, 1994 provide that in case of transfer of lease hold interests in a tea garden, except by way of inheritance, the transferee shall be liable to pay *salami* at the rate of Rs. 15,000 per hectare of transferred/leased tea gardens on execution of the lease agreement within three months prior to the expiry of the previous lease.

Scrutiny of the records revealed that the owners of 51 tea gardens in the district of Jalpaiguri transferred/leased 73,839.85 acres of land to 51 companies between 1995 and 2003 before the expiry of their lease period for which *salami* of Rs. 44.82 crore was realisable. The district authority had sent the original papers including proforma lease deeds relating to the above companies to the L and LR Department seeking post facto approval of the transferred leases. No approval was, however, communicated in respect of any case till the date of audit. In addition, the transferee companies were liable to pay Rs. 3.18 crore as stamp duty and registration fee to register the deeds for such transfers.

Thus, failure of the Government to accord timely approval to the transfer of tea garden on lease resulted in non-realisation of revenue of Rs. 48 crore.

3.2.17.3 Incorrect valuation of land

Under the provisions of the WBL and LR Manual, vested non-agricultural land may be settled on a long term basis for 30 years on realisation of an annual rent to be fixed by the collector at four *per cent* of the market value of land and *salami* in lump sum at 10 times the annual rent. In December 1997, the Government clarified that settlement of long term lease for a period exceeding 30 years would attract *salami* at the rate of 95 *per cent* of the market value of the land and a token rent.

Scrutiny of the records of three[19] DL and LROs revealed that 741.95 acres of land had been settled with three companies on long term basis between 1997 and 2004. But *salami* was assessed on the value of land which was much lower than the prevailing market value. Assessment of *salami* on lower market value resulted in short determination and consequent short realisation of revenue of Rs. 29.12 crore as mentioned below:

[19] DL and LRO: Darjeeling, Purba Medinipur and South 24 Parganas.

(Rupees in crore)

Name of the lessee	Area of land (in acres)	Date/ period of lease	Market value of land		*Salami* and total rent payable as per the prevailing market value	*Salami* and rent paid	Short realisation of revenue
			As assessed by the department	Value as per the records of Registration Department			
Great Bengal Salt Company Ltd., Purba Medinipur	330.08	April 1997/ 30 years	1.58	4.57	2.74	--[20]	2.74
Laxmi Township Private Ltd., Darjeeling	393.25	September 2002/ 99 years	12.80	29.55	28.43	12.80	15.63
Joint Venture unit of the West Bengal Housing Board and M/s. Bengal Ambuja Housing Dev. Company, South 24 Parganas	18.62	December 2004/ 99 years	NA	22.34	21.23	10.48	10.75
	741.95						**29.12**

3.2.17.4 Non/short raising of demand

Under the provisions of the WBLR Act, as amended from time to time, a *raiyat*[21] shall be liable to pay land revenue, cess/surcharge at the prescribed rate for land held by him. In case of delayed payment of revenue, interest at the rate of 6.25 *per cent* per annum is leviable.

Scrutiny of the records of two[22] DL and LROs revealed that land revenue, cess/surcharge for the period from 2001-02 to 2005-06 on 9,549.42 acres of land were either not demanded or demanded short from *raiyats*. Even in cases where demand was raised, the *raiyats* either did not pay or declined to pay the revenue demanded.

This resulted in non/short raising of demand of Rs. 10.47 crore. Besides, the department failed to recover Rs. 1.81 crore though demanded as mentioned below:

[20] Only Rs. 23,000 paid.
[21] *Raiyat* is a person or an institution holding land for any purpose.
[22] North 24 Parganas and Purba Medinipur.

Name of the *raiyat* with district	Area of land held (in acres)	Revenue realisable *(Rupees in crore)*	Demand raised *(Rupees in crore)*	Demand not/ short raised *(Rupees in crore)*	Reply of the district authority
Airport Authority of India, North 24 Parganas.	975.49	5.24	Nil	5.24	District authority did not furnish any reply.
West Bengal Housing Infrastructure Development Company Limited (WBHIDCO), North 24 Parganas	7,598.33	4.03	1.10	2.93	The company declined to pay. District authority stated that the matter has been taken up with the department for realisation.
Haldia Development Authority (HDA), Purba Medinipur	975.60	3.01	0.71	2.30	District authority stated that HDA did not respond.
Total	**9,549.42**	**12.28**	**1.81**	**10.47**	

3.2.17.5 Incorrect fixation of *salami*

The Government of West Bengal in their order of December 1997 stated that lease for a period exceeding 30 years shall be granted for land to be used by construction of permanent nature i.e. dwelling house, school etc.

Scrutiny of the records of three[23] DL and LROs revealed that vested land of 135.28 acres was settled beyond 30 years with three companies and two organisations on realisation of *salami* from the lessees fixed by the sanctioning authority at a much lower amount than that was payable on the basis of the market value of the land in each case.

This has resulted in short realisation of revenue of Rs. 9.72 crore as mentioned below:

(Rupees in crore)

Name of the lessee/company	Area settled (in acres)	Year of settlement	*Salami* realisable	*Salami* realised as per sanction order	*Salami* short realised	Reply of the department/Government
M/s. Stone Mercantile Pvt. Ltd., North 24 Parganas	13.99	2005	1.16	0.32	0.84	The district authority stated that the leases were granted on the basis of sanction order.
M/s. Zion Properties Pvt. Ltd., North 24 Parganas	14.50	2005	1.89	0.35	1.54	-do-
M/s. Esquire Commerce Pvt. Ltd., North 24 Parganas	15.99	2005	1.53	0.30	1.23	-do-
M/s. JIS Foundation, Nadia	10.00	11August 2000	1.49	0.35	1.14	-do-
Shantiniketan Sriniketan Development Authority, Birbhum	80.80	2001-02 to 2003-04	6.66	1.69	4.97	District authority has brought the matter to the notice of the department.
Total	**135.28**		**12.73**	**3.01**	**9.72**	

[23] Birbhum, Nadia and North 24 Parganas.

3.2.18 Conclusion

The L and L R Department is entrusted with the management of land and land revenue. It was noticed that management of land under the WBEA Act, particularly vesting, resumption and settlement of resumed land held by mills, factories, workshops, tea gardens etc. was not carried out in accordance with the provisions of the law and regulations in force. In the absence of proper records, the monitoring and settlement of vested land due to the closure of mills was inadequate. Lack of proper monitoring and control led to irregular sale/transfer/mortgage etc. of Government land by the owners of closed mills, factories etc. As a result there has been non/short realisation of large amounts of revenue. Transfer of Government land to different body corporates, central Government etc. and advance possession of Government land without settlement on long term basis resulted in non-realisation of revenue. Long term settlement cases have also been awaiting sanction for a number of years, further depriving the state exchequer of considerable amounts of revenue. Internal control mechanism was weak as is evidenced by the fact that during the period under review, no internal audit was conducted in any of the units taken up for audit. The department failed to utilise this effective tool to assure itself that the various wings of the department were functioning reasonably well.

3.2.19 Summary of recommendations

The Government may consider

- preparing a consolidated district wise database of land with mills, factories etc. vested to the Government for better control of land. A time bound programme for the DL and LROs should also be formulated to review the status of land with closed mills and also the requirement of land of existing mills, factories etc., and record the vested land in the prescribed register to monitor the use of the Government land;
- fixing an appropriate time limit for execution of lease agreement where advance possession of the Government land has been given and also for settlement of the Government land with the unauthorised occupants. Review of Register of leases should be made mandatory to ensure that the leases are renewed in time;
- urgently reviewing the use and requirement of land permanently transferred to any authority under administrative control of ministry of the Government of India and take up the matter with the respective

ministry to ensure that the land not in requirement for the purpose for which it was transferred is relinquished in favour of the L and LR Department. Necessary instruction should also be issued to the DL and LROs to review the status of land transferred interdepartmentally to ensure its proper utilisation; and

- carrying out internal audit regularly to ensure that the various wings of the department are functioning at their best for optimum collection of revenue.

3.3 Non-realisation of rent and *salami*

Under the provisions of the WBL and LR Manual, if government land remained in possession of person (s) without any lease, such person(s) may be offered long term settlement for non-agricultural purposes on realisation of rent payable at four *per cent* of market value of the land and *salami* at 10 times the annual rent. The proposal for lease is to be finalised ordinarily within five months from the date of the application.

Scrutiny of the records of four[24] DL and LR offices between June 2004 and June 2006 revealed that 504 individuals and three clubs had been unauthorisedly occupying 35.97 acres of government land from different periods since 1962 for various purposes. The occupiers applied for long term settlement of those land between November 2001 and January 2005. The concerned BL and LR offices initiated action for settlement between 2003-04 and 2006-07. However, the cases could not be finalised despite lapse of time ranging between 7 to 61 months. Thus, lack of timely action by the department to settle the land with unauthorised occupiers resulted in non-realisation of revenue of Rs. 6.97 crore (rent: Rs. 1.65 crore and *salami*: Rs. 5.32 crore) for different periods falling between 2001-02 and 2005-06.

After the cases were pointed out, district authority, Coochbehar stated in December 2004 that the settlement was in progress. The other three district authorities did not furnish any reply.

The cases were reported to the Government between July 2004 and September 2006, followed by reminders issued upto June 2007; their reply has not been received (September 2007).

3.4 Non-levy of interest for delayed payment

In terms of a Government order issued in November 1992 as modified in October 1999, if the transfer value of land or *salami* and lease rent, as the case may be, is not paid at the time of taking possession of the Government land,

[24] Coochbehar, Darjeeling, Hooghly and Nadia.

the transferee/lessee is liable to pay interest at the prescribed rates. In case of non-payment of rent and *salami*/transfer value of land and interest, these are realisable as public demand by initiating certificate proceedings under the Bengal Public Demand Recovery (PDR) Act, 1913.

Scrutiny of the records of two[25] DL and LR offices between January and June 2006 revealed that rent and *salami*/transfer value of Rs. 4.79 crore in four cases was paid by the lessee/transferee on different dates between May 2002 and December 2005 against the due dates of payment between December 2001 and October 2002. Interest of Rs. 12.92 lakh which was leviable for the delays in payment ranging from 36 to 1,137 days was not levied. In another case, though the transferee failed to pay the transfer value of land, yet certificate proceedings as per PDR Act were not initiated to recover the transfer value of Rs. 7.53 lakh and interest of Rs. 5.42 lakh accrued upto June 2006. The two cases thus involved non-levy of interest of Rs. 18.34 lakh and non-realisation of revenue of Rs. 7.53 lakh.

After the cases were pointed out, the district authorities, Darjeeling and Burdwan (West) in two cases involving Rs. 8.54 lakh stated between January and June 2006 that demand notices were being issued for realisation of revenue. A report on recovery and reply in the remaining cases has not been received (September 2007).

The cases were reported to the Government between May and August 2006, followed by reminders issued upto June 2007; their reply has not been received (September 2007).

3.5 Non/short realisation of rent, cess and surcharge on land used for commercial purposes

Under the provisions of the WBLR Act, *raiyats*[26] using land for mill, factory, workshop or other commercial purposes in rural areas are liable to pay rent at the prescribed rate. The State Government by an amendment effective from 19 October 2003, enhanced the rent from Rs. 300 to Rs. 2,000 per acre per annum. The *bhumi sahayaks* posted in the revenue inspectors' office under the BL and LR office are responsible for collection of rent. Different kinds of cess[27] are also realisable on land rent payable by the *raiyats*.

Scrutiny of the records of two[28] DL and LR offices between May and June 2006 revealed that 90 *raiyats* under 14 BL and LR offices used 321.10 acres of land for commercial purposes during the years 2004-05 and 2005-06 and as such they were liable to pay land rent at the rate of Rs. 2,000 per acre/per

[25] Burdwan (West) and Darjeeling.
[26] *Raiyat* means a person or an institution holding land for any purpose.
[27] Road cess: 6 paise, public works cess: 25 paise, education cess: 10 paise, rural employment cess: 30 paise and surcharge: 15 paise.
[28] Hooghly and Nadia.

annum and cess thereon. In case of eight *raiyats*, the district authorities realised rent of Rs. 95,000 at rates applicable for non-commercial purposes instead of Rs. 5.80 lakh realisable, while in cases of remaining 82 *raiyats*, rent and cess of Rs. 15.25 lakh was neither paid by the *raiyats* nor was any action taken by the department to realise the dues. This resulted in non/short realisation of revenue of Rs. 20.10 lakh.

After the cases were pointed out, the district authorities while admitting the audit observation stated in June 2006 that action was being taken to realise the Government dues. The reply is, however, silent on the reasons for non-realisation of rent and cess amounting to Rs. 15.25 lakh leading to blocking of revenue. A report on recovery has not been received (September 2007).

The cases were reported to the Government between August and September 2006, followed by a reminder in June 2007; their reply has not been received (September 2007).

3.6 Loss of revenue due to non-settlement of *sairati* interest

Under the provisions of the WBL and LR Manual, all *sairati*[29] interests like fisheries, *khal*[30] etc. should be leased out on year to year basis but not exceeding seven years. The collector of the district is required to fix the economic lease rent and realise 25 *per cent* thereof at the time of settlement of *sairati* interests and the balance before the beginning of the year. The rent for the successive years is to be deposited by the lessee in full before the beginning of the respective year and a lease agreement executed beforehand.

Scrutiny of the records of three[31] DL and LR offices between June and September 2006 revealed that lease of 52 water bodies involving 1,420.26 acres expired between 2000-01 and 2004-05. Though in all the cases economic lease rent was fixed, yet the local offices failed to issue tenders to settle the water bodies upto 2005-06. Non-settlement of *sairati* interests for different periods falling between 2001-02 and 2005-06 resulted in loss of revenue of Rs. 13.30 lakh as lease rent.

After the cases were pointed out, two[32] district authorities in 45 cases involving Rs. 9.42 lakh stated between June and September 2006 that immediate steps would be taken for settlement of the *sairati* interests. The replies are, however, silent on the inaction on the part of the department to

[29] Derived from the word sair. The duties which the owners of hat, bazzar, markets, ferries, fisheries etc. used to levy on commodity sold or benefits derived from those places were designated as sair collection. Such hat, ferries etc. are known as *sairati* interests.
[30] Large water channel.
[31] Coochbehar, Hooghly and Nadia.
[32] Coochbehar and Nadia.

take timely action to settle the *sairati* interests which ultimately led to loss of revenue. A report on further development and reply from district authority, Hooghly has not been received (September 2007).

The cases were reported to the Government between August and December 2006, followed by reminders issued upto June 2007; their reply has not been received (September 2007).

3.7 Non-realisation of cess from patta holders

As per the provisions of the Cess Act 1880, read with the West Bengal Primary Education Act 1973, road cess, public works cess and education cess at the rate of 41[33] paise per rupee of land rent are realisable on land rent payable by the *raiyats*. *Raiyats* who are exempted from paying land rent are also liable to pay all the above cess. By an order issued in November 2003, the State Government waived the unpaid arrear cess in respect of the exempted *raiyats* for the period from 1385 BS (1978-79) to 1407 BS (2000-01). However, they were liable to pay cess from 1408 BS (2001-02) onwards. The *bhumi sahayaks* posted in the revenue inspector's office under the BL and LR offices are responsible for collection of the cess.

Scrutiny of the records of the DL and LR office, Jalpaiguri in August 2006 revealed that in four BL and LR offices, a total area of 31.39 thousand acres of vested land was distributed among the landless persons on *raiyati* basis for which pattas were given. As per the codal provisions, they were liable to pay cess of Rs. 12.84 lakh on the notional rent of the land for the period between 1408 BS (2001-02) and 1412 BS (2005-06). The *raiyats* neither paid the accrued cess nor was any action taken by the department to recover it. This resulted in non-realisation of cess of Rs. 12.84 lakh.

After the cases were pointed out, the district authority stated in August 2006 that action would be taken for realisation of cess from the patta holders. A report on recovery has not been received (September 2007).

The cases were reported to the Government in October 2006, followed by reminders issued upto June 2007; their reply has not been received (September 2007).

[33] Road cess: 6 paise, public works cess: 25 paise and primary education cess: 10 paise.

CHAPTER IV
STATE EXCISE

4.1 Results of audit

Test check of the records of state excise revenue conducted in audit during the year 2006-07, revealed non/short realisation of excise duty and other irregularities amounting to Rs. 92.73 crore in 144 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-realisation of excise duty on the quantity of rectified spirit received short	8	44.28
2.	Non-realisation of renewal fee/licence fee/privilege fee/import pass fee etc.	47	8.23
3.	Non/short realisation of security deposit/establishment cost/house rent allowance	29	0.94
4.	Non/short realisation of late fee due to delayed renewal of licences	9	0.76
5.	Other cases	51	38.52
	Total	**144**	**92.73**

During the course of the year 2006-07, the department accepted underassessment and other deficiencies of Rs. 1.81 crore involved in 41 cases of which 22 cases involving Rs. 1.58 crore had been pointed out by audit during the year 2006-07 and the rest in the earlier years. Of this, Rs. 85.52 lakh has been realised in 26 cases.

After the issue of the draft paragraphs, the department recovered Rs. 6.87 lakh pertaining to a single observation during the year 2006-07.

A few illustrative cases involving Rs. 37.69 crore highlighting important irregularities have been discussed in the following paragraphs.

4.2 Short realisation of revenue due to low production of alcohol from molasses

Under the provisions of the Bengal Excise Act, 1909 (BE Act) and rules made thereunder, every distiller has to maintain specified fermentation efficiency and distillation efficiency to recover minimum 92 london proof litre (LPL)[1] of alcohol per quintal of fermentable sugar present in the molasses consumed for production. Failure to recover minimum alcohol renders the licensee liable to suspension/cancellation of his licence in addition to any other penal action under the Act. The rule further stipulates that sample of molasses used for production of spirit should be sent by the distiller to the chemical examiner (CE), the Government of West Bengal (WB) or any other expert authorised by the Excise Commissioner (EC) for determination of fermentable sugar content in molasses. Minimum yield of spirit from molasses should be calculated on the basis of the CE's report and explanation for shortfall, if any, in production should be called for from the distiller.

Scrutiny of the records of two distilleries under Superintendent of Excise (SE), South 24 Parganas and SE, Darjeeling between November 2006 and February 2007 revealed that out of 2,575 samples of molasses drawn for chemical examination, only four samples were sent to the CE and chemical examination of the balance 2,571 samples were carried out by the respective distillers in their own laboratories. The chemical examination report of the four samples had not been received from the CE till the date of audit. Distillery Officer (DO) posted at the distilleries did not take any action for ensuring timely receipt of the CE's report in respect of the four samples and instead of sending the balance samples to the CE for chemical examination, accepted the report of the distillers' chemists in arriving at the yield of alcohol.

A committee set up for determining the allowable molasses transport cost (AMTC) prescribed a minimum yield of 390 LPL of alcohol per MT of molasses. In December 2001, the Government accepted the recommendation of the committee and accordingly issued an executive instruction but did not modify/amend the BE Act and rules made thereunder. In the absence of any amendment of the Act/Rules, the said instruction is not binding on the distillers.

Although audit could not verify the actual yield of alcohol from the molasses used in the absence of any chemical examination report of the CE, on the basis of the aforesaid executive instruction, the minimum yield of alcohol out of molasses used for extraction of alcohol between January 2002 and March 2006 worked out to 287.70 lakh LPL as against the actual yield of 270.21 lakh LPL

[1] Strength of alcohol is measured in terms of 'degree proof'. Strength of alcohol, 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Apparent volume of a given sample of alcohol when converted into volume of alcohol having strength 100 degree is called LPL.

shown by the distilleries. Thus, there was a short yield of 17.48 lakh LPL of alcohol. This resulted in short realisation of duty of Rs. 25 crore at the rate of Rs. 143 per LPL as mentioned below. Besides, penalty was also leviable for such shortfall in achieving the minimum yield.

Names of the distilleries	Period	Quantity of molasses consumed (MT)	Yield of alcohol in the distillery (in LPL)	Minimum yield of alcohol as per norms fixed by the Government (in LPL)	Short yield of alcohol (in LPL)	Duty involved (Rs. in crore)
IFB Agro Industries, Noorpur	4th quarter of 2001-02	20,198.239	77,22133.7	78,77,313.21	1,55,179.51	2.22
Prakash Distillery and Chemical Ltd., Siliguri	4th quarter of 2001-02	3,978	13,77,805	15,51,420	1,73,615	2.48
	2002-03	22,179	79,34,381.1	86,49,810	7,15,428.9	10.23
	2003-04	19,767	75,33,444.8	77,09,130	1,75,685.2	2.51
	2004-05	7,646	24,53,527.3	29,81,940	5,28,412.7	7.56
Total		**73,768.239**	**270,21,291.9**	**287,69,613.21**	**17,48,321.31**	**25.00**

The Government to whom the cases were forwarded in June 2007 stated in July 2007 that demand notices for Rs. 48.83 crore including penalty had been issued after detailed verification in both the distilleries. A report on recovery has not been received (September 2007).

4.3 Non-imposition of penalty on excess wastage of molasses

Under the WB Molasses Control (Regulation, Storage and Transport) Notified Order 1986, as amended from time to time, if the loss or wastage of molasses in transit exceeds one *per cent*, the licensee is liable to pay a penalty not exceeding Rs. 5,000 upto December 2003 per consignment and not exceeding Rs. 25,000 thereafter to be imposed by the EC on the basis of the report of the distillery officer (DO).

Scrutiny of the molasses register of IFB Agro Industries Ltd., (distillery), Noorpur under SE, South 24 Parganas revealed that 15,585 consignments of molasses were received during the period from 2001-02 to 2005-06. Of these, transit wastage exceeding maximum permissible limit of one *per cent* was allowed in 125 consignments (51 cases related to the period prior to January 2004 and remaining 74 cases thereafter). The licensee was, thus, liable to pay penalty upto Rs. 21.05 lakh on excess wastage. But, the DO did not furnish any report on the excess wastage to the EC leading to non-imposition of penalty upto Rs. 21.05 lakh.

The Government to whom the cases were forwarded in June 2007 stated in July 2007, that the DO of the said unit had been directed to verify each case of

such excess wastage of molasses in transit and accordingly the SE, South 24 Parganas had asked the licensee to show cause why action should not be taken against him as per the law. Further reply has not been received (September 2007).

4.4 Non-realisation of excise duty on non/short receipt of spirit during the course of import underbond

The BE Act and rules made thereunder provide that in case of import of spirit for potable purposes, a licensee is to execute a bond in the prescribed form which envisages that duty at the prescribed rate is to be paid on the quantity of the spirit received short or not reaching the destination with reference to the quantity despatched from the exporting end.

Scrutiny of the records of the SE, North 24 Parganas district in December 2007 revealed that M/s. Sengupta and Sengupta bottling plant, Barrackpore was permitted by the EC to import two lakh BL[2] (3.20 lakh LPL) of spirit underbond in two cases between January and February 2002 from Uttar Pradesh (UP). The said quantity was neither received at the distillery nor were any non-execution certificates received from the exporting distillery. According to the bond agreement, the importer was liable to pay excise duty of Rs. 4.58 crore at the highest rate applicable to IMFL on the quantity of spirit not reaching the destination. But the licensee neither paid any duty nor did the excise authority take any action for its realisation even after the lapse of 66 months from the month of issue of the import permits. This resulted in non-realisation of excise duty of Rs. 4.58 crore.

The Government to whom the cases were forwarded in January 2007 stated in July 2007 that import permits were not executed by the licensee and non-execution certificates could not be obtained as the permits were meant for import of extra neutral alcohol (ENA) from any distillery in UP.

The reply is not tenable as the EC, UP has intimated the EC, WB in August 2007 that export release orders were issued by them for the entire quantity of ENA against each of those import permits. Thus, weak surveillance system to monitor non-execution of the import permits enabled the licensee to avoid payment of duty of Rs. 4.58 crore. Further reply has not been received (September 2007).

[2] Bulk litre.

4.5 Allowance of excess transport charges resulting in short realisation of additional fee

The wholesale price of country spirit (CS), fixed by the Excise Department, is equivalent to the cost price (landed cost) of rectified spirit (RS) plus additional fee realisable on the RS imported. Additional fee is the difference between wholesale price and the landed cost of the spirit. The landed cost of spirit, *inter alia,* includes the transport charge.

As per the circulars of the Excise Department issued from time to time, transport charge at the maximum rate of Rs. 3 and Rs. 3.50 per BL was allowable to CS manufacturers for the import of spirit from Bihar and other states respectively during the period from May 1994 to October 2002. The rates were subsequently reduced to Rs. 2.25 and Rs. 2.75 per BL respectively from November 2002.

Cross verification of the records of the excise directorate during September 2006 to February 2007 revealed that the rate of transport charges per BL allowed by the EC for import of RS by 14 CS bottling plants was higher than that paid by two foreign liquor (FL) licensees, though the spirit was imported from the same distilleries of the States of Bihar and UP. During the period between 2001-02 and 2005-06, the rate of transport charges paid by the FL manufacturers for import of RS from distilleries located in UP and Bihar was between Rs. 1.70 and Rs. 2.05 per BL and between 87 paise and Rs. 1.07 per BL respectively while transport charges allowed to the CS bottling plants or RS imported from the same distilleries of Bihar and UP during the same period was between Rs. 2.75 and Rs. 3.50 and Rs. 2.25 and Rs. 3 per BL respectively. Thus, excess allowance of transport charges to the CS licensees at higher rates ranging between 70 paise and Rs. 1.93 per BL led to fixation of additional fees at a reduced rate resulting in short realisation of revenue of Rs. 4.28 crore.

The Government to whom the cases were forwarded in June 2007 stated in July 2007 that the licensees of the CS bottling plants had been asked to submit a clarification relating to the rate of transport charges claimed by them. Necessary action would be taken after receipt of the clarifications from the licensees. Further reply has not been received (September 2007).

4.6 Non-levy and non-realisation of privilege fee for import of spirit by the distiller

As per the notification of the Excise Department effective from April 1984, a distiller has to pay a fee for the privilege of import of alcohol at the rate of 60 paise for each BL of spirit imported by him from outside the state at the time of receipt of such spirit at the distillery or warehouse on the quantity so received.

Scrutiny of the records of three distilleries under SEs, Darjeeling and Hooghly between November 2006 and February 2007 revealed that the licensees imported 218.74 lakh BL of spirit during the period from 2001-02 to 2005-06 against 160 import permits granted by the EC. But privilege fee on the quantity of spirit so imported and received at the premises of the distilleries was neither paid by the distiller nor was any action taken by the excise authority to realise it from the licensees till the date of audit. This resulted in non-levy and non-realisation of privilege fee of Rs. 1.31 crore as mentioned below:

(Rupees in crore)

Name of the distillery	Period	Total no. of import permits	Total quantity of alcohol received (BL in lakh)	Privilege fee realisable at the rate of 60 p per BL
M/s. McDowell and Co. Ltd., Hooghly	2001-02 to 2005-06	73	77.12	0.46
M/s. Shaw Wallace Distilleries Ltd., Hooghly	2001-02 to 2005-06	82	129.30	0.78
M/s. Prakash Distillery and Chem. Ltd, Siliguri	2004-05 to 2005-06	5	12.32	0.07
Total		**160**	**218.74**	**1.31**

The Government to whom the cases were forwarded in June 2007 stated in July 2007 that M/s. McDowell and Co. Ltd., Hooghly had moved the High Court, Kolkata and obtained a judgment in their favour. The reply was, however, silent on the reasons for the inaction of the State Government to appeal against the judgment. As regards the other two distilleries, the State Government stated that the dues would be recovered. Further reply in case of M/s. McDowell Co., Hooghly and report on recovery in the remaining two cases has not been received (September 2007).

4.7 Non-realisation of pass fee on export of IMFL

Under the provisions of the WB Excise Foreign Liquor (FL) Rules, 1998, pass required for the export of IMFL outside the State of WB shall be granted on payment of pass fee at the rate of 45 paise per BL upto April 2005 and thereafter at the rate of 50 paise.

Scrutiny of the records of M/s. Shaw Wallace Distilleries Ltd. (distillery unit) under SE, Hooghly in November 2006 revealed that the licensee exported 140.09 lakh BL of bottled IMFL during the period between April 2001 and April 2005 and 12.80 lakh BL during the period between May 2005 and March 2006 outside the state. It was, however, observed that while issuing export passes by the EC, export pass fee was not realised. This resulted in non-realisation of pass fee of Rs. 69.44 lakh.

The Government to whom the cases were forwarded in June 2007 stated in July 2007 that the High Court, Kolkata in an interim order on 26 June 1997 had restrained and forbidden the State Government from realising any export pass fees from the licensee. However, the Government has appealed to the High Court and the case has been admitted in February 2005. The reply is silent on the reasons for the delay of more than seven years on the part of the Government to appeal against the court order. A report on further development has not been received (September 2007).

4.8 Non-levy and non-realisation of pass fee on import of spirit

Under the provisions of the WB Excise FL Rules, passes for transport or import of spirit brought from any place outside India from a customs station or licenced storage of spirit warehouse of any other State or Union Territory of India, to licenced premises in WB shall be granted on payment of the prescribed fees. Such fee is realisable at the rate of Rs. 25 per LPL on the advised/received quantity of spirit, whichever is higher.

Scrutiny of the import documents and other relevant records of two IMFL manufacturers under SE, Hooghly and Collector of Excise, Kolkata (South) in November 2006 revealed that the licensees imported 2.71 lakh LPL of spirit during the period between January 2004 and March 2006 from Scotland through the distilleries of other States. No pass fee on the quantity of spirit advised/received on import was, however, levied and realised from the licensees prior to issuing the import pass. This resulted in non-levy and consequent non-realisation of pass fee of Rs. 67.75 lakh.

The Government to whom the cases were forwarded in June 2007 stated in July 2007 that demand notices were issued to both the licensees for payment of pass fees. A report on recovery has not been received (September 2007).

4.9 Non-levy of late fee

4.9.1 Non-levy and non-realisation of late fee for delayed deposit of renewal fee for distillery licence

By a notification issued in November 2002, the State Government decided that from the licensing year 2003-04, the licence for a distillery may be renewed annually by the Collector subject to the approval of the EC on an application made before the expiry of the existing licence along with the receipted original challan showing deposit of Rs. 1 lakh. If the licensee of a distillery applies for the grant of a licence for the next period of settlement after the expiry of the licence, the Collector may grant renewal of the licence on the realisation of a late fee at the rate of Rs. 600 per diem.

Scrutiny of the records of two distilleries under SEs, Darjeeling and Hooghly districts between November 2006 and February 2007 revealed that the licensees deposited renewal fee for the licensing year 2003-04 to 2005-06 between February 2005 and March 2006. But the district authorities did not levy and realise late fee of Rs. 18.86 lakh from the licensees for delay between 322 and 1,065 days as mentioned below:

(Rupees in lakh)

Year of licence	Name of the distillery	Date of expiry of previous licence	Date of deposit of renewal fee	Duration of delay (no. of days)	Late fee realisable
2003-04	M/s. McDowell and Co. Ltd., (distillery unit), Hooghly	31.03.2003	02.03.2006	1,065	6.39
2004-05		31.03.2004	02.03.2006	700	4.20
2005-06		31.03.2005	02.03.2006	335	2.01
2003-04	M/s. Prakash Distillery and Chemicals Ltd., Siliguri	31.03.2003	08.03.2006	722	4.33
2004-05		31.03.2004	17.02.2005	322	1.93
Total					**18.86**

The Government to whom the cases were forwarded in June 2007 stated between July and August 2007 that, demand notice had been issued to M/s. McDowell & Co. Ltd., Hooghly for the payment of late fee of Rs. 12.60 lakh and in the other case, the Collector, Darjeeling had been instructed to raise the demand for late fee. A report on recovery has not been received (September 2007).

4.9.2 Non-levy and non-realisation of late fee for delayed deposit of renewal fee for CS licence

Under the provision of the WB Excise (Grant of licence for the Manufacture of Labelled and Capsuled Bottles of Country Spirit and Sale by Wholesale) Rules, 1998 where the licensee applies for the renewal of a licence for the next period of settlement after the expiry of the licence, the Collector may, at his

discretion, grant such renewal, if such licensee deposits a fee of Rs. 50,000 alongwith a late fee of Rs. 300 per diem.

Scrutiny of the records of two CS manufacturers under SE, Jalpaiguri and Collector of Excise, Kolkata (South) revealed that though the licensees had deposited renewal fees for the period from 1999-2000 to 2005-06 between February and July 2005 after a delay ranging between 117 and 2,153 days, the licences were renewed by the respective Collectors without realisation of late fee. As a result, there was non-levy and consequent non-realisation of late fee of Rs. 29.32 lakh from the licensees as mentioned below:

(Rupees in lakh)

Year of licence	Name of the CS manufacturer	Date of expiry of previous licence	Date of deposit of renewal fee	Duration of delay (no. of days)	Late fee realisable
2002-03	M/s. Luksan CS warehouse (manufacturer)	31.3.2002	27.07.2005	1,213	3.64
2003-04		31.3.2003		848	2.54
2004-05		31.3.2004		483	1.45
2005-06		31.3.2002		117	0.35
1999-00	M/s. Eastern Distillery and Chemical Ltd. (EDCL)	31.3.1999	23.02.2005	2,153	6.46
2000-01		31.3.2000		1,788	5.36
2001-02		31.3.2001		1,423	4.27
2002-03		31.3.2002		1,058	3.17
2003-04		31.3.2003		693	2.08
Total					**29.32**

The Government to whom the case were forwarded in June 2007 stated in July 2007 that M/s. Luksan warehouse could not be called a CS manufacturer as the licensee did not hold any licence to manufacture or produce bottled CS. Hence, the question of realisation of any late fee in this case did not arise. In the other case, the licensee M/s. EDCL had prayed to the authority to remit the late fee so demanded.

The reply in respect of the first case is not tenable because as per the Act, the term manufacture includes reduction of strength of RS for sale and in the instant case the licensee had reduced RS into CS (80 degree under proof) in bulk for sale. The licensee company had also paid licence renewal fee for CS manufacture. The reply in respect of the second case is not tenable because there is no provision in the Act for remission of late fee. Further reply has not been received (September 2007).

4.9.3 Non-realisation of late fee due to the delay in renewal of excise licences

Under the WB Excise (selection of new sites and grant of licence for retail sale of liquor and certain other intoxicants) Rules, 2003 the licensees of CS bottling plant, distillery and C and FS shop who fail to get their licences

renewed for the next period of settlement within the prescribed time limit and apply for renewal of the same after the due date, are required to pay a late fee at the rate of Rs. 100 per day for the period of default in payment of licence fee.

Scrutiny of the records of the SE, Burdwan (East) in March 2006 revealed that no late fee was realised from the licensees of 85 C and FS shops for delays between 7 and 544 days in getting their licences renewed for different periods falling between 2003-04 and 2005-06. This resulted in non-realisation of late fee of Rs. 19.22 lakh.

The Government to whom the cases were forwarded in May 2006 stated in July 2007 that demand notices had been issued to the licensees. A report on realisation has not been received (September 2007).

4.10 Evasion of excise duty due to variation of strength

Under the WB Excise (FL) Rules, all potable FL has to be manufactured at the strength prescribed subject to an allowable limit of variation of 0.2 degree proof on either side. After the manufacturing process is completed, the manufacturer has to make over two samples of 750 ml each to the excise officer incharge for analysis and determination of the proof strength and obscuration[3] by the CE to the State Government. If the report of the CE shows any variation from the prescribed strength beyond the allowable limits, the manufacturer shall be required to reprocess the FL in question.

Further, the Rules provide that in case of urgency and on the requisition of the manufacturer, FL may be issued on the basis of the strength and obscuration declared by the manufacturer subject to the condition that if the report of the CE shows a strength higher than that declared by the manufacturer, he shall pay, on demand, the excess of duty on the quantity manufactured in the batch.

4.10.1 Evasion of excise duty due to issue of under strength IMFL

Scrutiny of the records of two FL manufacturers[4] in two districts[5] during November-December 2006 revealed that the licensees produced 1,805 batches of FL during the period from 2001-02 to 2005-06 and the officers incharge of the FL manufacturers sent samples of all the batches to the CE for determination of proof strength and obscuration. Further scrutiny revealed that test reports of only 385 samples were received from the CE after a lapse of

[3] The difference caused by matter in solution between the true strength of spirit and that indicated by the hydrometer.
[4] M/s. Madhusala Drinks and McDowell and Co. Ltd.
[5] Hooghly and South 24 Parganas.

time ranging between 21 and 41 months when the said batches of FL had already been removed from the manufacturers. The excise officers posted at the manufacturers did not obtain the remaining test reports of 1,420 batches from CE, West Bengal, before allowing removal of such FL.

Cross verification of 247 out of 385 test reports of the CE with the reports from the manufacturers' chemists for the year 2001-02, revealed that in 202 cases though the alcoholic strength was below the strength ranging between 0.3 and 4.7 degree proof, spirit of all the batches relating to those 202 test reports was shown to have been issued at 75 degree proof strength. Accordingly, the total quantity of spirit issued as per Register 78 maintained by the excise personnel posted in the manufacturers was 22.42 lakh LPL. But, the actual quantity of spirit that should have been utilised on the basis of strength as certified by the CE was 22.11 lakh LPL. Thus, the distillery showed an excess issue of 31,225 LPL spirit which resulted in evasion of excise duty of Rs. 35.60 lakh as mentioned below:

Period	Category of IMFL	Excess issue of spirit (in LPL)	Rate of duty per LPL (RS)	Amount involved *(Rupees in lakh)*
1.4.01 to 24.6.01	Whisky	2,188.20	130	2.84
	Rum	3,489.57	90	3.14
25.6.01 to 31.3.02 (Rate of duty revised from 25.6.01)	Whisky	4,595.33	143	6.57
	Rum	20,952.25	110	23.05
Total		**31,225.35**		**35.60**

The Government to whom the cases were forwarded in June 2007 stated in July 2007 that the Deputy Excise Collectors (DEC) incharge of two bottling plants had already sought explanation from the licensees for issue of under strength spirit. Demand notices would be served as soon as the replies were received from the licensees. The reply is, however, silent on the action taken against the CE, WB for such abnormal delay in furnishing the test reports.

4.10.2 Evasion of excise duty due to issue of over strength IMFL

Scrutiny of the records of two IMFL manufacturers[6] under SEs of two districts[7] between November 2006 and February 2007 revealed that the licensees produced and issued 4,411 batches of FL between 2001-02 and 2005-06. Of this, 110 batches were reported over strength between 0.2 and 4.6 degree proof by the CE on which differential duty was realisable. However, neither was any payment made by the licensees nor was any action taken by the excise authority for realisation of the duty even after a lapse of time

[6] M/s. McDowell and Co. Ltd. and M/s. Shaw Wallace Distilleries Ltd.
[7] Burdwan (West) and Hooghly.

ranging between 16 and 51 months from the date of receipt of the concerned test reports. This resulted in evasion of duty of Rs. 12.36 lakh as detailed in Annexure.

The Government to whom the cases were forwarded in June 2007 stated in July 2007 that in respect of M/s. Shaw Wallace Distilleries, Hooghly demand notice was issued on 26 December 2006. A report on recovery in this case and further development in the other case has not been received (September 2007).

4.11 Non-realisation of revenue due to non-conducting of second redistillation of head cut spirit

As per the notification issued under the provisions of the BE Act, effective from June 1992, the licensee of a distillery may undertake redistillation operation from silent/head cut spirit (HCS)[8] obtained from primary distillation with the permission of the EC for manufacture of spirit for potable purposes and such second redistillation shall be so made that no further feint spirit or HCS is left as residue. The EC, WB in his circular dated July 1997, directed that spirit obtained after second redistillation had to be used for potable purposes, provided it was found potable. In case, the spirit obtained after second redistillation was not exhausted within a period of three months from the date of obtaining such spirit, the distillery concerned had to communicate the reasons thereof to the Collector of the district. The Collector, after conducting an investigation, should decide whether the reasons adduced are genuine and should pass such orders as he deemed fit with an intimation to the EC. Allowable limit of wastage during such second redistillation is 7.5 *per cent* and wastage, if any, in excess of allowable limit is chargeable to duty at the highest rate applicable to IMFL.

4.11.1 Scrutiny of the records of three distilleries in two districts[9] between January-February 2007 revealed that the HCS received after first redistillation of rectified spirit had been kept in store for more than 20 years in the respective distilleries. The total quantity of such HCS was 5.72 lakh LPL which would produce 5.29 lakh LPL of spirit (i.e. 92.5 *per cent* of 5.72 lakh LPL). Instead of carrying out second redistillation, the distillers requested the excise authority repeatedly to pass necessary order for the disposal of HCS. The excise authority did not direct the distiller to undertake second redistillation as per EC's circular of July 1997. This resulted in non-redistillation of HCS accumulated for more than 20 years and consequent non-realisation of excise duty of Rs. 9.84 crore as mentioned below:

[8] Silent/head cut spirit also known as feint spirit is the residue obtained after redistillation of the rectified spirit.

[9] Burdwan (West) and Hooghly.

Sl. No.	Name of the licensee company and the distillery	Quantity of head cut spirit stored (in LPL)	Wastage allowable at the rate of 7.5 *per cent* (in LPL)	Spirit to be produced (in LPL)	Excise duty realisable at the rate of Rs. 186 per LPL (Rs. in crore)
1.	M/s. Shaw Wallace Distilleries Ltd., Hooghly	1.22	0.09	1.12	2.09
2.	M/s. McDowell and Co. Ltd., Hooghly	1.73	0.12	1.60	2.98
3.	M/s. McDowell and Co. Ltd., Asansol	2.77	0.22	2.57	4.77
Total		**5.72**	**0.43**	**5.29**	**9.84**

The Government to whom the cases were forwarded in June 2007, stated in July 2007 that since the matter involved technical aspects of redistillation and continuous distillation, it had been decided to seek an expert opinion in this regard from a reputed institute such as IIT, Kharagpur. The reply is not tenable as the second redistillation is obligatory after the circular of July 1997 and potability of the spirit was to be judged after second redistillation. The reply is also silent on the reasons for the inaction of the department to enforce redistillation which ultimately led to non-realisation of the Government revenue.

4.11.2 Scrutiny of the records of M/s. McDowell and Co. Ltd. (distillery unit) and M/s. Shaw Wallace Distilleries Ltd. under SE, Hooghly in November 2006 revealed that the stock position of HCS in April 2001 and April 2002 was 1.09 lakh LPL and 1.28 lakh LPL respectively. Further, during the period between 2001-02 and 2005-06, M/s. McDowell and Co. Ltd produced 78,000 LPL of HCS while in case of M/s. Shaw Wallace Distilleries Ltd. there was no redistillation during 2002-03 to 2005-06. As per the last stock report taken in April 2006, stock of HCS was found to be 1.73 lakh LPL in M/s. McDowell and Co. Ltd and 1.20 lakh LPL in M/s. Shaw Wallace Distilleries Ltd. The distilleries neither undertook redistillation operation of HCS with the permission of the EC for manufacturing potable spirit nor was any action taken by the department to dispose of the spirit lying idle in store for more than 20 years. It was, however, noticed that between April 2001 and March 2006, quarterly stock taking was carried out by the department and permissible wastage of 22,000 LPL of HCS was allowed to the distilleries involving revenue of Rs. 32.27 lakh over the last five years which could have been avoided had timely action been taken by the department either to enforce second redistillation or to dispose the HCS lying in the stock of the distilleries.

4.12 Non-realisation of establishment cost

Under the provisions of the WB Excise (FL) Rules and WB Coloured and/or Flavoured Spirit (C and FS) Rules, the licensee of a bonded FL warehouse and a manufacturer of C and FS is required to pay a monthly fee in cash equivalent to monthly cost comprising average pay, compensatory allowances and contribution towards leave salary and pension in respect of the excise establishment deployed in the warehouse/bottling plant. Such monthly fee is to be paid within seven days after expiry of the month to which it relates.

Scrutiny of the records of three[10] offices of district excise officers (DEO) between August and September 2006 revealed that licensees of five FL warehouses and one bottling plant of C and FS did not pay the monthly fee of Rs. 27.95 lakh for the excise personnel deployed for different periods between April 2004 and March 2006. The DEOs also did not take any action to realise the establishment cost of Rs. 27.95 lakh.

The Government to whom the cases were reported between October and November 2006 stated in July 2007 that in one case Rs. 98,000 had been realised in March 2007. In two cases involving Rs. 4.39 lakh, the Government stated that bonds of the licensees were non-functional since 2004-05. The reply is not tenable as the licensees had applied for the surrender of their licences between December 2005 and January 2006 and were, thus liable to pay establishment cost upto March 2006. In two cases involving Rs. 20.11 lakh it was stated that the licensees had moved the High Court at Kolkata. The State Government, however, could not furnish copies of the Court order restraining the Government to issue a demand notice in this regard. In the remaining case involving Rs. 2.47 lakh, the Government had asked the department to forward it to the certificate officer for realisation. A report on realisation in this case and further development in other cases has not been received (September 2007).

4.13 Non-realisation of security deposit from C and FS manufacturers

Under the provision of the West Bengal Excise (C and FS) Rules as amended in February 2005, the licensees of C and FS manufacturers shall deposit Rs. 5 lakh as security deposit either through treasury challan or an interest bearing security from any nationalised bank.

[10] Collector of Excise, Kolkata (North), Collector of Excise (South) and SE, Jalpaiguri.

Scrutiny of the records of four C and FS manufacturers[11] under two SEs[12] and two Collectors of Excise[13] between November 2006 and February 2007 revealed that security deposit at the rate of Rs. 5 lakh was not made by four licensees till the date of audit. Of this, in respect of two C and FS manufacturers, the excise authorities had renewed their licence from 2005-06 onwards without the realisation of security deposit. In the remaining two cases, the excise authorities had neither realised the security deposit nor renewed their licences resulting in non-realisation of security deposit of Rs. 20 lakh.

The Government to whom the cases were forwarded in June 2007 stated in July 2007 that M/s. EDCL had deposited Rs. 5 lakh as security deposit on 7 June 2007 and in respect of the remaining licensees, West Bengal CS manufacturers and bottlers association had moved the High Court at Kolkata in February 2006. No order had yet been passed by the Court. The State Government could not, however, confirm whether the licensees in question were members of the said association and applicant in the above matter. The reply is also silent about failure of the State Government to recover the security deposit despite lapse of over one year till the court case was registered. Further reply has not been received (September 2007).

4.14 Non/short realisation of fair rent

Under the WB Excise Rules 1910, as amended in March 2002, the contractor/supplier of CS to retail vendors through warehouse established on the Government land or building shall pay to the State Government with effect from April 2001, a rent equivalent to fair rent as assessed by the concerned Land Acquisition (LA) Collector.

Scrutiny of the records of SE, Paschim Medinipur in December 2006 revealed that the LA Collector, Paschim Medinipur in July 2003 had assessed the fair rent as Rs. 30,800 per month in respect of M/s. IFB Agro Industry Ltd., a contractor/supplier of CS. The District Collector (DC) had instructed the concerned DEC in August 2003 to raise demand for fair rent from April 2001 to August 2003 for Rs. 8.93 lakh and to serve notice to the contractor/supplier every month thereafter. But, the concerned DEC failed to raise the demand for realisation of the fair rent from the contractor. Further scrutiny, however, revealed that Rs. 37,359 had been realised as rent in April 2002 by the excise authority for 2001-02 at the old rate. Thus, failure to raise additional demand/demand of fair rent for the period from 2001-02 to 2005-06 resulted in non/short realisation of fair rent of Rs. 18.11 lakh.

[11] M/s. EDCL Ltd, M/s. Himalayan Endeavour (P) Ltd., Malda and Siliguri and M/s. Varas International (P) Ltd.
[12] Darjeeling and Malda.
[13] Kolkata (South) and Kolkata (North).

The Government to whom the case was forwarded in February 2007 stated in July 2007 that reassessment of fair rent on the area actually utilised by the licensee was awaited at the LA Collector's level and demand would be raised after reassessment of the same. The reply is, however, silent on the reasons for the failure of the DEC to recover fair rent at the rates assessed by the LA collector till it was pointed out in audit. A report on further development has not been received (September 2007).

4.15 Non/short realisation of annual licence renewal fee/initial grant fee

4.15.1 By a notification issued in November 2002 read with subsequent amendment in July 2004 and February 2005, the Government decided that the licensee of C and FS manufacturer shall apply for renewal of licence with a receipted challan of Rs. 500 for the years for 2003-04 and 2004-05 and of Rs. 1 lakh thereafter.

Scrutiny of the records of five C and FS manufacturers[14] between July 2006 and February 2007 revealed that four licensees had applied for renewal of licence for the years from 2003-04 to 2006-07 without the payment of renewal fees and one licensee had deposited Rs. 500 instead of Rs. 1 lakh for the year 2005-06. Of these, demand notices for the years 2003-04 to 2006-07 were raised in the case of one licensee after a lapse of time ranging between 1 and 36 months while in the case of the remaining four licensees, no demand was raised. This resulted in non/short realisation of renewal fee of Rs. 9.03 lakh as mentioned below:

(Rupees in lakh)

Name of the licensees (M/s.)	Year of licence	Date of demand	Amount realisable	Amount realised	Amount due
Varas International (P) Ltd., Kolkata	2003-04 to 2006-07	-	2.01	-	2.01
Himalayan Endeavour (P) Ltd., Siliguri	2003-04 to 2006-07	20.4.06	2.01		2.01
Himalayan Endeavour (P) Ltd., Malda	2003-04 to 2006-07	-	2.01		2.01
Farrini 11 UP, Kolkata (S)	2003-04 to 2006-07	-	2.01		2.01
Monalisa Bottling Industries (P) Ltd., Jalpaiguri	2005-06	-	1.00	0.005	0.995
Total					**9.03**

The Government to whom the cases were forwarded in June 2007 stated in July 2007 that M/s. Himalayan Endeavour (P) Ltd., Siliguri and M/s. Farrini 11 UP had deposited their renewal fee on 9 March 2007 and 26 June 2007 respectively. In respect of M/s. Himalayan Endeavour (P) Ltd., Malda,

[14] M/s. Himalayan Endeavour (P) Ltd., Malda and Siliguri, M/s. Monalisa Bottling Indus.(P) Ltd., M/s. Varas International (P) Ltd., Kolkata and M/s. Farrini 11 UP, Kolkata.

the district authority had been requested to ask the licensee to show cause for non-observance of the regulation and in respect of M/s. Monalisa Bottling Plant a demand had been served for early realisation. As regards M/s. Varas International (P) Ltd., it was stated that WB CS manufacturers and bottlers association had moved the High Court at Kolkata in February 2006 but no order had yet been passed by the Court. The State Government could not, however, confirm whether the licensee was a member of the said association and applicant in the above matter. Besides, the Government also failed to explain the reasons for non-realisation of renewal fees for the years 2003-04 to 2005-06 in this instant case. Further development has not been reported (September 2007).

4.15.2 Under the provisions of the WB Excise (FL) Rules and WB (C and FS) Rules, the licensees of distilleries, FL bonded warehouses, FL trades, manufacturers of C and FS and bottlers of CS are required to deposit annual licence renewal fee in advance for renewal of their licences for the next licensing year at the prescribed rates within the stipulated period. In case of initial grant of licence for a new FL 'ON'[15] shop or for shifting of the licenced premises of an FL bonded warehouse to a new site, fee at the prescribed rate is also to be deposited by the licensee.

Scrutiny of the records of three[16] offices of DEOs between November 2005 and September 2006 revealed that in 14 cases, annual licence renewal fee and fee for grant of initial licence for the periods falling between 2002-03 and 2006-07 were either not realised or realised short from the licensees of two distilleries, five FL bonded warehouses, five FL trades and one FL 'ON' shop. This resulted in non/short realisation of annual licence renewal fee and initial grant fee of Rs. 7.35 lakh.

The Government to whom the cases were reported between December 2005 and November 2006 admitted the audit observation in five cases involving Rs. 2.80 lakh of which Rs. 2.30 lakh had been realised between March 2006 and March 2007. A reply in the remaining nine cases involving Rs. 4.55 lakh has not been received (September 2007).

[15] On shop means a place where liquor can be served to the customers for consumption.
[16] Collectors of Excise, Kolkata (North) and Kolkata (South), SE, Hooghly.

CHAPTER V
MOTOR VEHICLES TAX

5.1 Results of audit

Test check of the records relating to taxes on motor vehicles conducted in audit during the year 2006-07, revealed non/short realisation of revenue amounting to Rs. 134.01 crore in 61 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	**'Transport Information System' (An IT Review)**	1	130.84
2.	Non/short realisation of tax, additional tax and penalty	6	0.57
3.	Non-realisation of revenue due to non-disposal of seized vehicles	1	0.10
4.	Non-realisation of revenue due to non-reference of offence cases to the court of law	2	0.10
5.	Other irregularities	51	2.40
	Total	**61**	**134.01**

During the course of the year 2006-07, the department accepted underassessment and other deficiencies of Rs. 1.98 crore involved in 35 cases of which 33 cases involving Rs. 1.97 crore were pointed out in audit during the year 2006-07 and the rest in earlier years. An amount of Rs. 1.76 lakh involved in two cases was realised during the year 2006-07.

A few illustrative cases involving Rs. 2.06 crore highlighting important observations and an IT review of **'Transport information system'** involving money value of Rs. 130.84 crore are mentioned in the following paragraphs.

5.2 Transport Information System

Highlights

Delayed incorporation of the revised business rules regarding increase of taxes/fees resulted in short levy of taxes/fees of Rs. 2.99 crore.

[Paragraph 5.2.6.2]

Lack of proper validation checks of the data input into the system rendered the database incomplete and unreliable.

[Paragraph 5.2.9.2]

Lack of monitoring on the part of the taxing authorities resulted in non-realisation of tax, additional tax and penalty of Rs. 103.49 crore from goods, contract and stage carriages.

[Paragraph 5.2.10]

Difference of life time tax and one time tax including penalty of Rs. 23.78 crore was not realised.

[Paragraph 5.2.12]

5.2.1 Introduction

The registration of vehicles and assessment, levy and collection of taxes and additional taxes, penalty, fees and fines thereon are governed under the provisions of the Motor Vehicle (MV) Act, 1988, West Bengal Motor Vehicle Tax (WBMVT) Act, 1979 and West Bengal Additional Tax and One Time Tax on Motor Vehicles (WBATOTT) Act, 1989 and the Rules made thereunder and various notifications issued from time to time.

The Government of India (GOI) instructed that a uniform format and standardised software be adopted for issue of registration certificates (RCs) by the transport departments of all the States so that a national register on motor vehicles readable through out the country could be prepared and leakage of revenue prevented. Keeping this in view, 'VAHAN' software was developed by the NIC and provided free of cost to the State Governments. The Transport Department, Government of West Bengal planned the computerisation of the system of registration and taxation of vehicles to streamline the timely realisation of taxes in collaboration with the National Informatics Centre (NIC) in 1991. Accordingly, out of 24 registering authorities/taxing officers/licensing authorities, NIC implemented the 'Transport Information System (TIS)' in five offices in August 2000. It also started implementing the 'VAHAN' software provided by the Government of India as a standardised software in July 2004 which was implemented in three offices. The other 16 offices are still following the manual system. The TIS application system was developed on LINUX operating system and database on ORACLE 8i and Developer 2K as the front end.

It was decided to conduct an information technology (IT) review of the 'TIS' mechanism. The review revealed a number of system and other deficiencies which have been discussed in the subsequent paragraphs.

5.2.2 Organisational set-up

The Additional Chief Secretary is the functional head of the Transport Department and is assisted by five Joint Secretaries and one Officer on Special Duty & ex-officio Deputy Secretary. At the district and sub-divisional level, there are 19 regional transport officers (RTOs) including Director, Public Vehicles Department, Kolkata and five Additional Regional Transport Officers (ARTOs) functioning as registering, licensing and taxing authorities under the administrative control of the officer on special duty and ex-officio Deputy Secretary of the Transport Department.

5.2.3 Audit objectives

The objectives of the audit of TIS were to examine whether:

- the system development was in line with the requirements and objectives of the department;
- the software functioned efficiently and effectively to deliver the desired services;
- the software adequately addressed the business needs and has inbuilt controls to ensure data integrity and the correctness of the realisation of tax and additional tax etc.

5.2.4 Scope and methodology of audit

The coverage of 'TIS' was wider than the 'VAHAN' package and hence the audit review was carried out only of 'TIS' between February 2006 and January 2007. The review focussed on the evaluation of controls in 'TIS' package implemented in two RTOs[1] and one ARTO[2] and achievement of the objectives of the system in monitoring and controlling the timely assessment and realisation of taxes and fees and effective control over registration of vehicles. The RTOs and ARTO were selected on the basis of revenue collected during the last five years. Data for all three offices were analysed using CAATs[3]

[1] Barasat and Hooghly.
[2] Barrackpore.
[3] Computer aided audit techniques

(IDEA, SQL and EXCEL) to ensure accuracy and completeness of the data and its application in registration of vehicles and realisation of taxes, fees etc. for the period from 2001-02 to 2005-06.

5.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department in providing necessary information and records for audit. Audit findings of the review were reported to the Government in June 2007 and discussed in the Audit Review Committee meeting held in July 2007. The views of the Government have been appropriately incorporated in the respective paragraphs.

System deficiencies

5.2.6 General Controls

General controls include controls over data centre operations, system software acquisition and maintenance, access security and application system development and maintenance. They create the environment in which the application systems and application controls operate.

5.2.6.1 Absence of IT strategy/policy and documentation

Before taking up an IT project, it is necessary to evolve a long/short term IT policy addressing the methodology of developing, acquiring, implementing and maintaining the information systems and related technology. **Audit noticed that the Transport Department had not formulated and documented the IT strategy/policy.** The proposal of the Finance Department to form a steering committee had also not been acted upon. In the absence of an IT strategy/policy, the progress of implementation of 'VAHAN' in other RTOs/ARTOs was tardy.

The relevant documents (URS[4], SDD[5] etc.) prepared by the system developer were not handed over to the Transport Department. In absence of such records, audit could not verify the adequacy of this documentation.

After these were pointed out, the Government accepted the audit observation and stated that for fruitful application of the system as a whole, an IT strategy, security and back up policy would be formulated and a committee had been formed to monitor the entire work of computerisation.

[4] User requirement specification.
[5] System design document.

5.2.6.2 Change control mechanism

Changes/modifications in the system were carried out by the district authorities of NIC on the basis of requirement of RTOs/ARTOs after replication but there were no procedures framed for authorisation for the changes in the system at an appropriate level. Also, there was no system of documenting the changes carried out which was fraught with the risk of unauthorised changes not being detected.

Inadequate change control mechanism also resulted in delayed incorporation of revised business rules concerning enhanced rates of various taxes/fees which led to short realisation thereof amounting to Rs. 2.99 crore as per details mentioned below:

- Life time tax is leviable in place of one time tax on the motor cycles with effect from 15 September 2003. Delayed incorporation of the revised rates in the system resulted in short realisation of tax amounting to Rs. 2.78 crore in 13,451 cases.

- Computer service fee is leviable for each transaction through computer with effect from 16 December 2003. Delayed incorporation of the business rule in the computer system resulted in short realisation of fee amounting to Rs. 9.43 lakh in 94,138 cases.

- Additional fees of Rs. 3,700 and Rs. 2,700 were introduced with effect from 16 December 2003 for the transfer of ownership within five years and after five years respectively from the date of registration. Delayed implementation of the orders and reflection of business rule in the system resulted in non-realisation of additional fee amounting to Rs. 11.49 lakh in 385 cases.

After the cases were pointed out, the RTO, Hooghly and ARTO, Barrackpore stated in March-April 2007 that non/short realisation occurred due to delayed receipt of the Government notification and delayed implementation of enhanced rates while RTO Barasat did not furnish any reply (September 2007).

5.2.7 Access controls

Logical access controls

Audit observed that the user IDs and passwords were being shared by users. The situation was fraught with the risk of unaccountability. The department had neither undertaken any risk assessment nor put any password policy in place thereby rendering the system vulnerable to misuse.

The department accepted the audit observations and stated in July 2007 that a committee has been formed to monitor the entire work of computerisation.

5.2.8 Application controls

5.2.8.1 Lack of continuity in assigning registration number

The MV Act provides that a registering authority shall assign a unique mark in a series to every vehicle at the time of registration. Before a current series is exhausted, no new series should be taken up for allotment.

Scrutiny of the data of RTO, Barasat, Hooghly and ARTO, Barrackpore revealed that before the current series of registration number got exhausted, registration in the next series was allotted as mentioned below:

Name of the RTO/ARTO	Last number of the current series		Next series taken for allotment
	Series	number	Series
RTO Hooghly	WB16A	9861	WB16B
	WB16C	9989	WB16D
	WB16G	9964	WB16H
	WB16J	9981	WB16K
RTO Barasat	WB25B	3845	WB25C
	WB26C	7777	WB26D
ARTO Barrack pore	WB24A	9977	WB24B
	WB24C	9760	WB24D
	WB24K	1000	WB24L

Scrutiny of three RTOs/ARTOs further revealed that while allotting the registration numbers, the chronological order was not maintained and there existed gaps in the registration numbers ranging from 71 to 9,892.

The gaps in the chronological order of registration numbers give a misleading position regarding the number of vehicles registered at a particular time besides rendering the missing registration numbers vulnerable to misuse.

After the cases were pointed out, RTO, Hooghly and ARTO, Barrackpore stated in March-April 2007 that the matter would be looked into while RTO, Barasat did not furnish any reply (September 2007).

5.2.8.2 Inability of the system to calculate tax at the pre-revised rates

Under the WBMVT Act, every owner of a motor vehicle shall pay tax at the rate revised from time to time. Accordingly, the system should calculate and exhibit tax and additional tax accurately at the rates applicable from time to time.

Analysis of the data of RTO, Barasat, Hooghly and ARTO, Barrackpore, revealed that the system was able to calculate and exhibit tax and additional tax at the current rates only but not at the rate prevailing from time to time.

Scrutiny of data in audit revealed that though the rate of tax of goods carriages having gross vehicle weight (GVW) above 16,250 kg was revised downward from September 2003, yet the system calculated and exhibited tax and additional tax in case of 672 vehicles with GVW above 16,250 kg for the period prior to September 2003 at the current rate which was lower instead of the earlier. **Failure of the system to calculate tax at the higher rate for the period prior to the date of revision resulted in short realisation of tax of Rs. 58.34 lakh for the period from April 2001 to September 2003 as mentioned below:**

(Rupees in lakh)

Name of the office	No. of cases (Vehicles with GVW > 16,250 kg)	Tax to be calculated	Tax calculated by the system	Short calculation
RTO, Barasat	400	264.20	227.17	37.03
RTO, Hooghly	211	132.52	114.58	17.94
ARTO, Barrackpore	61	30.98	27.61	3.37
Total	**672**	**427.70**	**369.36**	**58.34**

After the cases were pointed out, the RTO Barasat admitted in March 2007 the observation and stated that the system calculated tax only on the current rates. Results of the test data run conducted at the RTO, Hooghly also confirmed (August 2007) the audit observation.

5.2.9 Input control weaknesses

5.2.9.1 Duplicate engine and chassis numbers

Alphanumeric chassis and engine numbers assigned by the manufacturer of the vehicles are the unique identification mark of vehicles. The Central Motor Vehicles (CMV) Rules 1989, prescribe that a person while applying for registration of his vehicle shall mention the chassis number and engine number in the application form. The chassis and engine numbers shall not be the same for any two vehicles.

Test check of the registration database of the RTO, Barasat, Hooghly and ARTO, Barrackpore revealed that out of 3,11,864 registration records of vehicles, 1,192 vehicles contained duplicate chassis number and 1,289 vehicles contained duplicate engine number as mentioned below:

Name of the RTO/ARTO	Total no. of records	No. of cases with duplicate chassis number	No. of cases with duplicate engine number
Barasat	98,300	884	947
Hooghly	1,00,456	220	228
Barrackpore	1,13,108	88	114
Total	**3,11,864**	**1,192**	**1,289**

The existence of duplicate chassis and engine numbers indicated lack of inbuilt data validation checks at entry level to restrict entry of duplicate chassis or engine numbers. Manual verification could not be conducted due to non-availability of specific records. The possibility of assignment of more than one registration number to the same vehicle cannot be ruled out.

After these cases were pointed out, the RTO, Hooghly and ARTO, Barrackpore admitted in March-April 2007 the audit observation and stated that duplicate engine and chassis number is due to lack of inbuilt validation control in the system and wrongful data entry by the private vendors. In addition, due to scarcity of space and manpower, the manual records had not been maintained properly. The RTO, Barasat did not furnish any reply (September 2007).

5.2.9.2 Incomplete database

Under the CMV Rules, the owner of a vehicle shall apply in Form 20 for the registration of his vehicle. The form contains vital information as to the owner of the vehicle and essential information for proper identification of the vehicle.

Analysis of the registration database of the RTO, Barasat, Hooghly and ARTO Barrackpore revealed that the date of registration, owner's name and address, engine number, chassis number, insurance cover note number etc. were not available in the database in the following cases:

Name of the offices and no. of records	Field name and no of cases where data is not available									
	Engine no.	Chassis no.	Insurance Cover Note no.	Insurance date	Pre-registra-tion no.	Temp. registra-tion date	Sale Purchase date	Name of owner	Name of father	Address
RTO Barasat (98,300)	861	105	13,754	56,803	89,715	61,227	48,530	26	5,121	768
RTO Hooghly (1,00,457)	495	7	2,185	2,218	97,285	91,064	20,175	6	823	411
ARTO Barrackpore (1,13,116)	1,103	--	7,939	1,10,329	1,08,433	96,421	17,165	2	3,814	1,088
Total	**2,459**	**112**	**23,878**	**1,69,350**	**2,95,433**	**2,48,712**	**85,870**	**34**	**9,758**	**2,267**

This indicates that at the time of data entry input, the crucial information field was not made mandatory and consequently the database remained incomplete. In the absence of such vital information viz. engine number and chassis number, registration of stolen/damaged vehicles and use of same registration number by more than one vehicle cannot be ruled out. Absence of insurance cover note number does not ensure the coverage of third party risk. Manual records could not be verified due to non-availability of these.

After the cases were pointed out, RTO, Hooghly and ARTO, Barrackpore admitted (March-April 2007) the audit observation and stated that blank field value was due to lack of inbuilt validation control in the system and wrongful data entry by the private vendors. In addition, due to the scarcity of space and manpower, the manual records had not been maintained properly. The RTO, Barasat did not furnish any reply (September 2007).

5.2.9.3 Duplicate insurance certificates/cover notes

Under the MV Act, an application for the registration of a vehicle shall be accompanied by a valid insurance certificate.

Analysis of the database of the RTO, Barasat, Hooghly and ARTO, Barrackpore revealed that out of 98,300, 1,00,456 and 1,13,108 records of registration, 2,094, 62,299 and 27,978 records respectively contained duplicate insurance cover note number in the database. **Due to absence of proper data validation checks, the system failed to restrict the registration of more than one vehicle under the same insurance cover note number.** Manual verification of records could not be conducted due to non-availability of source documents.

After the cases were pointed out, RTO, Hooghly and ARTO, Barrackpore admitted (March-April 2007) the audit observation and stated that duplicate insurance cover note numbers were due to lack of inbuilt validation control in

the system and wrongful data entry by the private vendors. In addition, due to the scarcity of space and manpower, the manual records had not been maintained properly. The RTO, Barasat did not furnish any reply (September 2007).

5.2.10 Lack of monitoring by the department

No periodical reports or returns on realisation of revenue submitted by the ARTOs/RTOs were made available to audit. No control through online connectivity was exercised over the functioning of the system. This resulted in non-realisation of tax, additional tax and penalty amounting to Rs. 103.49 crore as mentioned below:

Non-realisation of tax, additional tax and penalty

The WBMVT Act and the WBATOTT Act as amended in January and September 2003 prescribe the rate of tax on motor vehicles based on their use, seating capacity or weight. Both the Acts provide for imposition of penalty for an equal amount of tax in case of non-payment beyond 75 days from the due date of payment of tax.

5.2.10.1 Goods carriages[6]

Scrutiny of the data maintained by the RTO, Barasat, Hooghly and ARTO, Barrackpore revealed that in 18,997 out of 56,902 cases, tax, additional tax and penalty had neither been assessed nor realised from the owners of goods carriages between April 2001 and March 2006. **The vehicles had neither been surrendered nor had any no objection certificate (NOC) been obtained from the taxing authorities which indicates that there existed ample scope of these vehicles being used in public places without payment of tax.** The RTO/ARTO confirmed that the tax collection through manual receipts had been discontinued from the date of commencement of online collection of taxes in that office. This resulted in non-realisation of tax, additional tax and penalty of Rs. 88.25 crore as mentioned below:

[6] A motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.

(Rupees in crore)

RTO/ ARTO	Total no. of cases							Amount of non-realisation							Total amount of non-realisation
	Truck	Mini Truck	Trailer	Art Trl[7]	Tanker	Art Tnk[8]	Crane	Truck	Mini Truck	Trailer	Art Trl	Tanker	Art Tnk	Crane	
Barasat	10,222	-	3	65	-	-	-	44.74	-	0.05	1.23	-	-	-	46.02
Hooghly	4,949	-	101	227	-	-	-	24.53	-	0.18	4.26	-	-	-	28.97
Barrack pore	2,820	253	4	16	322	8	7	11.00	0.27	0.002	0.29	1.60	0.06	0.04	13.26
Total	**17,991**	**253**	**108**	**308**	**322**	**8**	**7**	**80.27**	**0.27**	**0.23**	**5.78**	**1.60**	**0.06**	**0.04**	**88.25**

After the cases were pointed out, RTO, Hooghly and ARTO, Barrackpore stated in March-April 2007 that demand notices were being issued to realise the due tax, additional tax and penalty from the defaulting vehicle owners while RTO, Barasat did not furnish any reply (September 2007).

5.2.10.2 Contract carriages[9]

Scrutiny of the data maintained by the RTO, Barasat, Hooghly and ARTO, Barrackpore revealed that in 1,705 out of 3,795 cases, tax, additional tax and penalty has neither been assessed nor realised from the registered owners of contract carriages between April 2001 and March 2006. The taxing authorities have not initiated action to realise the due amount. This resulted in non-realisation of tax, additional tax and penalty of Rs. 8.90 crore as mentioned below:

(Rupees in crore)

Name of the office (RTO/ARTO)	Total no. of cases		Amount of non-realisation		Total amount of non-realisation
	Contract Carriages	Bus of a company/ Training Institute	Contract Carriages	Bus of a company/ Training Institute	
Barasat	1226	-	6.46	-	6.46
Hooghly	309	51	1.51	0.36	1.87
Barrackpore	114 (92+22)	5	0.55	0.02	0.57
Total	**1649**	**56**	**8.52**	**0.38**	**8.90**

After the cases were pointed out, the RTO, Hooghly and ARTO, Barrackpore stated in March-April 2007 that demand notices were being issued to realise the due tax, additional tax and penalty from the defaulting vehicle owners while RTO, Barasat did not furnish any reply (September 2007).

[7] Articulate trailer.

[8] Articulate tanker.

[9] A motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle.

5.2.10.3 Stage carriages[10]

Scrutiny of the data maintained by the RTO, Barasat, Hooghly and ARTO, Barrackpore revealed that tax, additional tax and penalty has neither been assessed nor realised from 3,911 out of 17,431 stage carriages between April 2001 and March 2006. This has resulted in non-realisation of tax, additional tax and penalty amounting to Rs. 6.34 crore as mentioned below:

(Rupees in crore)

Name of the office (RTO/ ARTO)	Total no. of cases							Amount of non-realisation							Total amount of non- realisation
	Bus	Mini Bus	Omni Bus (Ind[11])	Omni Bus (non-indi[12])	Express Bus	Tourist Bus	Deluxe Bus	Bus	Mini Bus	Omni Bus (Indi)	Omni Bus (non-indi)	Express Bus	Tourist Bus	Deluxe Bus	
Barasat	517	166	1223	62	174	10	52	0.77	0.18	1.89	0.13	0.70	0.05	0.29	4.01
Hooghly	446	133	318	23	36	4	8	0.81	0.16	0.53	0.07	0.17	0.03	0.05	1.82
Barrack pore	67	34	279	19	7	—	—	0.08	0.03	0.34	0.04	0.02	—	—	0.51
Total	**1030**	**333**	**2153**	**104**	**217**	**14**	**60**	**1.66**	**0.37**	**2.76**	**0.24**	**0.89**	**0.08**	**0.34**	**6.34**

After the cases were pointed out, the RTO, Hooghly and ARTO Barrackpore stated in March-April 2007 that demand notices were being issued to realise the due tax, additional tax and penalty from the defaulting vehicle owners while RTO Barasat did not furnish any reply (September 2007).

Other deficiencies

5.2.11 Non-compliance of the provisions of the Acts and Rules

WBMVT Act provides that if a taxing officer is satisfied that the certificate of registration and the token delivered has been surrendered or that a motor vehicle has not been used or kept for use in any calendar month, he shall on application refund or remit in respect of the said vehicle one twelfth of the tax payable for the year for every calendar month for which the said vehicle has not been used.

Audit observed that in absence of any provision in the system, refund of tax and additional tax was dealt with manually due to non-mapping of business rules.

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10 A motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey.

11 Individual.

12 Non-individual.

5.2.12 Non-realisation of differential tax and penalty

Under the provisions of WBATOTT Act as amended under notification of June 2004, the owner of a motor cycle registered after 25 November 1991 shall be liable to pay the difference of life time tax payable and one time tax paid. The Government in their notification of December 2004 appointed 16 March 2005 as the date within which the differential tax is to be paid. If the said tax is not paid within 75 days from the due date, a penalty of an equal amount of tax shall be charged.

Scrutiny of the data of the RTO, Barasat, Hooghly and ARTO, Barrackpore revealed that the owners of 57,935 motor cycles registered between 25 November 1991 and 15 September 2003 did not pay the differential tax till the date of audit thereby attracting penalty leviable from such registrants. The taxing authorities neither realised the differential tax nor was any penalty levied on the defaulting registrants. This resulted in non-realisation of differential tax of Rs. 23.78 crore including penalty as mentioned below:

(Rupees in lakh)

Name of the office	No. of motor cycles				Tax difference not realised				Penalty				Total non-realisation
	cc[13] up to 80	cc up to 170	cc up to 250	cc above 250	cc up to 80	cc up to 170	cc up to 250	cc above 250	cc up to 80	cc up to 170	cc up to 250	cc above 250	
RTO, Barasat	1,207	10,150	70	17	8.70	215.71	2.34	0.80	8.70	215.71	2.34	0.80	455.10
RTO, Hooghly	978	17,542	119	18	7.45	373.82	4.07	0.84	7.45	373.82	4.07	0.84	772.36
ARTO, Barrackpore	1,544	25,991	233	66	11.73	552.58	7.95	2.94	11.73	552.58	7.95	2.94	1,150.40
Grand Total													**2,377.86**

After the cases were pointed out, the RTO, Hooghly and ARTO, Barrackpore stated in March-April 2007 that action was being taken for realisation of tax from the defaulting motor cycle owners while RTO, Barasat did not furnish any reply (September 2007).

5.2.13 Conclusion

The objectives of computerising the system of registration and taxation of vehicles could not be fully achieved despite limited geographic coverage. The IT procedures and management of changes were not satisfactory, records and relevant documentation describing the impact and testing of IT changes did not address all recent changes to the business rules. Completeness, accuracy and integrity of the data so entered and processes were not ensured due to deficient application controls in place. Inconsistent application of control measures and inadequate monitoring by the department resulted in non-realisation of the revenue.

[13] Cubic capacity.

5.2.14 Recommendations

The Government may consider taking the following steps to enhance the efficiency and effectiveness of the TIS mechanism:

- incorporating inbuilt data input validation checks to enhance data reliability;
- ensuring that changes in the rates of tax, additional tax, fees etc. in the system are done centrally so as to facilitate replication by all the RTOs/ARTOs from the same date to ensure uniformity and a more effective monitoring mechanism; and
- making the system able to generate periodical reports as a tool of management information system to aid the management to monitor the revenue collection and take suitable corrective measures.

5.3 Non-realisation of differential tax from the owners of motor cycles

Under the provisions of the West Bengal Additional Tax and One Time Tax on Motor Vehicles (WBATOTTMV) Act, 1989 as amended in August 2003 and 2004, the owner of a motor cycle registered after 25 November 1991 has to pay the difference of the rate of life time tax payable as specified in schedule III and one time tax (OTT) already paid within the appointed date. The State Government, by a notification issued in December 2004, stipulated 16 March 2005 as the appointed date for payment of the difference of such taxes. In case of non-payment of differential tax within the prescribed date, penalty as per provisions of the Act was to be charged.

Scrutiny of the records of the Public Vehicles Department (PVD), Kolkata and three regional transport offices[14] (RTOs) between March and December 2006 revealed that 2,605 motor cycles were registered between December 1991 and December 2004, but differential tax of Rs. 54.87 lakh in respect of the said vehicles was not realised from the owners even after a lapse of 12 to 21 months from the stipulated date. This resulted in non-realisation of tax of Rs. 1.10 crore including penalty.

After the cases were pointed out, the taxing officer (TO), PVD, Kolkata in 1,093 cases involving Rs. 46.25 lakh stated in November 2006 that demand notices were being issued to the defaulters to realise the tax and penalty. The TO, Tamluk in 83 cases involving Rs. 2.99 lakh stated in March 2006 that

[14] Bankura, Jalpaiguri and Tamluk.

action was being taken to realise the dues as early as possible. The replies, however, do not clarify the reasons for not initiating action against the erring vehicle owners till it was pointed out by audit. The TOs, Jalpaiguri and Bankura in the remaining 1,429 cases involving Rs. 60.48 lakh did not furnish any reply (September 2007).

The cases were reported to the Government between February 2006 and February 2007; their reply has not been received (September 2007).

5.4 Non-realisation of tax, additional tax and penalty

The West Bengal Motor Vehicles Tax (WBMVT) Act, 1979 and the WBATOTTMV Act as amended in January and September 2003, prescribe the rate of tax on motor vehicles based on their use, seating capacity, laden weight etc. As per the clarification of the Transport Department issued in December 1998 and August 1999, additional tax which is 50 *per cent* of the road tax, is leviable on trailors, break down vans, cranes, earth movers etc. Both the Acts provide for levy of penalty of an amount equal to the tax and additional tax in case of non-payment of tax beyond 75 days from the due date.

Scrutiny of the records of the PVD, Kolkata, two[15] RTOs and two[16] additional regional transport offices (ARTOs) between December 2005 and November 2006 revealed that the TOs did not take any action to realise tax and additional tax which had fallen due from 32 trailors, 131 goods vehicles, 18 mini buses and 76 other types of vehicles[17] between March 2001 and September 2006. Non-payment of tax and additional tax ranged between 3 and 64 months for which 100 *per cent* penalty was leviable. This resulted in non-realisation of tax, additional tax and penalty of Rs. 47.95 lakh.

After the cases were pointed out, the TO, Durgapur in 15 cases involving Rs. 1.15 lakh stated in June 2006 that steps would be taken to realise the dues. A report on recovery and reply from the remaining four[18] TOs in 242 cases involving Rs. 46.80 lakh has not been received (September 2007).

The cases were reported to the Government between May 2006 and February 2007; their reply has not been received (September 2007).

5.5 Non-disposal of seized vehicles

Under the provisions of the WBMVT Act and the WBATOTTMV Act, a motor vehicle may be detained and seized by the enforcement authority due to

[15] Bankura and South 24 Parganas.
[16] Contai and Durgapur.
[17] Contract carriages- (19), deluxe buses (5), earth mover (1), mini truck (1), pick up van (1), tractors (8), trekker (5), and vehicles of motor training schools (36).
[18] RTO/ARTO Bankura, Contai, South 24 Parganas and PVD Kolkata.

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

5.5.1 Non-realisation of revenue due to non-auction of seized vehicles

Scrutiny of the records in the PVD, Kolkata and two RTOs[19] between December 2005 and December 2006 revealed that 37 vehicles of different categories were seized by the enforcement authority between February 2001 and January 2006 for non-payment of tax, additional tax and other dues amounting to Rs. 18.40 lakh. No action was initiated to auction the vehicles to recover the dues even after the lapse of time ranging between 11 and 65 months from the date of seizure of the vehicles. This resulted in non-realisation of the Government dues of Rs. 18.40 lakh due to non-disposal of seized vehicles.

After the cases were pointed out, the TO, PVD, Kolkata in 34 cases involving Rs. 15.48 lakh stated in November 2006 that the report of the auction committee was being sent to the Government for finalisation of auction. In one case involving Rs. 1.27 lakh, the TO, South 24 Parganas stated in December 2005 that action was being taken to realise the amount while the TO, Bankura in one case involving Rs. 80,000 stated in December 2006 that auction would be held after formation of auction committee and in the remaining case involving Rs. 84,000 no reply was furnished. The replies, however, did not clarify the reasons for the inability of the department to finalise the process of auction despite lapse of more than five years. Further, delay in disposal will depreciate the value of vehicles and reduce the amount that can be recovered. A report on further development has not been received (September 2007).

The cases were reported to the Government between January and February 2007; their reply has not been received (September 2007).

[19] Bankura and South 24 Parganas

5.5.2 Non-fixation of reserve price for auction of seized vehicles

Scrutiny of the records in PVD, Kolkata and RTO, Bankura between December 2005 and December 2006 revealed that 11 vehicles of different categories were seized by the enforcement authority between February 2001 and August 2005 for violation of MV Act and Rules, but no document or information was available in the seized vehicles. The TOs also failed to ascertain the Government dues realisable either from the vehicle owners or from the concerned TOs under which the vehicles were registered. As per codal provisions, the TOs were required to sell the vehicles in auction and the sale proceeds were to be forfeited to the Government. No action was, however, initiated by the TOs to fix the reserve price for sale of these vehicles through auction even after a lapse of time ranging between 15 and 69 months from the dates of seizure of the vehicles till the date of audit.

After the cases were pointed out, the TO, PVD, Kolkata in 10 cases stated in November 2006 that the report of the auction committee was being sent to the Government for finalisation of auction while TO, Bankura in the remaining case stated in December 2006 that action would be taken after consultation with the higher authority. A report on further progress on all the cases has not been received (September 2007).

The cases were reported to the Government in February 2007; their reply has not been received (September 2007).

5.6 Loss of revenue due to non-issue of saleable forms

Statutory application forms for issue of learner's licence, driving licence, permit and registration as required under the provisions of the WBMV Rules, 1989 and Central Motor Vehicles (CMV) Rules, 1989 are to be supplied by the registering authority to the applicants on payment of Rs. 5 per page.

Scrutiny of the records of four[20] RTOs and two[21] ARTOs between March and August 2006 revealed that 29,673 learners' licences, 75,007 driving licences, 45,119 registrations, 1,119 temporary permits and 6,382 permanent permits were granted between April 2004 and March 2006 for which application forms were not supplied by the offices of TOs but were obtained from other sources by the applicants. Thus, apathy on the part of the department to arrange for supplying forms departmentally resulted in loss of revenue of Rs. 15.35 lakh.

The case was reported to the department and the Government between April and November 2006; their reply has not been received (September 2007).

[20] Birbhum, Burdwan, Howrah and Tamluk.
[21] Contai and Durgapur.

5.7 Non-levy of one time tax and special tax on non-transport vehicles

Under the provisions of WBATOTTMV Act as amended from time to time, OTT and special tax (ST) are realisable at the prescribed rate for a period of five years from the owners of non-transport vehicles in lieu of the annual tax payable under the WBMVT Act. In case of non-payment of OTT and ST beyond the due date, penalty at varied rates ranging between 20 and 100 *per cent* of unpaid tax is leviable.

Test check of the records of the Director, PVD, Kolkata in November 2006 revealed that in case of 63 non-transport vehicles registered between April and June 2004, annual tax was collected erroneously instead of OTT and ST. Though the validity of annual tax collected from these vehicles expired between April and June 2005, neither the owners of the vehicles paid any tax for subsequent periods nor was any action initiated by the department to levy and recover OTT and ST at prevalent rates along with penalty for default in payment of OTT and ST ranging between 17 and 19 months. This resulted in non-levy of tax and penalty of Rs. 14.83 lakh.

After the cases were pointed out, the TO, PVD, Kolkata stated in November 2006, that, NIC had been requested to introduce new software for quick detection and realisation of taxes. Further action in this regard including recovery in respect of the aforesaid 63 cases has not been intimated (September 2007).

The cases were reported to the Government in February 2007; their reply has not received (September 2007).

CHAPTER VI
AMUSEMENT TAX

6.1 Results of audit

Test check of the records of the amusement tax during the year 2006-07, revealed underassessment, non-levy etc. of tax amounting to Rs. 10.32 crore in 12 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-levy of luxury/entertainment tax	5	5.36
2.	Short levy of penalty	2	4.80
3.	Irregular allowance of excess credit	1	0.09
4.	Non/short levy of interest	4	0.07
	Total	**12**	**10.32**

During the course of the year 2006-07, the department accepted underassessment, short levy etc. of Rs. 14.68 lakh involved in three cases which were pointed out in audit during the instant year.

After issue of draft paragraphs, the department recovered an amount of Rs. 9 lakh in respect of a single observation during 2006-07.

A few illustrative cases involving Rs. 5.20 crore highlighting important observations are mentioned in the following paragraphs.

6.2 Non-levy and non-realisation of entertainment tax

Under the provisions of the Bengal Amusement Tax (AT) Act, 1922, admission to an entertainment includes admission to any place in which entertainment is held and an entertainment tax at the rate of 20 *per cent* is payable on the value of tickets sold for such admission.

Test check of the records of the Agricultural Income Tax Officer (AITO), Kolkata in November 2006 revealed that the entertainment activities provided by the Science City, Kolkata since its inception in 1997, *inter alia,* included space theatre, time machine, 3D theatre, ropeway, toy train, roller coaster, monorail, caterpillar etc., against payment of entry money/admission fee for each activity. Though the activities commenced long back, yet the financial records were made available to Audit from 2002-03 onwards only. It was noticed that, during the period between 2002-03 and 2005-06, the Science City authorities collected entry fee of Rs. 22.97 crore for admission to different entertainment activities and rides. However, entertainment tax though payable on such admission fee, was neither paid by the Science City authorities nor demanded by the department. This resulted in non-levy and consequent non-realisation of entertainment tax of Rs. 4.59 crore.

The Government to whom the case was forwarded in January 2007 stated in July 2007 that the authority of Science City had been asked in March 2007 to deposit the due tax at an early date. A report on recovery has not been received (September 2007).

6.3 Non-levy of luxury tax on banquet hall charges

Under the provisions of the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax (WBELT) Act, 1972, a luxury tax is to be charged, levied and paid to the State Government by the proprietor of every hotel in which there is provision of luxury i.e. airconditioning. Such tax is calculated at the rate of 10 *per cent* of the daily charges realised or realisable for an occupied room provided with luxury. The Government of West Bengal by a notification issued in April 1997 clarified that the daily charge for an occupied room would cover the charge for lodging only.

Scrutiny of the assessment records of hotels under the AITO, Kolkata in November 2006 revealed that two star hotels viz., 'Taj Bengal' and 'The Park' received Rs. 3.09 crore as rental/hire charges for banquet halls provided with luxury as reflected in their annual accounts for the years 2002-03 and 2003-04. But the assessing authority (AA) while assessing luxury tax between March and December 2005, did not include rental/hire charges for banquet halls which resulted in non-levy of luxury tax of Rs. 30.87 lakh.

The Government to whom the cases were reported in January 2007 stated in July 2007 that rental/hire charges collected by the hotel for providing

temporary accommodation in the banquet hall for the purpose of meeting could not be treated as lodging charge and, therefore, was not chargeable to tax under the provision of the Act. The reply is not tenable as hire/rental charges collected for banquet hall is for temporary accommodation which means lodging and is subject to tax under the provisions of the Act. Further, the concerned AA while completing the assessments between February 2000 and February 2004 for the years 1999-2000 and 2001-02 duly levied luxury tax on hire/rental charges of banquet halls of two other hotels.

6.4 Non-levy of entertainment tax on horse racing

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

Scrutiny of the records of M/s Royal Calcutta Turf Club under the AITO, Kolkata in November 2006 revealed that though the club received Rs. 39.61 lakh as entrance fee, subscription and entry money during 2004-05, entertainment tax was neither paid by the club nor was any demand raised by the AA for payment of tax. This resulted in non-levy of entertainment tax of Rs. 23.77 lakh.

The Government to whom the case was forwarded in January 2007 stated in July 2007 that the horse owners were providers of entertainment and entry fee received from them were not chargeable to tax. The reply is not tenable as all payments including those for admission to take part in the horse racing either as a spectator or a participant are taxable as per the Act.

6.5 Non/short levy of interest

Under the provisions of the WBELT Act, a proprietor who fails to make payment of any tax within the prescribed date has to pay a simple interest at the rate of two *per cent* for each calendar month of default.

Scrutiny of the records under the AITO, Kolkata in November 2006 revealed that a proprietor defaulted in payment of admitted tax of Rs. 1.67 crore for the years 2002-03 and 2003-04 for periods ranging between one and seven months from the due dates of payment. Further scrutiny disclosed that the AA while finalising assessments between February 2005 and January 2006 short levied interest in one case and did not levy interest in the other. This resulted in non/short levy of interest of Rs. 6.07 lakh.

The Government to whom the case was reported in January 2007 stated in July 2007 that in one case interest was assessed at Rs. 4.98 lakh which was realised in February 2007. Reply in the other case has not been received (September 2007).

CHAPTER VII
OTHER TAX RECEIPTS

7.1 Results of audit

Test check of the records of stamp duty and registration fees, profession tax and electricity duty conducted during the year 2006-07 revealed non-levy/realisation etc. of revenue of Rs. 62.74 crore in 107 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
A. STAMP DUTY AND REGISTRATION FEES			
1.	Blocking of the Government revenue	9	1.30
2.	Non-realisation of deficit stamp duty and registration fees	13	1.06
3.	Loss of duty due to undervaluation of property	4	0.91
4.	Others	7	0.25
	Total	**33**	**3.52**
B. PROFESSION TAX			
1.	Non-realisation of profession tax due to non-enrolment	39	0.96
2.	Non-realisation of profession tax from registered employers	5	0.48
3.	Non-realisation of profession tax from enrolled professionals	8	0.14
4.	Others	2	0.06
	Total	**54**	**1.64**
C. ELECTRICITY DUTY			
1.	Non-assessment/realisation of electricity duty	6	1.60
2.	Non-assessment/realisation of interest	4	0.18
3.	Others	10	55.80
	Total	**20**	**57.58**
	Grand Total	**107**	**62.74**

During the course of the year 2006-07, the departments concerned accepted audit observations of Rs. 11.89 crore involved in 47 cases of which 35 cases involving Rs. 1.82 crore were pointed out in audit during the year 2006-07 and the rest in earlier years. An amount of Rs. 19.43 lakh was realised in seven cases during the year 2006-07.

A few illustrative cases involving Rs. 2.64 crore highlighting important observations are mentioned in the following paragraphs.

A. STAMP DUTY AND REGISTRATION FEES

7.2 Non-realisation of deficit stamp duty and registration fees due to non/delay in determination of market value of properties

Under the Indian Stamp Act, 1899, as applicable in West Bengal read with the departmental circular issued in July 1998, where the registering authority has reason to believe that market value of the property has not been truly set forth in the document presented for registration, he is authorised to register such document provisionally. Thereafter, he is required to ascertain the market value of the property and issue notice to the executants directing to pay deficit stamp duty and registration fees within 30 days from the date of receipt of such notice. In case of non-payment within the stipulated period, the case is to be referred to the Collector/Deputy Inspector General of Registration (DIGR) within 15 days for further action.

Scrutiny of the records of three district registration offices[1] between May and November 2006 revealed that 90 documents presented for registration between September 2002 and September 2005 were registered provisionally due to undervaluation of properties and kept pending for final registration. Of these, though market value of the properties in 78 cases was determined, no demand notice was issued to the executants for payment of deficit stamp duty and registration fees of Rs. 1.99 crore. In the remaining 12 cases, market values of the properties were not determined at all. Examination of the market value monitoring register (MVMR) maintained in the concerned office of registration revealed that additional stamp duty and registration fees of Rs. 29.42 lakh was leviable in these 12 cases. This resulted in non-realisation of revenue of Rs. 2.28 crore (stamp duty: Rs. 2.06 crore and registration fees: Rs. 22 lakh).

After the cases were pointed out, the Registrar of Assurance (RA), Kolkata in 13 cases involving Rs. 1.67 crore stated in May 2006 that demand notices were being issued. RA, Kolkata and Additional District Sub Registrar (ADSR), Dakshin Barasat in 46 cases involving Rs. 28.75 lakh stated in June 2006 that action was being taken to refer the cases to the higher authority. The replies are, however, silent regarding the delays ranging between 14 and 44 months in raising the demands after determination of market value in 78 cases and non-determination of market value in the remaining 12 cases for periods ranging between 11 and 19 months till these were pointed out in Audit. The report on further development in respect of 59 cases and reply of RA, Kolkata and ADSR, Barasat in respect of the remaining 31 cases has not been received (September 2007).

[1] Registrar of Assurance, Kolkata, ADSR, Dakshin Barasat and ADSR, Barasat.

The Government to whom the cases were forwarded between June and December 2006 has not furnished any reply (September 2007).

B. PROFESSION TAX

7.3 Non-realisation of profession tax due to non-enrolment of dealers

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

Cross verification of the records of 11 licence issuing offices[2] with those of four unit offices[3] of profession tax in four districts conducted between December 2003 and November 2006 revealed that 556 professionals, traders etc. failed to apply for enrolment under the Act and continued with their profession during the period falling between 2001-02 and 2005-06 without payment of tax. No action was initiated by the profession tax officers (PTOs) to enroll the dealers and recover tax at the prescribed rates. This resulted in non-realisation of profession tax of Rs. 26.32 lakh.

After the cases were pointed out, PTO, West Bengal, Central unit VII, Baruipur in 111 cases involving Rs. 3.45 lakh stated that demand notices would be issued. In the remaining 445 cases involving Rs. 22.87 lakh, the concerned PTOs did not furnish any reply.

The cases were forwarded to the Government between February 2003 and January 2007, followed by reminders issued upto June 2007; their reply has not been received (September 2007).

C. ELECTRICITY DUTY

7.4 Non-realisation of interest for delayed payment of electricity duty

Under the provisions of the Bengal Electricity Duty Act, 1935 as amended in April 2003, a licensee is liable to pay simple interest at the rate of two *per cent* upto March 2003 and thereafter at the rate of one *per cent* for each month of default if he fails to make payment of electricity duty collected by him to the State Government by the prescribed date.

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2 Superintendent of Excise, Bankura and Birbhum; Chief Medical Officer, Health-Birbhum, South 24 Parganas and Nadia; District Magistrates-Birbhum and South 24 Parganas; Head Post Offices-Bankura Municipality, Baruipur, Krishnanagar and Suri.

3 PTO, West Bengal, West Unit-IV, Bankura; West Unit-VI, Suri, Birbhum; Central Unit-VII, Baruipur, South 24 Parganas and Central Unit-II, Krishnagar, Nadia.

Scrutiny of the records of the District Collector, Hooghly in December 2006 revealed that a licensee[4] deposited electricity duty of Rs. 1 crore on 27 occasions between August 2001 and August 2006 which were due between March 2000 and December 2005. There was, thus delay in payment ranging between 1 and 16 months for which interest of Rs. 9.99 lakh though leviable was not levied. This resulted in non-realisation of interest of Rs. 9.99 lakh.

The Government to whom the cases were forwarded in March 2007 stated in July 2007 that assessment of Rs. 8.73 lakh had been completed and forwarded to the Collector for issue of demand notice. Assessment of the balance amount of Rs. 1.26 lakh was being processed. The report on recovery of Rs. 8.73 lakh and further development in respect of the remaining amount has not been received (September 2007).

[4] Haripal Rural Co-operative Society Ltd, Singur.

CHAPTER VIII
MINES AND MINERALS

8.1 Results of audit

Test check of the records relating to mines and minerals under the different district land and land reforms (DL and LR) offices as well as the offices of the cess deputy collector, chief mining officer and other mining officers conducted during the year 2006-07, revealed underassessment and non/short realisation of revenue amounting to Rs. 85.76 crore in 57 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short assessment of cess on minor/major minerals	22	1.94
2.	Non/short assessment/levy/realisation of royalty and cess	10	0.27
3.	Non/short assessment/realisation of surface rent/dead rent	4	0.16
4.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	7	0.15
5.	Other cases	14	83.24
	Total	**57**	**85.76**

During the course of the year 2006-07, the department accepted observations involving Rs. 2.56 crore in 54 cases of which 43 cases involving Rs. 2.22 crore were pointed out in audit during the year 2006-07 and the rest in earlier years. An amount of Rs. 4 lakh was realised in seven cases during the year 2006-07.

A few illustrative cases involving Rs. 1.64 crore highlighting important observations are mentioned in the following paragraphs.

8.2 Non/short realisation of revenue from minerals extracted unauthorisedly

Under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 as amended from time to time and Rules made thereunder, no person is entitled to undertake any mining operation in any area except under the authority of a valid quarry permit/mining lease. In the event of unauthorised extraction of minerals, apart from other penal action, the department is empowered to recover either the minerals raised unlawfully or where such minerals have already been disposed of, the price thereof. By an order issued in September 1984, the Board of Revenue, West Bengal fixed the market price of brick earth as Rs. 30 per 100 cubic feet (cft) for 1981 with an increase of Rs. 1.50 per 100 cft, each year till a new price was fixed by the Director of Mines and Minerals, West Bengal. The L and LR Department keeps watch over the extraction of minerals through the revenue inspectors of the respective block land and land reforms (BL and LR) office under the control of the DL and LR office.

Scrutiny of the records of 23 BL and LR offices under five[1] DL and LR offices between June and September 2006 revealed that though in 287 cases, 152 brickfield owners extracted 2.98 crore cft of brick earth between 2003-04 and 2005-06 for manufacturing bricks without any valid quarry permit, yet the DL and LR offices did not initiate any action to recover the price of brick earth. Of these, in 106 cases, price of brick earth of Rs. 77 lakh though realisable was not realised at all while in the remaining 181 cases, Rs. 42 lakh was realised at lower rates instead of Rs. 1.15 crore realisable as the price of brick earth. This resulted in non/short realisation of revenue of Rs. 1.50 crore.

After the cases were pointed out, all the district authorities stated between June and September 2006 that action would be taken to realise the dues. A report on recovery has not been received (September 2007).

The Government to whom the cases were reported between August and October 2006, did not furnish any reply (September 2007).

8.3 Non/short realisation of cess on minor minerals

Under the provisions of the Cess Act, 1880 as amended in 1984, read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, holders of quarry permits under the West Bengal Minor Minerals Rules, 1973 read with Minor Minerals Rules, 2002 are liable to pay different kinds of cess[2] at a consolidated rate of Rs. 2.50

[1] Burdwan (West), Coochbehar, Hooghly, Jalpaiguri and Nadia.

[2] Public works cess: 50 paise, road cess: 50 paise, primary education cess: Re. 1 and rural employment cess: 50 paise.

per MT of minor minerals extracted and despatched from the quarry site with effect from 1 June 1987.

Scrutiny of the records of four[3] DL and LR offices between March 2005 and August 2006 revealed that 341 quarry permit holders in 358 cases extracted and despatched 130.12 lakh cft of minor minerals (brick earth: 48.95 lakh cft and sand: 81.17 lakh cft) during the period between 2002-03 and 2005-06. The district authorities failed to realise cess in 65 cases for extraction of 39.55 lakh cft of minor minerals while in the remaining 293 cases, cess was realised at lower rates. This resulted in non/short realisation of cess of Rs. 7.43 lakh.

After the cases were pointed out, three[4] district authorities in 77 cases involving Rs. 6.62 lakh stated between March 2005 and August 2006 that action would be taken to realise the dues while DL and LR, Jalpaiguri in 281 cases involving Rs. 81,000 did not furnish any reply. A report on further development has not been received (September 2007).

The Government to whom the cases were reported between May 2005 and October 2006, did not furnish any reply (September 2007).

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

Under the West Bengal Minor Minerals Rules, 2002 extraction of minor minerals is permissible on the strength of a quarry permit on realisation of royalty and other charges in advance at the rates prescribed by the Government from time to time. The rate of royalty on earth, sand and stone/boulder etc. was last revised with effect from 8 November 2002.

Scrutiny of the records of three[5] DL and LR offices between June 2005 and August 2006 revealed that the district authorities granted 311 quarry permits for extraction of 157.28 lakh cft[6] minor minerals between 9 November 2002 and 30 September 2005. The district authorities however, realised royalty of Rs. 89.23 lakh at the pre-revised rate instead of Rs. 95.41 lakh realisable. This resulted in short realisation of royalty of Rs. 6.18 lakh.

After the cases were pointed out, two district authorities[7] in 196 cases involving Rs. 5.29 lakh stated in June 2005 and August 2006 that action would be taken to realise the dues while the district authority, Darjeeling in 115 cases involving Rs. 89,000 did not furnish any reply. A report on further development has not been received (September 2007).

The Government to whom the cases were reported between August 2005 and October 2006, did not furnish any reply (September 2007).

[3] Burdwan (East), Burdwan (West), Jalpaiguri and South 24 Parganas.
[4] Burdwan (East), Burdwan (West) and South 24 Parganas.
[5] Darjeeling, Jalpaiguri and North 24 Parganas.
[6] Brick earth: 12.67 lakh cft; stone: 76.08 lakh cft; sand: 63.08 lakh cft; boulder: 2.37 lakh cft; gravel: 2.35 lakh cft and *bazree*: 0.73 lakh cft.
[7] Jalpaiguri and North 24 Parganas.

CHAPTER IX
OTHER NON-TAX RECEIPTS

9.1 Result of audit

Test check of the records relating to receipts from Forests, Police, Irrigation and Waterways and other departments conducted during the year 2006-07, revealed non/short realisation, short assessment etc. of revenue amounting to Rs. 1,721.15 crore in 64 cases as mentioned below:

(Rupees in crore)

Sl. No.	Nature of receipts	No. of cases	Amount
1.	**'Interest Receipts from Loans' (A review)**	1	1,302.36
2.	Interest receipts	11	393.03
3.	Forest receipts	26	2.60
4.	Police receipts	8	16.70
5.	Receipts from Irrigation and Waterways	18	6.46
	Total	**64**	**1,721.15**

During the course of the year 2006-07, the departments concerned accepted audit observations of Rs. 397.01 crore involved in 53 cases of which 19 cases involving Rs. 388.98 crore were pointed out in audit during the year 2006-07 and the rest in earlier years. An amount of Rs. 8.03 crore was realised in 33 cases at the instance of audit.

A few illustrative cases involving Rs. 1.08 crore highlighting important observations and a review of **'Interest receipts from loans'** having financial effect of Rs. 1,302.36 crore are mentioned in the following paragraphs.

A. INTEREST RECIEPTS

9.2 Interest Receipts from Loans

Highlights

Lack of monitoring by the Finance Department led to disbursement of loans by the loan sanctioning departments without fixing of the terms and conditions for their repayment. This resulted in non-levy of interest of Rs. 91.97 crore.

[Paragraph 9.2.9]

Failure of the loan sanctioning departments to monitor payment of stipulated instalments by the loanees and redetermine interest payable led to short realisation of interest of Rs. 571.26 crore.

[Paragraph 9.2.10]

Failure of the Government to specify a time limit for initiation of certificate proceedings led to non-realisation of interest of Rs. 89.14 crore as well as principal of Rs. 112.21 crore.

[Paragraph 9.2.11]

Failure of the loans sanctioning departments to recover the instalments from defaulting loanees in case of current loans led to non-recovery of interest of Rs. 1,962.70 crore.

[Paragraph 9.2.15]

The loan sanctioning departments failed to include/recover outstanding interest of Rs. 602.57 crore while converting loans into equity share capital/interest free loans.

[Paragraph 9.2.16]

9.2.1 Introduction

Interest receipts from loans is one of the major sources of non-tax revenue of the State Government. This comprises interest charged by the Government on the loans disbursed by it through its departments to the public sector undertakings, non-Government organisations, corporations, autonomous bodies, local bodies, co-operative societies and other organisations.

The provisions for sanction of loans, determination of interest, recovery of the principal as well as the interest and the control mechanism for watching timely repayment of loans have been prescribed under the West Bengal Financial Rules (WBFR).

The Government, from time to time, fixes the rates of interest to be charged on different categories of loans. During the period from April 2001 to March 2006, the rates of interest fixed by the Government varied from 8 to 17 *per cent* per annum. Besides, the State Government also provided a rebate of 2.5 *per cent* per annum on the rate of interest for timely payment of principal and interest on a loan.

A review of the interest receipts from loans was conducted which revealed system deficiencies and procedural lapses like inadequate monitoring of loans, inaction against defaulters, abnormal delays in recovery of arrears, inadequate control systems and improper maintenance of basic records, etc. These system and compliance deficiencies have been discussed in the subsequent paragraphs.

9.2.2 Audit objectives

The review was conducted with a view to ascertain the following:

- existence of an adequate system for sanctioning and disbursing of loans;
- proper maintenance of records relating to sanction and disbursement of loans;
- existence of an adequate and effective system for realisation of principal and interest on loans;
- adequacy of remedial measures against the defaulters for safeguarding the interest of the Government; and
- whether an internal control mechanism was in place and was working effectively for monitoring compliance with the terms and conditions of loans.

9.2.3 Organisational set up

Intending loanee organisations submit proposals for sanction of loans to the departments. The departments process the proposals and sanction the loans with the concurrence of the Finance Department. The fixation of terms and conditions for repayment of a loan by the concerned department is a precondition for the sanction of a loan.

9.2.4 Scope of audit

The Government disburses loans mainly through six departments viz. Commerce and Industries, Co-operation, Industrial Reconstruction, Power, Public Enterprises and Urban Development. The records of the loans sanctioned by these departments during the years from 2001-02 to 2005-06 were test checked during the period from December 2006 to April 2007.

9.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Finance, Commerce and Industries, Co-operation, Industrial Reconstruction, Power, Public Enterprises and Urban Development departments in providing necessary information and records for audit. The audit findings of the review were reported to the Government in June 2007 and discussed in the Audit Review Committee meeting held in July 2007 in which deputy/joint/special secretaries of respective ministries represented the West Bengal Government. The responses of the Government to the audit observations have been appropriately incorporated in the review.

Audit findings

9.2.6 Trend of revenue

As per the WBFR, the actual receipts of the previous year and revised estimates of the current year guide the framing of the estimate of the ensuing year. The budget estimates (BE) and interest receipts from loans during 2001-02 to 2005-06 are as mentioned below:

(Rupees in crore)

Year	BE	Receipts	Variations excess (+)/shortfall (-)	Percentage of variation
2001-02	630.94	122.90	(-)508.04	(-) 80.52
2002-03	887.00	103.00	(-)784.00	(-) 88.38
2003-04	224.00	110.11	(-)113.89	(-) 50.84
2004-05	180.00	589.31	(+)409.31	(+) 227.22
2005-06	152.00	378.08	(+)226.08	(+) 148.74

Over the period between 2002-03 and 2005-06, the BE gradually decreased from Rs. 887 crore to Rs. 152 crore whereas the actual receipts varied between Rs. 103 crore and Rs. 589.31 crore. The receipts during 2001-02 to 2002-03 were far below the BE whereas during 2004-05 and 2005-06, the receipts were much more than the BE. The Government did not explain (September 2007) the reasons for such wide variations between the BE and receipts despite being requested (May 2007).

9.2.7 Arrears of repayment

Finance, Commerce and Industries, Co-operation, Industrial Reconstruction, Power, Public Enterprises and Urban Development departments did not furnish the figures of unpaid loans and interests for the period from 2001-02 to 2005-06, despite being requested (May 2007). As per the Finance Accounts, the total outstanding loans under the different heads had increased by over 45 *per cent* from Rs. 11,530.08 crore to Rs. 16,792.83 crore over the period from 2001-02 to 2005-06, as mentioned below:

(Rupees in crore)

Year	Opening balance of outstanding loans	Loans disbursed during the year	Repayment of loans during the year	Closing balance of outstanding loans
2001-02	9,847.64	1,850.39	167.95	11,530.08
2002-03	11,530.08	1,362.78	213.35	12,679.51
2003-04	12,679.51	3,056.33	91.02	15,644.82
2004-05	15,644.82	1,337.36	746.61	16,235.57
2005-06	16,235.57	1,188.59	631.33	16,792.83

9.2.8 Shortfall in realisation of accrued interest

The position of arrears of interest for the period from 2001-02 to 2005-06, as per the Finance Accounts is mentioned below:

(Rupees in crore)

Year	Opening balance of interest payable	Interest accrued during the year	Interest realised during the year	Closing balance of arrear interest	Percentage of interest realised vis-à-vis interest accrued
2001-02	2,553.38	1,359.29	122.90	3,789.77	9.04
2002-03	3,789.77	1,383.73	103.00	5,070.50	7.44
2003-04	5,070.50	1,343.23	110.11	6,303.62	8.20
2004-05	6,303.62	1,353.44	589.31	7,067.75	43.54
2005-06	7,067.75	2,769.68	378.08	9,459.35	13.65

While the recovery of interest has improved compared to the levels obtaining upto 2003-04, the position is far from satisfactory and requires to be addressed by the concerned departments.

System deficiencies

9.2.9 Sanction of loans without fixing terms and conditions for repayments

Under the provisions of the WBFR, before sanctioning and disbursing a loan, the sanctioning authority is required to specify the terms and conditions which, *inter alia,* include the date of commencement of payment of instalments, its periodicity and the term within which the loan has to be fully repaid. **The loan sanctioning departments are required to record all these details in various registers like the loan/sanction and demand, collection and balance register for monitoring the repayment of the loans. Audit noticed that there was no monitoring on the part of the Finance Department to ensure that loans were disbursed by the departments only after specifying the terms and conditions.**

Scrutiny of the records of loans disbursed by three departments revealed that, in 35 cases, loans aggregating Rs. 242.06 crore were sanctioned and disbursed by the departments between November 1994 and March 2005 without fixing the terms and conditions of the loans. Consequently, instalments for payment of principal and interest of the loans could not be determined even after the lapse of periods ranging between 21 and 155 months from the date of disbursement of loan till the date of audit. This resulted in non-levy of interest[1] of Rs. 91.97 crore between 2001-02 and 2005-06 as mentioned below:

(Rupees in crore)

Sl. No.	Name of the department	No. of cases	Lapse of time after disbursement of loan (months) from	to	Amount of loan	Non-levy of interest	Reply of the department
1.	Commerce and Industries	17	82	120	3.77	3.21	The department accepted (July 2007) the audit observation and stated that they would fix the terms and conditions in all cases as per the prevailing norms and follow up action would be taken shortly.
2.	Power	16	21	155	238.07	88.60	Not received.
3.	Public Enterprises	2	73	83	0.22	0.16	The department admitted (August 2007) the audit observation.
	Total	**35**			**242.06**	**91.97**	

The departments, however, failed to explain the reasons for sanction and disbursement of loans without drawing up of the terms and conditions which was a prerequisite as per the WBFR.

[1] Calculated at the rates of interest fixed by the Government on these categories of loans at the time of their disbursement.

The Government may consider specifying a procedure for monitoring by the Finance Department to ensure that loans are not disbursed without specifying the terms and conditions for repayment.

9.2.10 Monitoring and recovery of loans

Under the WBFR, every loanee is required to adhere strictly to the terms and conditions settled for a loan which, *inter alia,* stipulates payment of instalment(s) of the loan within the stipulated due date(s). In case of default in payment of instalment(s) of loans, the department is required to take prompt remedial measures.

As per the standing guidelines of the State Government, the loan sanctioning authorities are required to closely watch the repayment of loans and recovery of interest through various registers like loan and demand, collection and balance register.

9.2.10.1 Short determination of interest

A loanee has to pay the principal and interest on loan in periodical instalments on or before the due dates of payment. The interest payable is determined on the balance of the loan remaining outstanding on the due date of payment. Scrutiny of the records of loans disbursed by four departments, repayment terms of which expired between 2001-02 and 2005-06, revealed that in 66 cases the loanees defaulted in repayment of all the instalments of loans. **Audit noticed that interest was predetermined notionally on the diminishing balance of loans presuming timely payment of instalments by the loanees. Hence, in case of failure in payment of instalments, the sanctioning authorities were required to redetermine interest on the actual outstanding balance of loans. The departments, however, failed to monitor the repayment of stipulated instalments by the loanees and redetermine the interest payable even after the lapse of time ranging from 7 to 68 months from the date of expiry of the loan repayment terms.** This resulted in short determination and non-realisation of interest of Rs. 52.64 crore as mentioned below:

(Rupees in crore)

Sl. no.	Name of the department	No. of cases	Lapse of time after expiry of term		Short determination of interest	Reply of the department
			from	to		
			(months)			
1.	Industrial Reconstruction	6	7	55	2.94	The department admitted (August 2007) the audit observation and stated that interest would be recast and demand would be issued on the debtors.
2.	Power	5	56	68	8.77	The department admitted (July 2007) the audit observation and stated that fresh demand would be issued after recalculation of interest.
3.	Public Enterprises	27	22	45	3.96	The department admitted (August 2007) the audit observation and stated that interest would be recast and demand notice would be issued to the debtors.
4.	Urban Development	28	11	58	36.97	The department agreed (July 2007) to redetermine interest on loans of the defaulting loanees and raise demand accordingly.
Total		**66**			**52.64**	

9.2.10.2 Irregular allowance of rebate to defaulting loanees in case of expired loans

The Government grants rebate at a specified rate of interest for timely payment of instalments. The instalments are determined after allowing the rebate presuming regular payment of principal and interest. However, in cases of default in payment of instalments on due dates, the instalments are liable to be redetermined without rebate.

Scrutiny of the records of loans disbursed by four departments between April 1981 and March 1995 revealed that in 59 cases instalments were determined after allowing rebate on interest ranging between 2 and 2.5 *per cent*. Since the loanees defaulted in payment of instalments till the expiry of repayment terms falling between 2001-02 and 2005-06, interest payable should have been redetermined by disallowing the rebate. **As there was no system of monitoring the repayment of loans by the loanees and redetermine the interest payable after disallowing the rebate, the loan sanctioning departments failed to withdraw the rebate granted.** This resulted in irregular allowance of rebate of Rs. 40.47 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the department	No. of cases	Lapse of time after expiry of term (months) from	to	Amount of loan	Irregular allowance of rebate	Reply of the department
1.	**Industrial Reconstruction** (loans were disbursed between January 1992 and March 1995)	5	7	43	12.11	2.66	The department admitted (August 2007) the audit observation and stated that interest would be recast and demand would be issued to the debtors.
2.	**Power** (loans were disbursed between October 1984 and December 1986)	5	56	68	19.89	5.97	The department admitted (July 2007) the audit observation and stated that fresh demand would be issued after recalculation of interest.
3.	**Public Enterprises** (loans were disbursed between March 1986 and March 1990)	24	22	45	9.09	3.41	The department admitted (August 2007) the audit observation and stated that interest would be recast and demand notice would be issued to the debtors.
4.	**Urban Development** (loans were disbursed between April 1981 and March 1985)	25	11	58	56.85	28.43	The department agreed (July 2007) to redetermine the interest by disallowing rebate and raise demand accordingly.
	Total	**59**			**97.94**	**40.47**	

9.2.10.3 Irregular allowance of rebate to defaulting loanees in case of current loans

Scrutiny of the records of loans disbursed by five departments between August 1984 and December 2004 revealed that in 442 cases the loanees defaulted in payment of instalments which fell due between 2001-02 and 2005-06. **Audit noticed further that the loan sanctioning authorities did not take any step for redetermination of instalments disallowing rebate even after the lapse of time ranging between 9 and 72 months from the due date of payment of instalments till the date of audit.** This resulted in irregular allowance of rebate of Rs. 478.15 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the department	No. of cases	Lapse of time after expiry of term		Amount of loan	Irregular allowance of rebate	Reply of the department
			from	to			
			(months)				
1.	**Commerce and Industries** (loans were disbursed between September 1991 and September 2003)	126	25	67	153.19	17.08	The department accepted (July 2007) the audit observation and stated that action would be taken.
2.	**Industrial Reconstruction** (loans were disbursed between March 1996 and February 2003)	13	32	67	56.95	5.30	The department admitted (August 2007) the audit observation and stated that interest would be recast and demand would be issued to the debtors.
3.	**Power** (loans were disbursed between March 1995 and December 2004)	99	9	69	4,678.84	421.20	The department admitted (July 2007) the audit observation and stated that fresh demand would be issued after recalculation of interest.
4.	**Public Enterprises** (loans were disbursed between August 1984 and December 2002)	133	31	69	49.98	5.62	The department admitted (August 2007) the audit observation and stated that interest would be recast and demand notice would be issued to the debtors.
5.	**Urban Development** (loans were disbursed between June 1986 and March 2002)	71	44	72	234.73	28.95	The department agreed (July 2007) to redetermine the interest by disallowing rebate and raise demand accordingly.
	Total	**442**			**5,173.69**	**478.15**	

The Government may make it mandatory for the loan sanctioning authorities to review the loans at a fixed periodicity and redetermine the interest payable by the loanees by disallowing rebate granted, if any, and proceed to recover the same along with principal due.

9.2.11 Non-initiation of certificate proceedings against the defaulting loanees after expiry of loan repayment terms

Under the provisions of the Public Demands Recovery Act, 1913, Government dues are recoverable by initiating certificate proceedings against the defaulter. The certificate proceedings, *inter alia,* include attachment and sale of the defaulter's moveable and immovable property etc. **There is no time limit specified for initiation of certificate proceedings.**

Scrutiny of the records of loans disbursed by four departments, repayment terms of which had expired between 2001-02 and 2005-06, revealed that in 79 cases the loanees defaulted in payment of all the instalments of principal of Rs. 112.21 crore as well as interest of Rs. 89.14 crore which remained outstanding after expiry of the loan repayment term. **As there was no system of monitoring the loans and no specified time limit had been prescribed**

for initiating certificate proceedings, the departments failed to take any steps to initiate proceedings for recovery against the defaulting loanees even after the lapse of 11 to 68 months from the expiry of the respective loan repayment terms. This resulted in non-realisation of interest of Rs. 89.14 crore as well as principal of Rs. 112.21 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the department	No. of cases	Lapse of time after expiry of term		Non-realisation of principal	Non-realisation of interest	Reply of the department
			from	to			
			(months)				
1.	Industrial Reconstruction	6	19	55	12.56	6.33	Reminders are being issued by the department regularly. In case of failure, recovery proceedings would be started.
2.	Power	5	56	68	19.89	20.46	The department admitted (July 2007) the audit observation.
3.	Public Enterprises	27	22	45	9.69	9.42	The department admitted (August 2007) the audit observation.
4.	Urban Development	41	11	65	70.07	52.93	The department stated (July 2007) that remedial action would be taken shortly.
Total		**79**			**112.21**	**89.14**	

The Government may consider prescribing a system for monitoring of the loan register. A time limit may also be specified for filing certificate cases in case of default in repayment of loans. Further, recovery proceedings should be initiated immediately in the cases pointed out by audit as further delay may result in the amounts becoming irrecoverable.

9.2.12 Non-levy of interest

Under the WBFR, interest is to be determined on the balance of loan remaining outstanding till the dues are fully paid. Further, for ensuring timely repayment of loans, the loan sanctioning authorities may enforce a penal rate of interest not less than eight *per cent* per annum upon all overdue instalments. **No instructions have been issued for judicious exercise of this discretionary power with the result that the provision failed to have the intended deterrent effect.**

Scrutiny of the records of loans disbursed by five departments, repayment terms of which expired between 2001-02 and 2005-06, revealed that in 71 cases the loanees defaulted in payment of all the instalments of loans. Consequently, interest was also leviable for the period beyond the loan repayment term on the outstanding balance of loan. The authorities, however, did not determine the interest which accrued after the expiry of the loan repayment term even after the lapse of 12 to 68 months from the expiry of the loan repayment term. In addition, in none of the cases the loan sanctioning

departments exercised the available discretion to levy penal interest on the unpaid loans. Failure of the loan sanctioning authorities to maintain the registers and impose penal interest resulted in non-levy of accrued interest of Rs. 31.71 crore as well as penal interest of Rs. 79.58 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the department	No. of cases	Lapse of time after expiry of term (months) from	to	Amount of loan	Non-levy of interest	Penal interest not levied	Reply of the department
1.	Commerce and Industries	7	44	68	1.98	1.01	1.48	The department stated (July 2007) that it will calculate and charge interest on the overdue instalments from the loanees.
2.	Industrial Reconstruction	5	19	55	7.31	1.28	4.39	The department admitted (August 2007) the audit observation and stated that attempt would be made to determine the interest.
3.	Power	5	56	68	19.89	12.37	20.02	The department admitted (July 2007) the audit observation and stated that fresh demand would be issued after recalculation of interest.
4.	Public Enterprises	27	19	68	9.69	1.93	7.30	The department accepted the audit observation.
5.	Urban Development	27	12	58	57.35	15.12	46.39	The department stated (July 2007) that interest would be determined at the rate specified in the terms and conditions of loan and demand of interest would be raised accordingly.
	Total	**71**			**96.22**	**31.71**	**79.58**	

The Government may consider amending the WBFR to provide for mandatory levy of penal interest on overdue instalments of principal or interest or both for default in repayment of a loan.

9.2.13 Weak internal controls

Internal controls are processes by which an organisation directs its activities to effectively achieve its objectives.

Audit scrutiny revealed that basic registers/records like loan register, sanction register, demand collection and balance register etc. were either not maintained at all or maintained improperly by the departments. Due to this the department failed to have effective control over the issue and recovery of loans and interest thereon.

Further, periodical review of case records of loans are required to be done for prompt and effective recovery of arrears of loans and interest. However, no such periodical review was done by the departments.

After this was pointed out by audit, the departments responded as mentioned below:

Name of the department	Reply of the department
Commerce and Industries	The department stated (July 2007) that internal control system would be strengthened. It further stated that a departmental committee had been formed to review the performance of the department at different stages so that the defects/irregularities pointed out by audit did not recur.
Co-operation	The department stated (July 2007) that it will strengthen the internal control system. It further stated that it was contemplating setting up of a debt recovery tribunal for recovery of government dues.
Industrial Reconstruction	The departments accepted (July-August 2007) that no internal control system existed.
Power	
Public Enterprises	The department stated (August 2007) that it reviewed the functioning of the department every quarter and took corrective measures.
Urban Development	The department stated (July 2007) that it will take steps to improve its internal control system.

The reply of the Public Enterprises Department is not tenable since it could not furnish any record of either such review on quarterly basis or of corrective measures taken subsequently.

9.2.14 Internal audit

The internal audit wing of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed systems are functioning reasonably well.

None of the departments covered in this review had an internal audit wing and thus did not have an effective tool to ascertain whether its various wings were functioning reasonably well to ensure prompt and timely recovery of loan along with interest thereon.

The Government should consider setting up of departmental internal audit wing in order to strengthen the internal control mechanism.

Compliance deficiencies

9.2.15 Non-recovery of interest from defaulting loanees in case of current loans

Scrutiny of the records of loans disbursed by four departments revealed that in 50 cases the loanees defaulted in payment of instalments of loans which fell due between 2001-02 and 2005-06. However, no steps to recover the instalments were initiated by the departments against them even after the lapse of time ranging from 14 to 72 months from the due date of payment of instalments till the date of audit. This resulted in non-realisation of interest of Rs. 1,962.70 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the department	No. of cases	Lapse of time after due dates of payment of instalments (months)		Non-realisation of interest	Reply of the department
			from	to		
1.	Commerce and Industries	3	41	61	29.81	The department has agreed (July 2007) to take appropriate follow up action including certificate proceedings.
2.	Industrial Reconstruction	3	37	71	17.20	The department stated (August 2007) that reminders were being issued regularly. In case of failure, recovery proceedings would be started.
3.	Power	31	14	71	1,845.88	The department admitted (July 2007) the audit observation and stated that fresh demand would be issued after recalculation of interest.
4.	Urban Development	13	48	72	69.81	The department stated (July 2007) that remedial action would be taken shortly.
Total		**50**			**1,962.70**	

9.2.16 Conversion of loans into equity share capital/interest free loans

Under the provisions of the WBFR, the Government converts, from time to time, the outstanding loans granted to Government companies/corporations into equity share capital by issuing orders. Further, the State Government can, by issuing special orders with the concurrence of the Finance Department, grant remission or concession with regard to levy of interest.

9.2.16.1 Non-recovery of outstanding interest at the time of conversion of loans into equity share capital

Scrutiny of the records of loans disbursed by two departments revealed that in 76 cases the State Government converted outstanding loans of Rs. 1,076.14 crore into equity share capital between March 2002 and March 2006. Further scrutiny disclosed that the loanees had defaulted in payment of all the instalments which fell due before the dates of conversion. The authorities, however, did not either realise the outstanding interest of Rs. 357.11 crore before the conversion of the loans into equity or convert the outstanding interest into equity along with the outstanding loan amount, even after the lapse of time ranging between 9 and 56 months from the dates of conversion of loans into equity. This resulted in non-realisation of interest of Rs. 357.11 crore as mentioned below:

(Rupees in crore)

Sl. no.	Name of the department	No. of cases	Lapse of time after conversion of loan (months)		Amount of loan	Non-realisation of interest	Reply of the department
			from	to			
1.	Commerce and Industries	17	56	--	13.94	16.87	The department stated (July 2007) that they would realise the interest from the loanees and in case of failure, action would be taken to waive the demand for interest with the concurrence of the Government.
2.	Power	59	9	45	1,062.20	340.24	The department stated (July 2007) that the cases required detailed scrutiny and outcome would be intimated shortly.
	Total	**76**			**1,076.14**	**357.11**	

The reply of the department(s) did not clarify the reasons for the omission to recover the amount of outstanding interest at the time of the conversion of the unpaid loan into equity. Also, waiver of interest cited as an option by the Department of Commerce and Industries not only does not serve the interest of revenue, but would encourage others to demand the same treatment.

9.2.16.2 Non-realisation of outstanding interest on conversion of loans into interest free loans

Scrutiny of the records of loans disbursed by the Power Department revealed that the department disbursed loans of Rs. 1,850.62 crore to the West Bengal State Electricity Board (WBSEB) and Rs. 113.16 crore to the West Bengal Power Development Corporation Limited (WBPDCL) in March 2004 at the rate of interest of 12.5 *per cent* per annum. In January 2006, both the loans were converted into interest free loans with effect from April 2005. Further scrutiny revealed that the department while converting the interest bearing

loans into interest free loans, did not realise interest of Rs. 245.46 crore payable for the period upto April 2005.

9.2.17 Failure to enforce the terms and condition of loans

The State Government disburses loans for various purposes to diverse loanees including manufacturer dealers for payment of arrear sales tax.

Scrutiny of the records of loans disbursed by the Industrial Reconstruction Department revealed that during the period from March 2000 to March 2002 the department disbursed loans to three manufacturer dealers for payment of arrear sales tax. Further scrutiny revealed that the loans were disbursed after the execution of indenture of security between the Governor of West Bengal and the dealers which, *inter alia,* stipulated that if the borrowing dealers defaulted in the payment of any instalment within the due dates, the entire outstanding loans would fall due at once and they would be required to pay the entire loan alongwith interest. In the instant cases, the borrowers defaulted in payment of instalments within the due dates which commenced between April 2001 and April 2003. However, the department did not take any action for recovery of the overdue instalments of loans even after the lapse of time ranging between 44 and 68 months from the dates of default till the date of audit.

The failure of the department to enforce the agreed terms resulted in non-realisation of principal of Rs. 8.67 crore and interest of Rs. 4.54 crore as mentioned below:

(Rupees in crore)

Name of the loanee and Government order no. and date of disbursement of the loan	Amount of loan	Date from which the loanee defaulted	Lapse of time (in months)	Outstanding interest	Rate of interest (in *per cent*)	Reply of the department
M/s. Burn Standard Co. Ltd. 1603 – IR dated 3 March 2000	4.11	April 2001	68	2.16	8.75	The department admitted (August 2007) the audit observation and stated that legal action was being contemplated for recovery.
M/s. National Instruments Ltd. 20263–IR dated 10 December 2000	4.46	January 2002	60	2.34	8.75	
M/s. Adhesives and Chemicals 1563 – IR dated 19 March 2002	0.10	April 2003	44	0.04	8.75	
Total	**8.67**			**4.54**		

9.2.18 Undue benefit of further loans to a defaulting co-operative society

Scrutiny of the records of the Assistant Registrar of Cooperative Societies (ARCS), Murshidabad, revealed that a loan of Rs. 50 lakh was disbursed to a society in February 2001. The society defaulted in the payment of instalments of the loan. Further scrutiny revealed that instead of taking remedial steps to recover the defaulted loan, five loans totaling Rs. 1.43 crore were further disbursed to the defaulting society between March 2002 and February 2005. However, the society did not pay any instalment in respect of any loan till the date of audit. Thus, undue benefit of further loans to the defaulting co-operative society resulted in non-realisation of principal of Rs. 1.93 crore as well as interest of Rs. 31.39 lakh

After the case was pointed out, the Co-operation Department stated (July 2007) that the Registrar of Co-operative Societies, West Bengal had been instructed to look into the matter and take necessary follow up action. Further reply has not been received (September 2007).

9.2.19 Conclusion

Interest receipts from loans is one of the major sources of non-tax revenue of the State Government. To have effective control over the issue and recovery of loans and interest thereon, it is essential that basic registers/records like loan register, sanction register, demand collection and balance register are maintained properly by the departments. Audit scrutiny revealed that these were either not maintained or improperly maintained. Lack of monitoring by the Finance Department led to sanctioning of loans by the loan disbursing departments without prescribing/fixing the terms and conditions for repayment in violation of the provisions of the WBFR. There was no monitoring by the loan sanctioning departments of overdue loans and recovery of interest. Under the WBFR, the provision for levy of penal interest is discretionary. No instructions have been issued for judicious exercise of this discretionary power with the result that the provision failed to have the intended deterrent effect. The internal control mechanisms of the departments covered in this review were observed to be very weak as is evidenced by the lack of maintenance of basic registers. In addition, none of the departments had an internal audit wing and thus did not have an effective tool to ascertain whether its various wings were functioning reasonably well to ensure prompt and timely recovery of loan along with interest thereon. It is thus necessary for the Government to have a detailed look at the system and procedure for prompt recovery of loans and interest.

9.2.20 Summary of recommendations

The Government may consider

- specifying a procedure for monitoring by the Finance Department to ensure that loans are not disbursed without specifying the terms and conditions for repayment;
- making it mandatory for the loan sanctioning authorities to review the loans periodically and redetermine the interest payable by the loanees by disallowing the rebate granted, if any, and proceed to recover the same along with the principal due;
- prescribing a system for monitoring of loan register. A time limit may also be specified for filing certificate cases in case of default in repayment of loans;
- amending the WBFR to provide for mandatory levy of penal interest on overdue instalments of principal or interest or both for default in repayment of a loan; and
- setting up of departmental internal audit wing in order to strengthen the internal control mechanism.

B. FOREST RECEIPTS

9.3 Short remittance of revenue due to irregular deduction of service charge

A project on infrastructure development and joint forest management (JFM) support in North Bengal was approved by the Forest Department on 28 January 2004 and the work pertaining to timber operation in the above project started from the financial year 2004-05. According to the approved working procedure of the project, the West Bengal Forest Development Corporation Ltd (WBFDCL) will entirely finance timber and firewood operation costs at the prescribed rate and recover these along with service charge at the rate of 17 *per cent* of the net sale proceeds after deducting operational cost. In case of work prior to implementation of the project, the admissible deduction towards service charge was 10 *per cent* of the net proceeds of timber.

Scrutiny of the records of DFO, Jalpaiguri division in March 2006 revealed that Divisional Manager, Saw Milling division, a unit of WBFDCL, deducted service charge of Rs. 30.85 lakh at the rate of 17 *per cent* on the sale proceeds of Rs. 1.81 crore pertaining to the period from January to March 2004. Since the period of operation was prior to the implementation of the project, service charge was recoverable at the rate of 10 *per cent* instead of 17 *per cent*. Deduction of service charges at higher rate resulted in short remittance of revenue of Rs. 12.70 lakh into the Government account.

The Government to whom the case was reported in May 2006 stated in July 2007 that the concerned divisional manager had been advised to deposit the due amount. A report on realisation has not been received (September 2007).

9.4 Short realisation of revenue due to sale of timber below the schedule of rates

The State Directorate of Forests, the Government of West Bengal prepares schedule of rates (SOR) from time to time for disposal of forest produce. The reserve price of timber for sale, either through auction or by calling tender, is required to be fixed on the basis of the SOR barring exceptional circumstances. If the reserve price is fixed below the SOR, approval of the Conservator of Forests (CF) is necessary to keep control over the fixation of price of timber.

Scrutiny of the records of three[2] offices of the divisional forest officers (DFO) between July and August 2006 revealed that the WBFDCL, Alipurduar fixed the reserve price of certain fresh lots of A and B class timber measuring 107.869 cum and sold the lots at Rs. 7.94 lakh instead of Rs. 9.82 lakh as per the SOR in the auction held in March 2006. Similarly, while conducting auction between July 2004 and September 2005, the concerned forest divisions[3] sold 115.076 cum of timber, 4,143 poles and 46.21 cum of firewood at Rs. 5.88 lakh instead of Rs. 11.11 lakh as per the SOR. Since the forest produce sold in auction consisted of fresh lots only and did not suffer from any defects as apparent from the auction records, fixation of reserve price below the SOR and sale thereof was irregular and resulted in short realisation of Rs. 7.11 lakh.

The Government to whom the cases were reported between May and September 2006 stated in July 2007 that the reserve price was drawn on, apart from the broad guidelines, a number of parameters which include the quality of timber (girth, bend, bifurcation, hollow, rotten, borer etc). The reply is not tenable as the forest produce sold by auction were fresh lots as mentioned in the auction records and as such reserve price should have been fixed in accordance with the SOR. Further any deviation in fixation of reserve price below the SOR required prior sanction of the CF.

C. POLICE RECEIPTS

9.5 Non-realisation due to inordinate delay in preferring claim

Under the provisions of the Police Act 1861, police escorts are supplied to different government and non-government institutions and members of public. Charges for police escorts are realisable under the provision of the Police

[2] Buxa Tiger Reserve (East and West) and Medinipur West division.
[3] Buxa Tiger Reserve (East) and Medinipur West division.

Regulation of Bengal, 1943 and various Government orders issued from time to time.

Scrutiny of the records of the Superintendent of Police (SP), Darjeeling in May 2006 revealed that police personnel were deployed at Bagdogra Airport on anti-hijacking duties for which Rs. 48.72 lakh was realisable from Airport Authority of India (AAI), Bagdogra Airport for the period from 1981-82 to 1996-97. The SP, Darjeeling, however, preferred the claim only in August 2005 after lapse of time ranging between 9 and 24 years. The claim was turned down by the AAI in September 2005 as it was raised after inordinate delay. Thereafter the SP, Darjeeling did not initiate any action either to institute certificate proceeding under the PDR Act or to take up the matter with the competent authorities for early recovery of dues. Thus, inordinate delay in preferring claim and lack of follow up action resulted in non-realisation of Rs. 48.72 lakh.

The Government to whom the case was reported in April 2007 stated in July 2007 that the matter was viewed seriously and the DG and IGP, West Bengal had been asked to take up the matter with the district officer concerned for realisation of the dues as well as fixing of responsibility for not preferring the claim in time. It was also stated that the department would move the Finance Department, the Government of West Bengal for taking up the matter with their counterparts in the Government of India for realisation of dues from the AAI. A report on further development has not been received (September 2007).

D. RECEIPTS FROM IRRIGATION AND WATERWAYS

9.6 Non/short assessment and non-realisation of water rate

Under the provision of the West Bengal Irrigation (Imposition of Water Rate) for Damodar Valley Corporation Water Act, 1958, occupiers of land receiving the benefit of irrigation from Damodar Valley Corporation canals in different crop seasons are required to pay water rates as prescribed by the Government from time to time. Assessment of water rates is made by the respective revenue division on receipt of test notes from the engineering divisions of the Irrigation and Waterways (I and W) Department. According to the instruction issued by the department in June 1977, any difference between the areas irrigated as shown by the engineering divisions and assessment figure as shown by the revenue divisions should be reconciled by both the offices within a period of one month.

Scrutiny of the records of the Revenue Officer (RO), Damodar Irrigation Division I at Burdwan and RO II at Durgapur between June and September 2006 revealed that test notes from concerned engineering divisions were received in these two revenue divisions indicating actual area irrigated as

13.41 lakh acres during the assessment periods between 2001-02 and 2005-06 for *kharif, rabi* and *boro* crop seasons. It was, however, seen that the RO, I, Burdwan division did not make any assessment of water rate on test notes of 1.86 lakh acres whereas RO II, Durgapur division made assessment on 9.18 lakh acres only though test notes for 11.55 lakh acres was received from the engineering divisions. No attempt was also made by the ROs to ascertain the reason and reconcile the difference between the area assessed and area shown in the test notes by the engineering divisions within the stipulated period of one month. Thus, non-assessment/erroneous assessment of water rates by the revenue divisions ignoring the information furnished by the engineering divisions led to non/short assessment of water rates of Rs. 88 lakh.

The Government to whom the cases were reported between July and November 2006 stated in July 2007 that there was communication gap between the I and W department and L and LR department over the actual area irrigated. It was further stated that greater emphasis would be given to co-ordinate the offices of Engineering/Revenue division and the L and LR offices to reconcile the discrepancy. The reply is, however, silent on the action taken to realise the amount of non/short assessment pointed out in audit. Further reply has not been received (September 2007).

Kolkata,
The

(Sarit Jafa)
Accountant General (Receipt, Works and Local Bodies Audit)
West Bengal

Countersigned

New Delhi,
The

(VINOD RAI)
Comptroller and Auditor General of India

ANNEXURE

STATEMENT SHOWING NON-REALISATION OF EXCISE DUTY ON THE BATCHES OF IMFL PRODUCED AND ISSUED IN EXCESS OF NOMINAL STRENGTH

(Reference : Paragraph 4.10.2)

Sl. no.	Year	Batch No.	Brand Name	True Alcoholic Strength (in degree proof)	Strength declared by manufacturer's chemist (in degree proof)	Over strength allowing permissible variation	Quantity of IMFL produced (in BL)	Quantity of IMFL on which duty has not been realized (in LPL)	Rate of Duty per LPL	Duty Realisable (Rs)
Ms Shaw Wallace Distilleries Ltd, Hooghly										
1.	2001-2002	186	DSP Whisky	75.9	75.0	0.7	19047.24	133.33	143	19066.19
2.		187		75.9	75.0	0.7	10017.00	70.12	143	10027.16
3.		188		75.8	75.0	0.6	4536.00	27.22	143	3892.46
4.		191		75.8	75.0	0.6	19602.36	117.61	143	16818.23
5.		208		76.4	75.0	1.2	19296.00	231.55	143	33111.65
6.		218		75.7	75.0	0.5	19197.00	95.98	143	13725.14
7.		201		75.8	75.0	0.6	10422.00	62.53	143	8941.79
8.		205		75.9	75.0	0.7	19251.00	134.75	143	19269.25
9.		195		75.9	75.0	0.7	10458.00	73.20	143	10467.60
10.		199		76.0	75.0	0.8	6948.72	55.59	143	7949.37

11.		200		75.8	75.0	0.6	19531.80	117.19	143	16758.17
12.		409		75.9	75.0	0.7	19216.80	134.51	143	19234.93
13.		422		75.9	75.0	0.7	10092.96	70.65	143	10129.95
14.	2002-2003	55	DSP Whisky	76.0	75.0	0.8	6777.00	54.21	143	7752.03
15.		59		75.9	75.0	0.7	8910.72	62.37	143	8918.91
16.		98		75.9	75.0	0.7	19224.00	134.56	143	19242.08
17.		102		75.9	75.0	0.7	6552.00	45.85	143	6556.55
18.		105		75.9	75.0	0.7	10006.92	70.05	143	10017.15
19.		473		75.9	75.0	0.7	6550.56	45.85	143	6556.55
20.		218		75.9	75.0	0.7	9918.72	69.43	143	9928.49
21.		214		75.9	75.0	0.7	19521.00	136.65	143	19540.95
22.		215		75.9	75.0	0.7	6469.20	45.28	143	6475.04
23.		268		75.7	75.0	0.5	6489.00	32.44	143	4638.92
24.	2002-2003	259	DSP Whisky	75.7	75.0	0.5	18990.00	94.95	143	13577.85
25.		262		75.9	75.0	0.7	4464.00	31.25	143	4468.75
26.		201		75.7	75.0	0.5	6518.52	32.59	143	4660.37
27.		302		75.8	75.0	0.6	19080.00	114.48	143	16370.64
28.		305		75.8	75.0	0.6	6885.00	41.31	143	5907.33
29.		306		75.8	75.0	0.6	8910.72	53.46	143	7644.78

30.	2002-2003	110	DSP Whisky	76.1	75.0	0.9	4453.20	40.08	143	5731.44
31.		111		75.9	75.0	0.7	18632.16	130.43	143	18651.49
32.		114		76.1	75.0	0.9	18291.24	164.62	143	23540.66
33.		451		75.7	75.0	0.5	19024.20	95.12	143	13602.16
34.		453		75.7	75.0	0.5	6750.00	33.75	143	4826.25
35.		464		75.9	75.0	0.7	6652.80	46.57	143	6659.51
36.		479		75.7	75.0	0.5	8919.00	44.59	143	6376.37
37.		490		75.9	75.0	0.7	4446.00	31.12	143	4450.16
38.		386		75.7	75.0	0.5	18556.92	92.78	143	13267.54
39.		387		75.7	75.0	0.5	4332.96	21.66	143	3097.38
40.		399		75.7	75.0	0.5	19542.60	97.71	143	13972.53
41.		400		75.7	75.0	0.5	4428.00	22.14	143	3166.02
42.	2002-2003	415	DSP Whisky	75.7	75.0	0.5	10506.60	52.53	143	7511.79
43.		441		75.7	75.0	0.5	8794.80	43.97	143	6287.71
44.		428		75.7	75.0	0.5	6882.48	34.41	143	4920.63
45.		430		75.7	75.0	0.5	6765.84	33.83	143	4837.69
46.		317		75.7	75.0	0.5	9982.44	49.91	143	7137.13
47.		318		75.7	75.0	0.5	6669.00	33.34	143	4767.62
48.		424		75.9	75.0	0.7	10206.00	71.44	143	10215.92
49.		425		75.7	75.0	0.5	19297.80	96.49	143	13798.07

50.		332		75.9	75.0	0.7	8631.00	60.42	143	8640.06
51.		335		75.9	75.0	0.7	6588.00	46.12	143	6595.16
52.		91		75.7	75.0	0.5	19404.72	97.02	143	13873.86
53.		92		75.9	75.0	0.7	8928.00	62.49	143	8936.07
54.		94		75.9	75.0	0.7	9423.36	65.96	143	9432.28
55.		96		75.7	75.0	0.5	6804.00	34.02	143	4864.86
56.		355		75.8	75.0	0.6	19584.00	117.50	143	16802.25
57.		356		75.7	75.0	0.5	19278.00	96.39	143	13783.77
58.	2002-2003	359	DSP Whisky	75.8	75.0	0.6	10054.44	60.33	143	8627.19
59.		360		75.8	75.0	0.6	4395.60	26.37	143	3770.91
60.		343		75.7	75.0	0.5	6424.56	32.12	143	4593.16
61.		346		75.8	75.0	0.6	10395.00	62.37	143	8918.91
62.		396		75.7	75.0	0.5	19197.00	95.98	143	13725.14
63.		403		75.9	75.0	0.7	10382.40	72.68	143	10393.24
64.		404		75.7	75.0	0.5	19046.88	95.23	143	13617.89
65.		407		75.9	75.0	0.7	19347.12	96.73	143	13832.39
66.		408		75.7	75.0	0.5	4428.00	22.14	143	3166.02
67.		436		75.9	75.0	0.7	19071.00	133.50	143	19090.05
68.	2003-2004	79	DSP Whisky	75.8	75.0	0.6	9396.00	56.38	143	8062.34
69.		59		76.0	75.0	0.8	8701.20	69.61	143	9954.23

70.		64		75.7	75.0	0.5	6617.52	33.09	143	4731.87
71.		69		75.7	75.0	0.5	5598.00	27.99	143	4002.57
72.		71		75.9	75.0	0.7	10269.00	71.88	143	10278.84
73.		19		75.9	75.0	0.7	8053.20	56.37	143	8060.91
74.		11		75.8	75.0	0.6	8881.20	53.29	143	7620.47
75.		04		76.1	75.0	0.9	4626.00	41.63	143	5953.09
76.		99		75.80	75.0	0.6	9054.00	54.32	143	7767.76
Ms Mc Dowell & Company Ltd, Asansol										
77.	2001-2002	25	BP Whisky	75.5	75.0	0.3	21034.80	63.10	143	9023.30
78.		19	Cel. Rum	75.5	75.0	0.3	24040.10	72.20	110	7942.00
79.		10	BP Rum	76.9	75.0	1.7	9395.30	159.72	110	17569.21
80.		20	Cel. Rum	76.4	75.0	1.2	9236.20	110.83	110	12191.30
81.		21	Cel. Rum	76.1	75.0	0.9	24704.60	222.34	110	24457.40
82.		02	BP Rum	76.4	75.0	1.2	9081.00	108.97	110	11986.70
83.		22	BP Rum	75.7	75.0	0.5	9137.50	45.68	110	5024.80
84.		42	Cel. Rum	76.0	75.0	0.8	24342.7	194.74	110	21421.40
85.		01	BP Rum	76.9	75.0	1.7	4570.60	77.70	110	8547.00
86.		12	BP Rum	76.0	75.0	0.8	7380.00	59.04	110	6494.40
87.		11	PBR Gin	75.6	75.0	0.4	4446.00	17.78	143	2542.54
88.		43	Cel. Rum	75.6	75.0	0.4	24919.00	99.67	110	10963.70

89.		36	Cel. Rum	75.8	75.0	0.6	24057.70	144.34	110	15877.40
90.		18	BP Whisky	76.6	75.0	1.4	8850.70	123.90	143	17717.70
91.	2001-02	20	BP Rum	76.2	75.0	1.0	9073.80	90.73	110	9980.30
92.		40	Cel. Rum	75.9	75.0	0.7	24309.00	170.16	110	18717.60
93.		21	BP Rum	75.9	75.0	0.7	19683.00	137.78	110	15155.80
94.		17	Cel.Rum	76.2	75.0	1.0	24410.50	244.10	110	26851.00
95.		07	BP Rum	76.6	75.0	1.4	4725.00	66.15	110	7276.50
96.		18	Cel. Rum	76.2	75.0	1.0	4544.70	45.44	110	4998.40
97.	2002-03	10	BRBG Liquor	76.8	75.0	1.6	19374.12	309.98	143	44327.14
98.		09	BRBG Liquor	75.8	75.0	0.6	8780.40	52.68	143	7533.24
99.		07	BRTG Liquor	76.0	75.0	0.8	900.70	7.20	143	1029.60
100.	2003-04	11	Cel. Rum	75.5	75.0	0.3	3749.76	11.24	110	1236.40
101.		04	HB Brandy	75.7	75.0	0.5	4439.52	22.19	143	3173.17
102.		03	GL Whisky	75.7	75.0	0.5	23970.96	119.85	143	17138.55
103.		03	BP Whisky	75.4	75.0	0.2	47208.00	94.41	143	13500.63
104.	2003-04	01	BP Rum	76.3	75.0	1.1	4610.52	50.71	110	5578.10
105.		01	BRTG Liquor	79.8	75.0	4.6	8764.56	403.16	143	57651.88
106.		01	BRBG Liquor	75.7	75.0	0.5	20070.72	100.35	143	14350.05
107.		01	HB Brandy	75.5	75.0	0.3	2479.68	7.43	143	1062.49

108.		71	Cel. Rum	75.4	75.0	0.2	24362.28	48.72	110	5359.20
109.		07	BP Rum	76.2	75.0	1.0	1883.52	18.83	110	2071.30
110.		66	Cel. Rum	77.0	75.0	1.8	19871.28	357.68	110	39344.80
	Total							**9,226.18**		**12,35,656.64**

4.8 Non-realisation of excise duty on chargeable wastage of rectified spirit during preparation of Mother Tincture

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

Scrutiny of records of seven bonded warehouses/manufactories of Mother Tincture between May and June 2008 under the Deputy Commissioner (DC) of Excise (Special), West Bengal revealed that the manufacturers used 1,21,662.766 London Proof Litre (LPL) of rectified spirit between 2004-05 and 2006-07 out of which 99885.861 LPL of Mother Tincture was produced. The wastage exceeded the allowable limit by 16910.404 LPL for which excise duty of Rs. 29.73 lakh was chargeable. However, no demand was raised by the excise authorities for realisation of the same, which resulted in non realisation of excise duty of Rs. 29.73 lakh.

After the cases were pointed out the DC stated (August 2008) that a committee constituted by the EC, W.B for ascertaining the allowable wastage had submitted its report on which a decision was yet to be taken. The reply is not tenable because the licensees were liable to pay excise duty as per the instruction issued by the EC in April 2003, which had not been superseded.

The matter was reported to the Government in July 2008, followed by reminders issued upto December 2008; their reply has not been received ( ).