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Presented to Legislature

**REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL
OF INDIA**

FOR THE YEAR ENDED 31 MARCH 2006

(REVENUE RECEIPTS)

GOVERNMENT OF CHHATTISGARH

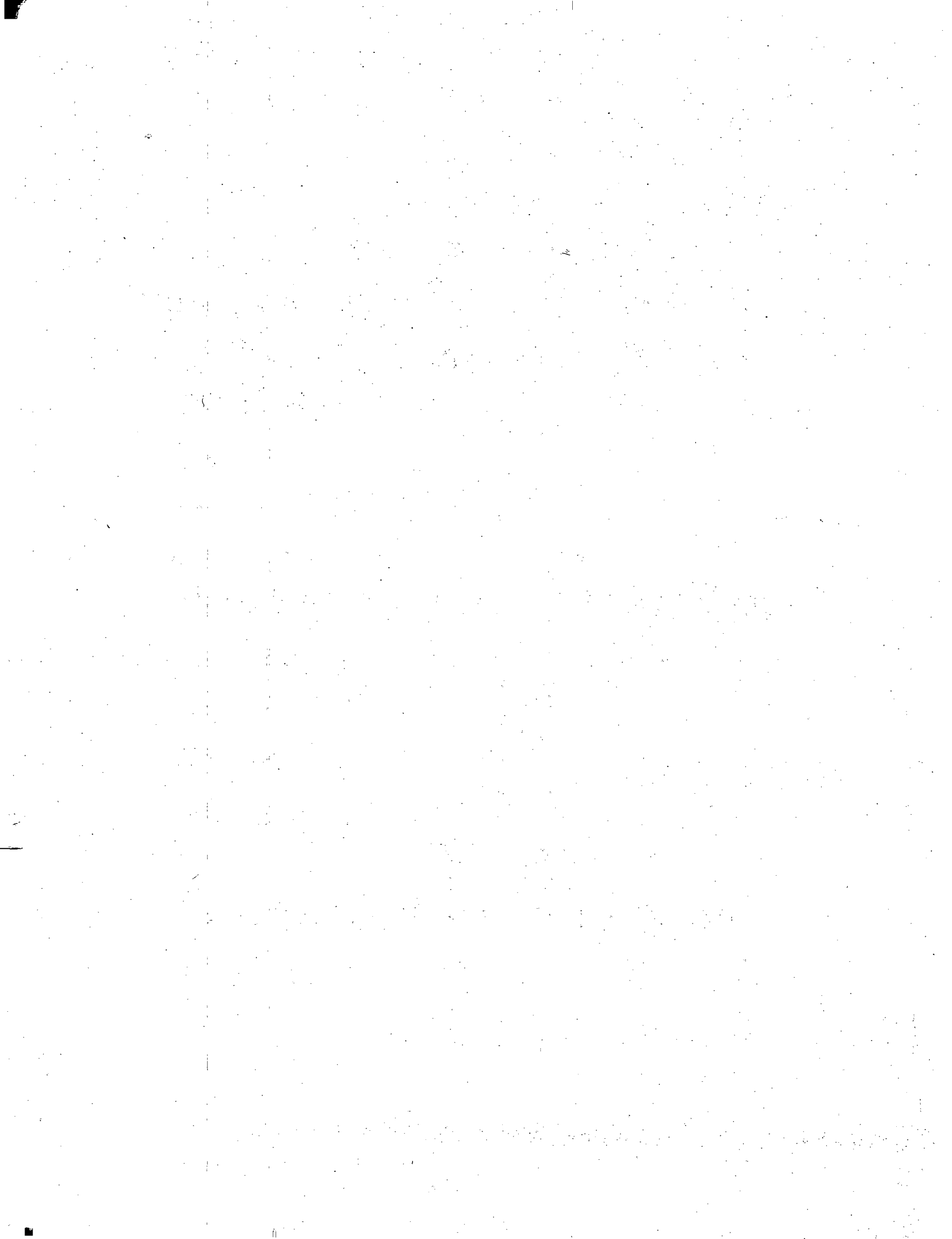
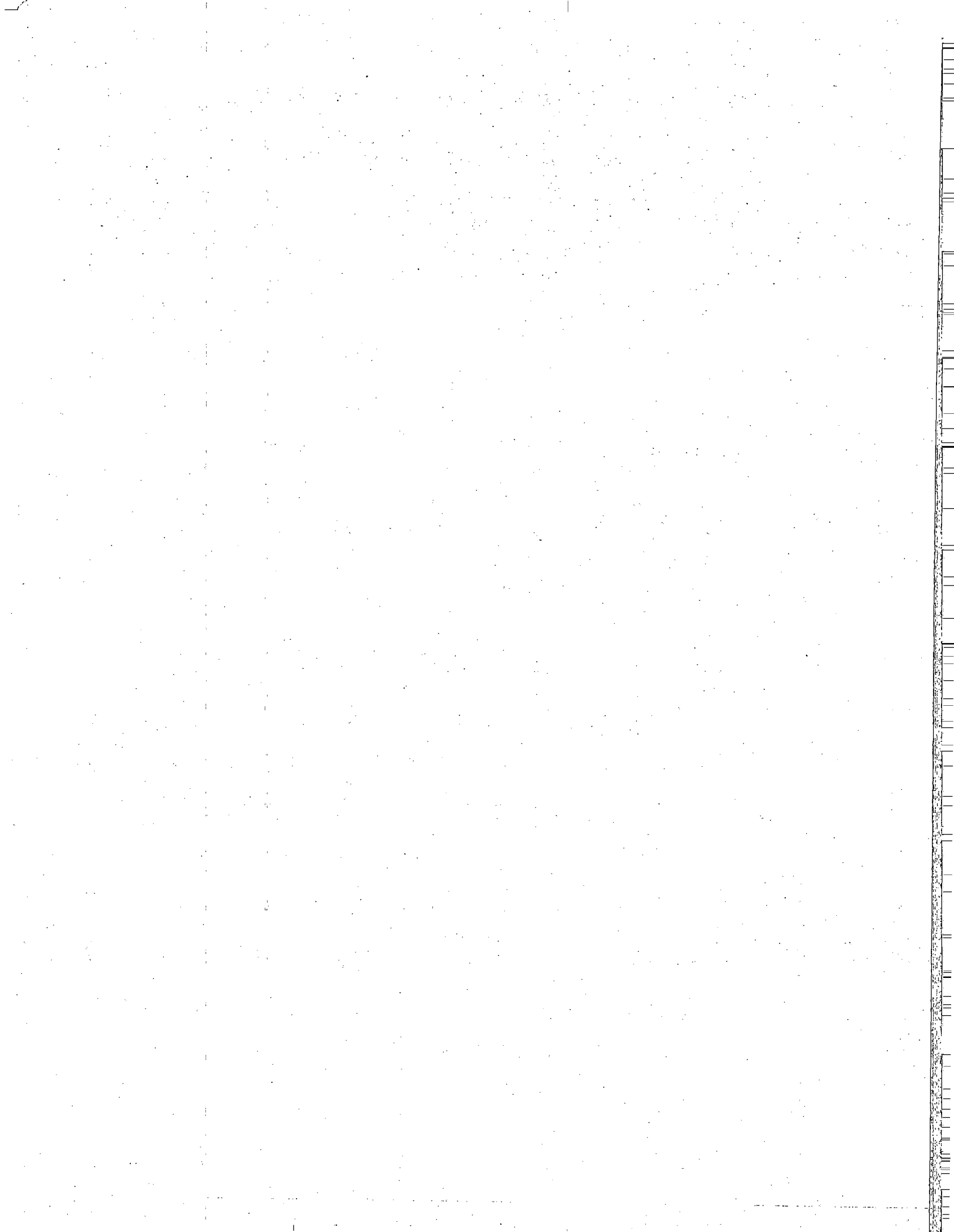


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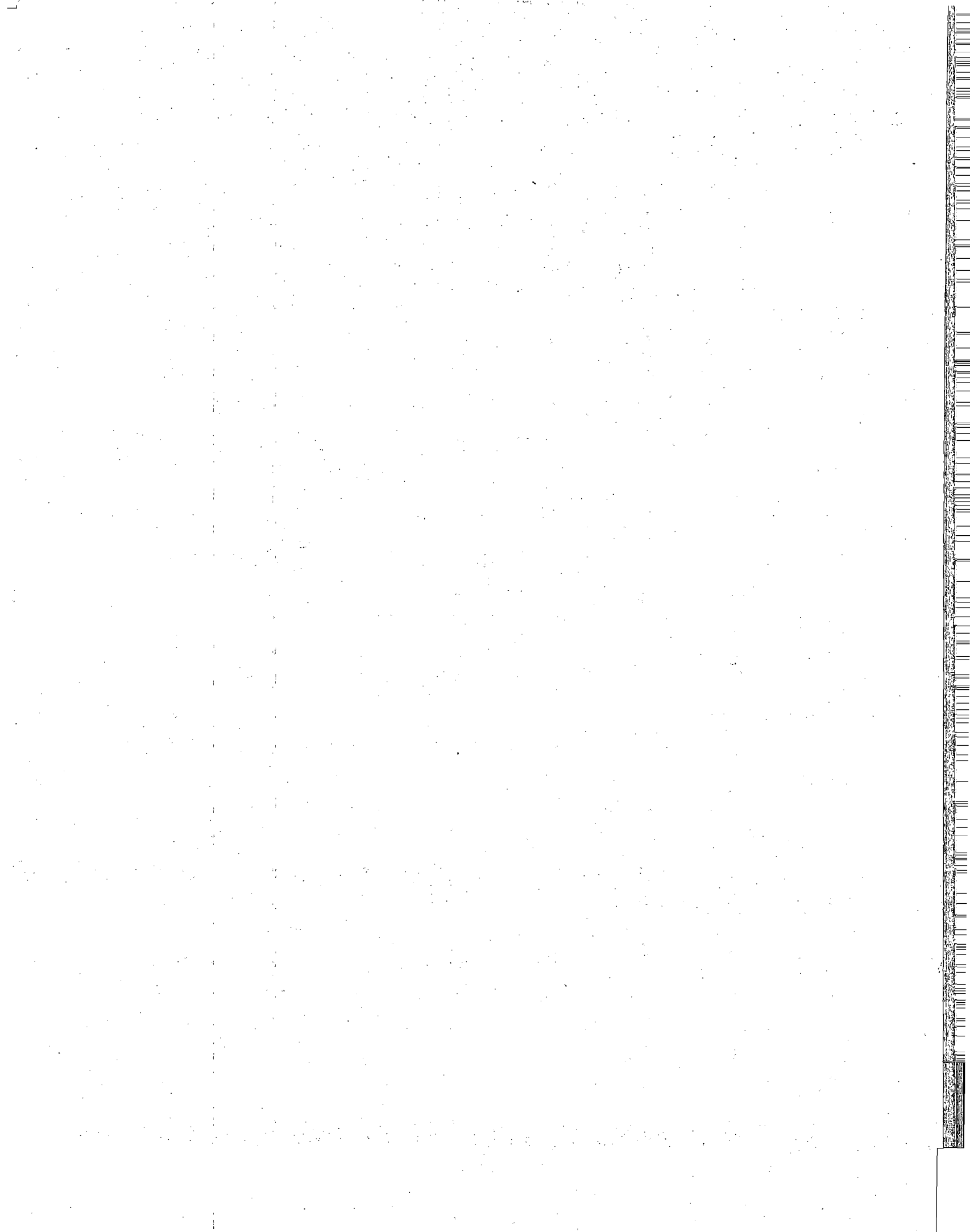


PREFACE

This report for the year ended 31 March 2006, 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 & Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising taxes on sales, trade, State excise, taxes on vehicles, land revenue, other tax receipts, mineral concession, fees and royalties and other non tax receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2005-06 as well as those which came to notice in earlier years but could not be covered in previous reports.



OVERVIEW

The report contains 30 paragraphs including one review relating to assessment and collection of mining dues from major minerals involving Rs.253.10 crore. Some of the major findings are mentioned below:

I. General

Government raised a total revenue of Rs.5,281.44 crore in 2005-06, comprising tax revenue of Rs.4,051.91 crore and non tax revenue of Rs.1,229.53 crore. Government also received Rs.2,507.82 crore from Government of India as its share of net proceeds of divisible Union taxes and Rs.1,049.23 crore as grants in aid. Total receipts during the year were thus, Rs.8,838.49 crore. Taxes on sale, trade, etc. (Rs.2,089.20 crore) formed a major portion (51.56 *per cent*) of tax revenue and non ferrous mining and metallurgical industries (Rs.721.12 crore) accounted for 58.65 *per cent* of non tax revenue.

(Paragraph 1.1.1 to 1.1.3)

Arrears of revenue at the end of March 2006 as reported by major departments were Rs.3,940.65 crore.

(Paragraph 1.5)

Test check of records of sales tax, land revenue, State excise, motor vehicles tax, stamps and registration fee, other tax receipts, forest receipts and other non tax receipts conducted during the year 2005-06 revealed under assessment/ short levy/ loss of revenue amounting to Rs.387.79 crore in 3,360 cases. During the course of the year, the department accepted under assessment and other losses of Rs.87.45 crore in 1,071 cases pointed out in 2005-06 and earlier years.

(Paragraph 1.9)

II. Commercial Tax

Purchase tax of Rs.16.18 lakh was not levied.

(Paragraph 2.3.1)

Irregular exemption of tax of Rs.69.83 lakh for sale of goods not specified in eligibility certificate.

(Paragraph 2.4.2)

Incorrect exemption of turnover resulted in non levy of tax of Rs.50.80 lakh.

(Paragraph 2.7.1)

Incorrect grant of refund of tax of Rs.84.54 lakh.

(Paragraph 2.9)

Incorrect deduction of credit notes from turnover resulted in short levy of tax of Rs.16.65 lakh.

(Paragraph 2.10)

Non recovery of professional tax of Rs.52.70 lakh.

(Paragraph 2.13)

Entry tax of Rs.41.39 lakh was short realised.

(Paragraph 2.14)

III. State Excise

Production of alcohol from molasses not in consonance with sugar contents resulted in short levy of penalty of Rs.51.31 lakh.

(Paragraph 3.2)

Process expenses of Rs.12.37 lakh was not demanded.

(Paragraph 3.4)

Penalty of Rs.2.40 crore on failure to maintain minimum stock of spirit was not levied.

(Paragraph 3.5)

Recovery of excise duty of Rs.97.64 lakh for balance stock handed over to new licensees was not made.

(Paragraph 3.6)

IV. Taxes on vehicles

Vehicle tax including penalty of Rs.2.11 crore in respect of different kind of vehicles was not recovered.

(Paragraph 4.2)

V. Other Tax Receipts

Stamp Duty and Registration Fee

Incorrect determination of market value of instruments resulted in short realisation of stamp duty and registration fee of Rs.13.26 lakh.

(Paragraph 5.3)

Inordinate delay in determination of market value of properties resulted in blockage of revenue of Rs.16.43 lakh.

(Paragraph 5.4)

VI. Forest Receipt

Loss of interest of Rs.10.35 crore due to non deposit of NPV in fixed deposits.

(Paragraph 6.2.2)

Shortfall in production in timber and fuel wood resulted in loss of revenue of Rs.99.49 lakh.

(Paragraph 6.3)

VII. Electrical & Safety

Development cess of Rs.46.56 lakh was not realised from producers of electrical energy.

(Paragraph 7.2)

Non inspection of electric installations resulted in loss of Rs.82.96 lakh.

(Paragraph 7.3)

VIII. Mining Receipts

Royalty of Rs.15.12 crore was realised short.

(Paragraph 8.2.7)

Incorrect gradation of coal resulted in loss of revenue of Rs.209.93 crore.

(Paragraph 8.2.9)

Cost of mineral of Rs.23.11 lakh due to unauthorised extraction of mineral was not realised.

(Paragraph 8.2.11)

Due to incorrect calculation of average royalty, stamp duty and registration fee of Rs.1.49 crore was realised short.

(Paragraph 8.2.15)

CHAPTER-I-GENERAL**REVENUE RECEIPTS****1.1 Trend of revenue receipts**

The tax and non tax revenue raised by Government of Chhattisgarh during the year 2005-06, the State's share of divisible Union taxes and grants in aid received from Government of India during the year and the corresponding figures for the preceding four years are given below:

(In crore of rupees)

Sl. No.	Particulars	2001-02	2002-03	2003-04	2004-05	2005-06
I.	Revenue raised by the State Government					
•	Tax revenue	1,993.13	2,327.44	2,588.25	3,227.80	4,051.91
•	Non tax revenue	722.38	956.56	1,124.41	1,243.93	1,229.53
	Total	2715.51	3,284.00	3,712.66	4,471.73	5,281.44
II	Receipts from Government of India					
•	State's share of divisible Union taxes	1,175.80	1,349.90	1,569.70	1,876.29	2,507.82 ^e
•	Grants in aid	484.39	783.40	676.96	900.85	1,049.23
	Total	1,660.19	2,133.30	2,246.66	2,777.14	3,557.05
III	Total receipts of the state (I+II)	4,375.70	5,417.30	5,959.32	7,248.87	8,838.49
IV	Percentage of I to III	62	61	62	62	60

^e for details please see "Statement No.11- Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of Government of Chhattisgarh for the year 2005-06. Figures under the head "0020-corporation tax, 0021-taxes on income other than corporation tax, 0028- other taxes on income and expenditure, 0032-wealth tax, 0037-customs, 0038-Union excise duties, 0044- service tax, 0045-other taxes and duties on commodities and services" - share of net proceeds assigned to state booked in the Finance accounts under tax revenue have been excluded from revenue by the State and included in states share of divisible Union taxes in this statement.

1.1.1 The details of tax revenue raised during the year 2005-06 alongwith the figures for the preceding four years are given below:

(In crore of rupees)

Sl. No	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) or decrease (-) in 2005-06 over 2004-05
1.	◦ Commercial tax	563.91	768.08	989.23	1,347.17	1,602.85	(+)18.98
	◦ Central sales tax	376.19	334.35	309.39	326.69	486.35	(+)48.87
2.	State excise	313.61	361.73	402.35	458.27	634.50	(+)38.46
3.	Stamp duty and registration fees	121.35	148.10	170.87	247.77	312.80	(+)26.25
4.	Taxes and duties on electricity	226.06	244.33	268.36	308.92	362.31	(+)17.28
5.	Taxes on vehicles	124.88	157.81	167.07	191.79	205.97	(+)7.39
6.	Taxes on goods and passengers	196.27	251.55	230.08	287.13	395.33	(+)37.68
7.	Other taxes on income and expenditure: taxes on professions, trades, callings and employments including hotel receipts tax	47.62	42.41	42.96	27.13	20.65	(+)2.43
8.	Other taxes and duties on commodities and services	6.67	6.52	4.13	4.25	4.26	(+)0.24
9.	Land revenue	16.57	12.56	3.81	28.68	26.89	(-)6.24
	Total	1,993.13	2,327.44	2,588.25	3,227.80	4,051.91	(+)25.53

Commercial tax : The increase was attributed to increase in price of various commodities.

State excise: The increase was due to increase in number of applications and deposit of revenue pertaining to previous year.

Stamp duty and registration fee: The increase was due to increase in market value of immovable properties and increase in registration of number of documents. In addition some lease documents of high money value were also registered during 2005-06.

1.1.2 The details of non tax revenue raised during the year 2005-06 alongwith the figures for the preceding four years are given below:

(In crore of rupees)

Sl. No.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+) or decrease (-) in 2005-06 over 2004-05
1.	Interest receipts	49.12	95.65	122.46	101.26	97.67	(-) 3.55
2.	Other non tax receipts	48.42	77.26	86.38	69.23	106.41	(+) 53.71
3.	Forestry and wild life	98.19	105.84	140.94	159.85	203.17	(+) 27.10
4.	Non ferrous mining and metallurgical industries	454.04	538.14	629.68	679.83	721.12	(+) 6.07
5.	Miscellaneous general services (including lottery receipts)	6.04	1.99	67.47	37.45	14.91	(-) 60.19
6.	Power	NA	NA	NA	100.00	0.00	(-) 100.00
7.	Major and medium irrigation	38.20	53.73	44.85	67.26	38.98	(-) 42.05
8.	Medical and public health	3.28	2.40	2.43	3.21	3.07	(-) 4.36
9.	Co-operation	3.58	3.99	4.14	4.17	5.82	(+) 39.57
10.	Public works	6.95	10.03	8.56	5.63	13.94	(+) 147.60
11.	Police	2.70	2.59	6.80	3.74	10.21	(+) 172.99
12.	Other administrative services	11.86	64.94	10.70	12.30	14.23	(+) 15.69
	Total	722.38	956.56	1,124.41	1,243.93	1,229.53	(-)1.16

The reasons for variations in receipts from that of previous year, though called for from the concerned departments have not been received (October 2006).

1.2 Variation between budget estimates and actuals

The variation between budget estimates and actuals of revenue receipts for the year 2005-06 in respect of principal heads of tax and non tax revenue are given below:

(In crore of rupees)

Sl. No.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage variation
A.	Tax revenue				
1.	Taxes on sales, trade etc.	1,745.81	2,089.20	(+) 343.39	(+) 19.67
2.	State excise	525.00	634.50	(+) 109.50	(+) 20.86
3.	Taxes and duties on electricity	325.96	362.31	(+) 36.35	(+) 11.15
4.	Taxes on goods and passengers	326.33	395.33	(+) 69.00	(+) 21.14
5.	Taxes on vehicles	203.02	205.97	(+) 2.95	(+) 1.45
6.	Stamp duty and registration fees	225.01	312.80	(+) 87.79	(+) 39.02
7.	Land revenue	8.19	26.89	(+) 18.70	(+) 228.33
8.	Other taxes and duties on commodities and services	4.69	4.26	(-) 0.43	(-) 9.17
9.	Other taxes on income and expenditure	49.95	19.85	(-) 30.10	(-) 60.26
10.	Hotel receipts tax	0.75	0.57	(-) 0.18	(-) 24.00
	Total	3,414.71	4,051.68	(+) 636.97	(+) 18.65
B.	Non tax revenue				
1.	Forestry & wildlife	137.17	203.17	(+) 66.00	(+) 48.12
2.	Non ferrous mining and metallurgical industries	700.00	721.12	(+) 21.12	(+) 3.02
3.	Interest receipts	96.24	97.67	(+) 1.43	(+) 1.48
4.	Major and minor irrigation	45.14	32.90	(-) 12.24	(-) 27.12
5.	Water supply and sanitation	2.17	1.53	(-) 0.64	(-) 29.49
6.	Police	6.00	10.21	(+) 4.21	(+) 70.16
7.	Public work department	15.98	13.94	(-) 2.04	(-) 12.77
8.	Other administrative services	23.76	14.23	(-) 9.53	(-) 40.11
9.	Medical and public health	5.21	3.07	(-) 2.14	(-) 41.07
10.	Others (jail)	1.56	0.90	(-) 0.66	(-) 42.31
	Total	1,033.23	1,098.74	(+) 65.51	(+) 6.34

The reasons for variation between budget estimates and actual of revenue receipts, though called for have not been received (October 2006).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2003-04, 2004-05 and 2005-06 alongwith the relevant all India average percentage of expenditure on collection for 2004-05 were as follows:

(In crore of rupees)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2004-05
1.	Taxes on sales, trade etc.	2003-04	1,298.62	15.90	1.22	0.95
		2004-05	1,673.86	11.95	0.71	
		2005-06	2,089.20	12.61	0.60	
2.	Taxes on vehicles	2003-04	167.07	4.18	2.50	2.74
		2004-05	191.79	4.50	2.34	
		2005-06	205.97	3.81	1.85	
3.	State excise	2003-04	402.35	19.12	4.75	3.34
		2004-05	458.27	18.51	4.04	
		2005-06	634.50	23.55	3.71	
4.	Stamp duty & registration fee	2003-04	170.87	2.60	1.52	3.44
		2004-05	247.77	5.94	2.40	
		2005-06	312.80	8.61	2.75	

It may be seen from the above that the percentage of expenditure of gross collection of State excise was higher than the All India percentage over the last three years.

1.4 Collection of commercial tax per assessee

(In crore of rupees)

Year	No. of assessecs	Commercial tax revenue	Revenue/assessee
2001-02	42,581	940.10	0.022
2002-03	44,644	1,102.43	0.025
2003-04	48,233	1,298.62	0.027
2004-05	51,523	1,673.86	0.032
2005-06	54,278	2,089.20	0.038

1.5 Arrears of revenue

The arrears of revenue as on 31 March 2006 in respect of some principal heads of revenue amounted to Rs.3,940.65 crore of which Rs.2,658.49 crore were outstanding for more than five years as detailed in the following table:

(In crore of rupees)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2006	Amount outstanding for more than 5 years as on 31 March 2006	Remarks
1.	Taxes on sales, trade etc.	3,897.24	2,650.98	Out of Rs.3,897.24 crore, demand for Rs.130.43 crore has been certified for recovery as arrears of revenue. Recovery of Rs.15.99 crore has been stayed by courts. Amount of Rs.32.64 crore was held up due to dealers/ parties becoming insolvent. Specific action taken in respect of the remaining arrears was not intimated.
2.	Taxes on vehicles	3.80	2.35	Out of Rs.3.80 crore, Rs.0.72 crore has been recovered. Department intimated that demand notices have been issued for recovery of remaining amount.
3.	State excise	19.85	4.66	Out of Rs.19.85 crore, recovery of Rs.4.26 crore had been stayed by court, amount of Rs.5.07 crore was held up due to party becoming insolvent, amount of Rs.0.22 crore was likely to be written off. Specific action taken in respect of arrears of Rs.10.30 crore was not intimated.
4.	Stamp duty and registration fees	2.86	0.27	Out of Rs.2.86 crore, Rs.0.11 crore has been recovered. It was intimated by the department that necessary action for recovery of balance revenue was being taken.
5.	Taxes and duties on electricity	16.90	0.23	As intimated by the department the detailed position of recovery of arrears was not available and it would be collected from the divisions.
	Total	3,940.65	2,658.49	

It is recommended that effective steps may be taken for collection of arrears outstanding for more than five years to augment Government revenue.

1.6 Arrears in assessment

The details of cases pending assessment at the beginning of the year 2005-06, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year are given below:

Name of tax	Opening balance (2005-06)	Addition during the year	Total number of assessment cases	Cases disposed of	Balance at the end of the year	Percentage of column 5 to 4
1.	2.	3.	4.	5.	6.	7.
Commercial tax	37,320	81,210	1,18,530	68,780	49,750	58.03
Professional tax	15,652	23,540	39,192	27,069	12,123	69.67
Entry tax	16,681	43,766	60,447	37,391	23,056	61.86
Luxury tax	87	166	253	167	86	66.01
Total	69,740	1,48,682	2,18,422	1,33,407	85,015	61.08

1.7 Evasion of tax

The details of cases of evasion of tax detected by the Commercial Tax and State Excise departments, cases finalised and the demands for additional tax raised as reported by the departments are given below:

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2005	Cases detected during 2005-06	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 2006
					No. of cases	Amount of demand (in lakh of rupees)	
1.	Commercial tax	22	24	46	28	355.42	18
2.	State excise	17	2	19	2	2.86	17

1.8 Refunds

The number of refund cases pending at the beginning of the year 2005-06, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2005-06, as reported by the departments are given below:

(In crore of rupees)

Sl. No.		Commercial tax		State excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	224	1.01	16	0.42
2.	Claims received during the year	3,588	20.50	32	0.60
3.	Refunds made during the year	3,515	19.05	29	0.50
4.	Balance outstanding at the end of the year	297	2.46	19	0.52

1.9 Results of audit

Test check of records of commercial tax, land revenue, State excise, motor vehicle tax, stamps and registration fees, electricity duty, other tax receipts, forest receipts and other non tax receipts conducted during the year 2005-06 revealed under assessment/ short levy/ loss of revenue amounting to Rs.387.79 crore in 3,360 cases. The departments accepted under assessment of Rs.87.45 crore in 1,071 cases pointed out in 2005-06. No replies have been received in respect of remaining cases.

This report contains 30 paragraphs including one review relating to non/ short levy of taxes, duties, interest and penalties etc. involving Rs.253.10 crore. The departments accepted audit observations involving Rs.2.22 crore and recovered Rs.0.47 crore upto October 2006. No reply has been received in the other cases.

1.10 Response of the departments to draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the report of the Comptroller and Auditor General of India are forwarded by the audit office to the heads of the departments concerned, drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non receipt of replies from departments is invariably indicated at the end of each such paragraph included in the Audit Report.

30 draft paragraphs including one review included in this report were sent to secretaries of the respective departments by name between March and August 2006. However, no replies were received despite issue of reminders. These paragraphs have been included in the report without the response of the secretaries of the department (October 2006).

1.11 Position of recovery of accepted cases

During the years between 2001-02 and 2005-06 the department/ Government accepted audit observations involving Rs.20.35 crore of which only an amount of Rs.0.72 crore was recovered upto 31 March 2006 as detailed below:

(In crore of rupees)

Sl. No.	Year of audit report	Total money value	Amount accepted	Recovery made upto March 2006
1.	2001-02	21.19	3.00	0.07
2.	2002-03	11.04	1.65	0.03
3	2003-04	46.72	12.40	0.15
4	2004-05	60.98	1.05	--
5	2005-06	253.10	2.22	0.47 ^p
Total		393.03	20.32	0.72

^p Rs.0.47 crore recovered upto October 2006.

CHAPTER-II - COMMERCIAL TAX

2.1 Result of audit

Test check of assessment cases and other records relating to Commercial Tax Department during the year 2005-06 revealed under assessment, non/ short levy of tax, interest, penalty, application of incorrect rate of tax etc. involving Rs.19.70 crore in 263 cases which can broadly be categorised as under:-

(In crore of rupees)

Sl. No.	Category	Number of cases	Amount
1.	Non/ short levy of tax	122	3.74
2.	Application of incorrect rate of tax	18	0.78
3.	Incorrect determination of taxable turnover	07	0.45
4.	Incorrect grant of exemption/ deduction/ set off	21	2.55
5.	Others	95	12.18
	Total	263	19.70

During the year 2005-06, the department accepted under assessment of Rs.0.32 crore in two cases.

A few illustrative cases involving Rs.4.29 crore are mentioned in the succeeding paragraphs:

2.2 Application of incorrect rate of tax

As per Central Sales Tax Act (CST Act), 1956, every registered dealer who in the course of inter state trade or commerce sells goods to a registered dealer, shall be liable to pay tax at the rate of four *per cent* subject to production of declaration in form C. Otherwise, tax shall be calculated at the rate of eight *per cent* in case of declared goods and at the rate of 10 *per cent* or at the rate applicable to sale of such goods inside the appropriate State whichever is higher.

Test check of records of the regional offices (RO), Bilaspur and Korba revealed that two dealers sold coal and machinery parts amounting to Rs.8.20 crore during the years 1997-98 and 2000-01 in course of inter State trade or commerce and paid tax of Rs.32.74 lakh at the rate of four *per cent* on the strength of declaration forms issued by the purchasing dealers. The assessing authority (AA) accepted the same and assessed the dealers between March 2003 and September 2004. Scrutiny of records, however, revealed that the purchasing dealers were not registered under the CST Act during the period of transaction. The entire turnover of both the dealers was, thus, covered by invalid declaration forms and was liable to tax at the prescribed rate. This resulted in short levy of tax of Rs.34.15 lakh.

The matter was reported to Commissioner and Government between July 2005 and February 2006; their reply had not been received (October 2006).

2.3 Non levy of purchase tax

Chhattisgarh Commercial Tax Act, 1994 (CGCT Act) and rules/notifications issued thereunder, provide for levy of purchase tax on purchase of raw material, incidental goods purchased without payment of tax for consumption or use in the manufacture of goods. It was judicially held[¶] by M.P. Board of Revenue, that exemption from sales tax will not exempt the goods from levy of purchase tax.

2.3.1 Test check of records of RO, Durg revealed that in case of two manufacturers assessed in December 2003 and February 2004 for the period 1999-2000 and 2000-01, raw material amounting to Rs.4.05 crore was purchased from registered dealers without payment of tax for use in manufacture of MS pipe and machinery parts. Purchase tax of Rs.16.18 lakh leviable on raw materials was not levied.

After this was pointed out in December 2005, the AA replied in one case that raw material was purchased from exempted unit, therefore, purchase tax was not leviable. The reply was not tenable as sales tax and purchase tax are two different types of taxes and exemption from sales tax does not exempt the goods from levy of purchase tax as per judicial pronouncement *ibid*. Reply in other case was awaited (October 2006).

[¶] *Govind Prasad Agrawal v. STO (1997) 30 VKN 13 (MP) and Hindustan Steel Ltd. v. CST (1996) 29 VKN 267 (MP)*

The matter was reported to commissioner and Government in April 2006; their reply had not been received (October 2006).

2.3.2 Test check of records of RO, Raigarh revealed in November 2005 that in the case of a dealer assessed in November 2002 for the period from April 1999 to March 2000, purchase tax leviable on rice bran valued at Rs.4.55 crore bought from unregistered dealers and consumed in production upto December 1999, was not levied. This resulted in non levy of purchase tax of Rs.20.94 lakh.

After this was pointed out, the AA stated in November 2005 that rice bran was tax free. Reply was not tenable as bran was made tax free only with effect from 1 January 2000 and purchase tax was thus leviable.

The matter was reported to the department and Government between January 2006 and May 2006; their reply had not been received (October 2006).

2.4 Incorrect exemption from payment of tax

2.4.1 As per Exemption Scheme 1986 and 1994, tax exemption exceeding Rs.5 lakh in a year is available to a dealer provided a certificate of chartered accountant showing production in the unit is produced before the AA.

Test check of records of RO, Durg and circle office Korba revealed that in case of three dealers assessed between May 2003 to January 2004 for the period 1990-91 and 2000-2001, tax exemption of Rs.59.93 lakh was allowed to the dealers without production of certificate of chartered accountant as required. This led to incorrect grant of tax exemption of Rs.59.93 lakh.

After this was pointed out between May 2005 and December 2005 the AA replied in one case that exemption was correctly allowed as per eligibility certificate. The reply was not tenable as it was not in accordance with the terms and conditions of the exemption scheme. Reply in other cases was awaited (October 2006).

The matter was reported to commissioner and Government in July 2005 and January 2006; their reply had not been received (October 2006).

2.4.2 Under Madhya Pradesh General Sales Tax Act (MPGST), 1958 and notifications issued thereunder (as adopted), an industrial unit is entitled for exemption from payment of tax on manufactured products specified in the eligibility certificate issued under tax exemption scheme.

Test check of records of RO, Bilaspur and Durg revealed that in case of two dealers assessed between October 2002 and May 2003 for the period from April 1999 to March 2001 sale of manufactured products*, aggregating to Rs.10.63 crore was exempted from payment of tax though these products were not specified in their eligibility certificates. This resulted in irregular exemption of tax of Rs.69.83 lakh.

After this was pointed out AA, Durg stated in one case that exemption was correctly allowed in terms of eligibility certificate as amended in July 2002 and

* Ferro manganese, Soyabean/ Mahua oil, Soyabean/ Mahua deoiled cake

remand order passed in October 2003. Reply of the AA, Durg was not tenable as the amendment of eligibility certificate and remand order were passed in July 2002 and October 2003 respectively whereas the transactions pertained to the years 1999-2000 and 2000-01. Reply of AA Bilaspur is awaited (October 2006).

The matter was reported to commissioner and Government between July 2005 and January 2006; their reply had not been received (October 2006).

2.4.3 Under MPGST Act (as adopted) and CGCT Act and notifications issued thereunder, a new industrial unit holding eligibility certificate duly issued by the Industry Department shall be entitled for exemption from payment of tax, if, commercial production of the unit commenced on or after 6 May 1994. Thus, new industrial unit which commenced commercial production before the above prescribed date shall not be eligible for exemption from payment of tax.

Test check of records of RO, Raipur revealed in December 2005 that an industrial unit holding eligibility certificate disclosed turnover of Rs.1.41 crore for the period from 1999 to 2000 and claimed exemption on the entire turnover under exemption scheme 1994. The AA allowed the exemption and assessed the dealer accordingly in November 2002. Further scrutiny, however, revealed that the unit actually started commercial production on 19 March 1994 which was prior to the date prescribed in the scheme. Exemption of tax of Rs.6.62 lakh allowed in this case was, thus, inadmissible.

After this was pointed out, the AA stated that eligibility certificate is binding on the AA in view of various court judgments. The reply is not tenable as the AA failed to take up the matter with Industries Department when it was apparent from records that exemption granted in the eligibility certificate was irregular.

The matter was reported to the department and Government in January 2006 and May 2006; their reply had not been received (October 2006).

2.5 Short levy of tax

2.5.1 As per CGCT Act read with Rules made thereunder, sale of goods enlisted in schedule II of the Act by a registered dealer to another registered dealer for use by him in the manufacture or processing of goods for sale is taxable at concessional rate of four *per cent* subject to the production of declaration as specified.

Test check of records of RO, Bilaspur and Korba revealed between May and June 2005 that in case of two dealers assessed in January 2003 and September 2003 for the period between April 1999 and March 2001, sale of lime and timber amounting to Rs.1.47 crore was not supported by prescribed declaration forms. Tax on such sale was however, incorrectly levied at concessional rate of four *per cent* against tax leviable at the rate prescribed. This resulted in short levy of tax Rs.9.48 lakh.

After this was pointed out the AA, Korba replied in one case that tax on lime was four *per cent* and declaration was not required. The reply was not tenable as sale

of lime without declaration form was taxable at the rate prescribed including surcharge. Reply from AA, Bilaspur is awaited (October 2006).

The matter was reported to commissioner and Government in July 2005; their reply had not been received (October 2006).

2.5.2 As per notification dated 4 December 1997, goods manufactured by a registered dealer in his new industrial unit in respect of which he holds an eligibility certificate are exempted from payment of tax provided sale thereof is supported by declaration as prescribed in the notification.

Test check of records of RO, Durg revealed in August 2005 that in case of a dealer assessed in September 2003 for the year 2000-01 exemption from payment of tax was allowed on sale of coal of Rs.83.12 lakh, though the sale was not supported by prescribed declaration. This resulted in short levy of tax of Rs.6.44 lakh.

The matter was reported to the commissioner and Government in January 2006; their reply had not been received (September 2006).

2.6 Incorrect deduction of turnover

Under CGCT Act and rules made thereunder, taxable turnover is determined after allowing admissible deductions. Every dealer is required to maintain a correct account of his transactions and pay tax accordingly. Further, it was judicially held by Madras High Court[#] in July 1973 that discount paid at the end of the year cannot be termed as cash discount.

Test check of records of RO, Bilaspur in May 2005 revealed that a dealer disclosed taxable turnover of Rs.41.44 crore for the period between April 2002 and March 2003. Of this, the dealer claimed exemption of Rs.51.76 lakh (including tax) on account of discount given to the purchaser at the end of the year as cash discount. The AA accepted the same and assessed the dealer accordingly in October 2003. Since discount allowed at the end of the year cannot be termed as cash discount as per judicial pronouncement referred to above, exemption allowed was irregular and resulted in short levy of tax of Rs.5.55 lakh.

The matter was reported to the department and Government between July 2005 and May 2006; their reply had not been received (October 2006).

2.7 Non realisation of tax as taxable goods were treated as tax free

2.7.1 CGCT Act and notifications issued thereunder specify the rates of commercial tax on sale of different commodities. Tax on rice bran, being non specified item was leviable at the rate of 9.2 per cent including surcharge upto 31 December 1999. Rice bran was however, exempted with effect from 1 January 2000.

Test check of records of two ROs, Raipur and Raigarh revealed in November and December 2005 that 58 dealers sold rice bran (*kanda*) valued at Rs.5.52 crore

[#] *M/S India Piston Ltd. V/s State of Tamil Nadu- (1974) 33 STC 472 (MAD)*

during the period from April 1999 to December 1999 and claimed exemption on the entire turnover. The AA allowed the same and assessed the dealers accordingly between April 2002 and March 2003. This resulted in non realisation of tax of Rs.50.80 lakh.

After this was pointed out, both the AAs stated in December 2005 that rice bran is tax free. The reply was not tenable as rice bran was made tax free with effect from 1 January 2000 only and not from earlier date.

The matter was reported to the department and Government between January 2006 and May 2006; their reply had not been received (October 2006).

2.7.2 As per provision of CGCT Act read with CST Act, tax on sale of deoiled rice bran as cattle feed was leviable at the rate of two *per cent* between April 1999 and December 1999 and four *per cent* between January 2000 and March 2000.

Test check of records of RO, Raipur in December 2005 revealed that a dealer sold deoiled rice bran valued at Rs.3.51 crore during the period between April 1999 and March 2000 and claimed exemption on the aforesaid sales. The AA also accepted the same and assessed the dealer in October 2002 which was irregular. This resulted in non realisation of tax of Rs.9.82 lakh.

After this was pointed out, the AA stated in December 2005 that rice bran and deoiled rice bran are the same commodities and it is tax free. The reply was not tenable as the Act provides that deoiled rice bran is taxable as cattle feed.

The matter was reported to the department and Government in January 2006 and April 2006; their reply had not been received (October 2006).

2.8 Incorrect deduction of turnover on account of tax paid goods

As per CGCT Act, tax paid goods means any goods specified in Schedule-II which have been purchased by a dealer from a registered dealer inside the State.

Test check of records of Circle Office (III) Durg revealed in January 2006 that in case of a dealer assessed in February 2004, for the period between April 2000 and March 2001 exemption of tax was incorrectly allowed on sale of liquefied petroleum gas (LPG) valued at Rs.65.99 lakh purchased from Madhya Pradesh State after 1 November 2000 i.e. after formation of Chhattisgarh State. This resulted in short levy of tax of Rs.9.11 lakh.

The matter was reported to the department and Government between April 2006 and May 2006; their reply had not been received (October 2006).

2.9 Incorrect grant of refund/ non forfeiture of excess collected tax

Under CGCT Act, and Rules made thereunder, any amount collected by any person by way of tax or in any other manner not payable under provisions of this Act, shall be liable to forfeiture to State Government. Further, it was judicially held by the Hon'ble Supreme Court^Y that only the person who ultimately bore the

^Y *State of Madhya Pradesh v/s Vyankat Lal and others (1987) 20, VKN-53*

liability to pay tax is entitled to claim refund thereof. Allowing refund to a dealer or middleman who had only passed on the burden to other would amount to unjust benefit.

Test check of records of AAs, Bilaspur, Durg and Korba between May and December 2005 revealed that in case of four dealers assessed between May 2002 and February 2004 for the years 1999-2000 and 2000-01, excess tax of Rs.84.54 lakh was collected and deposited with Government. Instead of forfeiting the excess tax collected as per provision of the Act, the AAs while finalising the assessments refunded the same to the dealers. This resulted in non forfeiture of tax of Rs.84.54 lakh.

After this was pointed out, AAs Durg and Korba stated between June and December 2005 that the tax collected by dealers was passed on to the purchasers by dealers through credit notes. The reply was not tenable as refund of tax was admissible to the purchasers from whom it was wrongly collected. Thus, refund of excess tax to the dealer was against the spirit of the Act and Apex Court's directions cited above. In other two cases, AA Bilaspur stated in May 2005 that out of refund of Rs.6.19 lakh, an amount of Rs.3.39 lakh would be treated as Government subsidy as decided by the Board of Revenue¹. The reply was not tenable as the decision of the Board related to non levy of penalty for excess collection of tax and was, thus, not applicable in the instant case. Forfeiture of excess collected tax was to be made under provision of Act referred above. No reply was received for non forfeiture of the balance amount.

The matter was reported to the department and Government in July 2005 and in May 2006; their reply had not been received (October 2006).

2.10 Incorrect deduction of credit notes

As per provision of CGCT Act, sale price means the amount payable to a dealer as valuable consideration for the sale of any goods less any sum allowed as cash discount. Tax due from a registered dealer shall be assessed separately for each year. It was judicially held² by the Board of Revenue that deduction for credit notes can be claimed in the year in which the related sales have been made.

Test check of records of RO, Korba revealed in June 2005 that in case of an iron and steel dealer assessed in December 2002 for the period 1999-2000, credit notes of Rs.3.62 crore issued to the customers during the year 1998-99 were irregularly claimed as deduction from the turnover. Since these credit notes related to the previous year, deduction of the same was incorrect resulting in short levy of tax of Rs.16.65 lakh³.

After this was pointed out, the AA stated that deduction was not made from gross sales. The reply was not tenable as the gross turnover was disclosed by the dealer

¹ *M/s Surana Traders Indore V/s Commissioner Sales Tax, Madhya Pradesh . (1991)24-VKN-715 dated 19.7.91.*

² *Western coal field V/s CST (1993)11 TLD 285 (MP Board)*

³ *Calculated at the rate of 4.6 per cent on Rs. 3.62 crore*

after deducting the amount of credit notes. Further reply is awaited (October 2006).

The matter was reported to the commissioner and Government in July 2005; their reply had not been received (October 2006).

2.11 Incorrect waiver of interest

Under provision of CGCT Act, if a dealer fails to deposit the amount of tax payable by him in time without sufficient cause, he shall be liable to pay interest at the rate of two *per cent* per month from the date the tax became payable to the date of its payment or to the date of order of assessment whichever is earlier.

Test check of records of the RO, Bilaspur revealed that a dealer deposited interest for delayed payment amounting to Rs.5.94 lakh alongwith payment of admitted tax for the year 1999-2000. Although no provision existed in the Act for waiver of interest, the AA waived the interest while finalising the assessment in February 2004. This resulted in irregular waiver of interest of Rs.5.94 lakh.

The matter was reported to commissioner and Government (July 2005); their reply had not been received (October 2006).

2.12 Non levy of penalty

As per provision of CGCT Act read with Rules made thereunder, every registered dealer shall issue bill, cash memo or invoice recording a statement by affixing a rubber stamp that goods sold are manufactured by industrial unit holding eligibility certificate/eligible for exemption and are exempt from payment of tax. In case of contravention of provisions relating to affixation of seal, the dealer shall be liable to penalty equal to two times the amount of tax payable on such goods.

Test check of records of RO, Durg and Circle Office, Korba revealed between June and December 2005 that in case of two dealers assessed in November 2003 and January 2004 for the period 2000-01, goods sold on bills/invoices were exempted from payment of tax being manufactured by industrial units holding eligibility certificates under exemption scheme, but the dealers did not record requisite statements by affixing rubber stamp on bills/invoices. For contravention of provision of the Act, the dealers were liable to pay minimum penalty of Rs.12.54 lakh equal to two times of the amount of tax of Rs.6.27 lakh for which no proceedings were initiated by the department.

The matter was reported to commissioner and Government in July 2005 and January 2006; their reply had not been received (October 2006).

2.13 Non recovery of professional tax

As per provision of Professional Tax Act 1995, every person who carries on a trade either himself or by an agent or representatives or who follows a profession or calling other than agriculture or who is in employment either wholly or in part in Chhattisgarh shall be liable to pay professional tax at the rate prescribed.

Cross verification of records of 17 commercial tax officers[◊] with the list of licensees of liquor, cinema houses, video and cable operators provided by the Excise Department for the years 2001-02 to 2005-06 revealed that 974 liquor licensees, 374 licensees of cinema houses, 421 video licensees and 1,479 licensees of cable operators were unregistered. As a result professional tax amounting to Rs.52.70 lakh remained unrealised[⊚].

The matter was reported to the commissioner and Government in May 2006. Reply has not been received (October 2006).

2.14 Short levy of entry tax due to under valuations of goods

As per Madhya Pradesh Entry Tax Act, 1976 (MPET Act) (as adopted), value of goods in relation to a dealer who has effected entry of goods into a local area shall mean the market value of such goods if they have been acquired or obtained otherwise than by way of purchase. The "market value" denotes the value of goods normally receivable on sale of such goods in the open market during the relevant period.

Test check of records of RO, Korba revealed in June 2005 that in case of a dealer assessed in December 2003 for the period 2000-01, the AA determined market value of 2.47 lakh MT bauxite at Rs.17.40 crore at the rate of Rs.703.90 per MT raised from own mines and levied entry tax accordingly. Cross verification of records however, revealed that during the aforesaid period market value of bauxite purchase by the dealer from market was Rs.871.30 MT. This resulted in under valuation of purchase value of bauxite amounting to Rs.4.14 crore at differential market rate of Rs.167.40 per MT with consequent short levy of entry tax of Rs.41.39 lakh.

After this was pointed out, the AA stated in June 2005 that the assessment and valuation of goods was done as per decision of the M.P. Board of Revenue delivered in 1987. The reply was not tenable, as market value was to be determined in relation to the dealer who effected entry of goods into local area and the decision of the board cited by the AA was not applicable in this case. Moreover, market value of bauxite at Rs.871.30 per MT i.e. price at which the dealer procured bauxite from within and outside the state during the same year was available in the case records of the dealer itself.

The matter was reported to the commissioner and Government (May 2006); their reply had not been received (October 2006).

2.15 Non levy of entry tax

Under MPET Act (as adopted) and notifications issued thereunder, entry tax is leviable on goods entering into local area for sale, use, or consumption as raw material or as incidental goods or as packing material at the rate specified in Schedule. Being a schedule III item, entry tax on rice bran consumed in the manufacturing process is leviable at the rate of one *per cent*.

[◊] CTO Raipur (5), CTO Durg (3), CTO Raigarh (1), CTO Bilaspur (2), CTO Korba (1), CTO Dhamtari (1), CTO Jagdalpur (1), Dantewara, Kankeer, CTO Ambikapur (1), CTO Mahasamund (1), CTO Korea (1), Jashpur

[⊚] Professional tax ranged between Rs.1,000 and Rs.2,500 per annum

Test check of records of the RO, Raigarh revealed in November 2005 that in case of a dealer assessed in November 2002 for the period April 1999 to December 1999, entry tax on rice bran though leviable was not levied. This resulted in non levy of entry tax of Rs.4.55 lakh on purchase value of Rs.4.55 crore of rice bran consumed in production.

After this was pointed out, the AA stated in November 2005 that rice bran is tax free as per Schedule-I of Commercial Tax Act. The reply was not tenable as bran was brought to the nontaxable category in Schedule-I with effect from 1 January 2000 only.

The matter was reported to the department and Government in January 2006 and May 2006; their reply had not been received (October 2006).

CHAPTER-III STATE EXCISE

3.1 Result of audit

Test check of records of State Excise conducted during 2005-06 revealed non assessment, under assessment, loss of revenue and non levy of penalty amounting to Rs.45.40 crore in 759 cases which can broadly be categorised as under:

(In crore of rupees)

Sl. No.	Category	Number of cases	Amount
1.	Non levy/ short levy of excise duty	122	1.49
2.	Loss of revenue due to low yield of alcohol	02	17.72
3.	Non levy/ recovery of duty on excess wastage	232	0.14
4.	Others	403	26.05
	Total	759	45.40

During the year 2005-06, the department accepted under assessment of tax of Rs.20.32 crore involved in 577 cases.

A few illustrative cases involving Rs.4.09 crore are mentioned in the succeeding paragraphs:

3.2 Production of alcohol from molasses not in consonance with sugar contents

Madhya Pradesh Distillery Rules, 1995 (as adopted by Chhattisgarh Government) prescribe that every quintal of fermentable sugar present in molasses should yield at least 91.8 proof litre (PL) of alcohol. The Rules further say that samples of molasses will be drawn at intervals by the distillery officer as prescribed by the Excise Commissioner and sent to the departmental laboratory for determining the fermentable sugar content. On the basis of the report furnished by the departmental laboratory, the distillery officer shall calculate the minimum yield of alcohol likely to be extracted. If production of alcohol is less than minimum expected quantity, Excise Commissioner may impose penalty at the rate of Rs.30 per PL for the quantity of alcohol extracted short.

Test check of records of a distillery in Bilaspur district revealed in October 2005 that a set of 19 samples was drawn in five batches during the period from 3 June 2004 to 29 November 2004 and tested in departmental laboratory. Based on the report, 16,987 quintal fermentable sugar was present in 40,250 quintal molasses used by distillery during this period. The distillery produced 13,88,462 PL alcohol against minimum yield of 15,59,498 PL of alcohol as per grade and sugar contents in the molasses. Thus, there was a shortfall in recovery of 1, 71,036 PL alcohol on which penalty of Rs.51.31 lakh at the rate prescribed was leviable but was not levied. This resulted in non levy of penalty of Rs.51.31 lakh.

After this was pointed out in October 2005, the District Excise Officer (Distillery) Bilaspur stated that facts will be intimated after necessary examination. Further reply was awaited (October 2006).

The matter was reported to Excise Commissioner and Government in December 2005; their reply had not been received (October 2006).

3.3 Non recovery of excise duty on excess wastage of country liquor in transportation

According to Chhattisgarh Country Spirit Rules, 1995, wastage of country liquor transported in sealed bottles from manufacturing warehouse to storage warehouses situated within the district is admissible at the rate of 0.1 *per cent*. Excise duty for wastage in excess of limit is to be recovered from the licensee.

Test check of records of Assistant Commissioner, Excise, Bilaspur and Janjgir-Champa revealed between February and September 2005 that 19,45,215 PL of country liquor was transported from manufacturing warehouse to storage warehouse within the district during the period from November 2002 to August 2005 of which 19,27,355 PL was acknowledged. Wastage of 17,859.5 PL was allowed against the permissible limit of 1,945.20 PL. Thus, there was excess wastage of 15,914.30 PL of country liquor for which excise duty of Rs.7.64 lakh was leviable, but was not levied. This resulted in non realisation of revenue of Rs.7.64 lakh.

After this was pointed out in February 2005, the Assistant Commissioner, Excise, Janjgir-Champa stated in May 2006 that notice for demand had been issued against distiller, while Assistant Commissioner of Excise, Bilaspur stated in May 2006 that recovery of Rs.2.42 lakh had been made in April 2006. Further reply was awaited (October 2006).

The matter was reported to the Excise Commissioner, Raipur and Government; their reply had not been received (October 2006).

3.4 Non raising of demand of process expenses

Madhya Pradesh Excise Act, 1915 provides that all dues to Government that have not been paid by the defaulters may be recovered as arrears of land revenue under Madhya Pradesh Land Revenue Code, 1959. Madhya Pradesh *Lokdhan (Shodhya Rashiyon ki Vasuli) Adhinyam 1987* (as adopted in Chhattisgarh) further provides that process expenses at the rate of three *per cent* of the principal amount of arrear shall be included in the demand notice to be issued to the defaulter in case of revenue recovery certificate.

Test check of records of District Excise Officer (DEO), Mahasamund revealed in December 2005 that in five cases demand of process expenses of Rs.12.37 lakh on principal amount of arrear of Rs.4.12 crore was not included in the relevant demand notice issued to the defaulter during the year 2003-04. This resulted in non raising of demand of process expenses of Rs.12.37 lakh.

After this was pointed out in December 2005, DEO stated that action for recovery of process expenses could not be taken due to absence of provisions in Excise Act. The reply was not tenable as *Madhya Pradesh Lokdhan Adhinyam* specifically provides for raising of demand of process expenses when the dues are recoverable as arrears of land revenue. Further reply was awaited (October 2006).

The matter was reported to the Excise Commissioner and Government in March 2006; their reply had not been received (October 2006).

3.5 Non levy of penalty on failure to maintain minimum stock of spirit

3.5.1 As per Madhya Pradesh Country Spirit Rules 1995 (as applicable to Chhattisgarh), the licensee is required to maintain at each 'manufacturing warehouse' a minimum stock of rectified spirit equivalent to average issue of seven days of preceding month. In the event of failure to maintain the minimum stock of rectified spirit at manufacturing warehouse, the collector may impose a penalty not exceeding Rs.2 per proof litre on the licensee for the quantity found short of the minimum prescribed stock. This penalty shall be payable by the licensee irrespective of the fact whether any loss has actually been caused to Government.

Test check of records of warehouse Parasada in district Bilaspur revealed in September 2005 that on 15 occasions, 11, 29,269 PL of spirit had been found short against prescribed minimum stock of spirit (78,007.8.PL per day) during the period from 18 June 2004 to 3 August 2005. During these days the minimum penalty was not levied for the quantity of stock found short. This resulted in loss of revenue of Rs.22.59 lakh.

After this was pointed out in September 2005, Assistant Commissioner Excise, Bilaspur stated that supply of liquor had not failed. The reply was not tenable as the prescribed minimum stock was required to be maintained at warehouse as per rules above.

The matter was reported to the Excise Commissioner and Government in December 2005; their reply had not been received (October 2006).

3.5.2 As per Madhya Pradesh Distillery Rules, 1995 (as applicable to Chhattisgarh) licensee shall maintain at distillery, the minimum stock of spirit as prescribed by the Excise Commissioner from time to time. In the event of failure, Excise Commissioner may impose a penalty not exceeding Rs.5 per PL on the quantity found short of the minimum prescribed stock. This penalty shall be payable irrespective of the fact whether any loss has actually been caused to Government.

Test check of records of two distilleries in Bilaspur and Durg district revealed in September 2005 and January 2006 that the distillers failed to maintain prescribed minimum stock of spirit at distillery by 43.43 lakh PL on 52 occasions during the period from 1 March 2005 to 31 December 2005. Penalty of Rs.2.17 crore was leviable but not levied.

After this was pointed out in September 2005 and January 2006, Assistant Commissioner Excise Bilaspur replied in July 2006 that the reports relating to short quantity of spirit from minimum prescribed quantity maintained at distillery have been sent to Excise Commissioner. Further reply was awaited (October 2006)

The matter was reported to Excise Commissioner and Government (December 2005); their reply has not been received (October 2006).

3.6 Non recovery of duty, cost of liquor and other charges for balance stock handed over to new licensees

As per Government notification dated 23 May 2001, on expiry of a license of country liquor shop the balance stock is to be returned to wholesale warehouse. Excise duty on balance stock already paid shall not be refunded to the licensee. The disposal of balance stock is to be made in accordance with orders of the Excise Commissioner. Madhya Pradesh Excise Act, 1915 provides that no intoxicant shall be imported, exported or transported except after payment of any duty.

Test check of records of Assistant Commissioner Excise, Bilaspur and District Excise Officer, Jashpur revealed in September and October 2005 that balance stock of 1,09,503 PL foreign liquor, 95,706 PL country liquor and 52,132 bulk litre of beer in 132 shops was handed over to new licensees on 11 April 2005 by the Excise Department without prior recovery of excise duty. This resulted in non recovery of excise duty of Rs.97.64 lakh.

After this was pointed out in October, 2005 Assistant Commissioner Excise, Bilaspur stated in July 2006 that notices had been issued to the concerned

licenses. DEO Jashpur replied in October 2005 that balance stock was handed over to new licensees on 11 April 2005 for which Rs.10.36 lakh was recoverable from new licensees out of which Rs.8.23 lakh on account of excise duty had been adjusted and for remaining balance of Rs.2.13 lakh, notices were being issued to new licensees.

The matter was reported to the Excise Commissioner and Government (between December 2005 and January 2006); their reply had not been received (October 2006).

CHAPTER IV- TAXES ON VEHICLES

4.1 Result of audit

Test check of records relating to taxes on vehicles during the year 2005-06 revealed non assessment of tax and loss of revenue amounting to Rs.2.99 crore in 852 cases which can broadly be categorised as under:

(In crore of rupees)

Sl. No.	Category	Number of cases	Amount
1.	Non/ short levy of vehicle tax	777	2.85
2.	Others	75	0.14
	Total	852	2.99

An amount of Rs.0.37 crore had been recovered in 142 cases during the year.

An illustrative case involving Rs.2.11 crore is mentioned in succeeding paragraph:

4.2 Non levy of vehicle tax and penalty

According to the provisions of Chhattisgarh Motoryan Kardhan Adhiniyam, 1991 and Rules made thereunder, tax is leviable at prescribed rates on every vehicle used or kept for use in the state. In case of non payment of tax, the owner shall be liable to pay penalty at the rate of one twelfth of the unpaid tax for each month of default or part thereof but not exceeding the unpaid tax. If the owner fails to pay the unpaid tax or penalty or both, the taxation authority is required to issue a demand notice and recover the dues as arrears of land revenue.

Test check of records of Additional Regional Transport Office, Ambikapur and Regional Transport Office, Raigarh and Raipur revealed between September 2005 and November 2005 that vehicle tax in respect of 364 vehicles of different categories such as goods carriages, stage carriages, public service vehicles, spare State carriages/ public service vehicles amounting to Rs.1.08 crore and penalty amounting to Rs.1.03 crore was not levied and recovered from vehicles during the period between May 2002 and March 2005. This resulted in non realisation of revenue of Rs.2.11 crore.

After this was pointed out in May 2006 the Transport Commissioner replied in September 2006 that in 142 cases, recovery of Rs.36.76 lakh has been made and Rs.44.19 lakh was irrecoverable as recovery was not effected in time. Recovery of balance amount of Rs.1.30 crore would be intimated. Further reply was awaited (October 2006).

The matter was reported to Government in May 2006; no reply was received (October 2006).

CHAPTER V- OTHER TAX RECEIPTS

Stamp duty and registration fee

5.1 Result of audit

Test check of records relating to stamp duty and registration fee during the year 2005-06 revealed non/under assessment of revenue amounting to Rs.1.61 crore in 810 cases which can broadly be categorised as under:

(In crore of rupees)

Sl. No.	Category	Number of cases	Amount
1.	Short realisation of Stamp duty and registration fee due to under valuation of properties	329	0.75
2.	Other irregularities	481	0.86
	Total	810	1.61

A few illustrative cases involving Rs.0.17 crore are mentioned in following paragraphs:

5.2 Incorrect remission of stamp duty

Indian Stamp Act, (IS Act) 1899 provides that instruments are liable to stamp duty and registration fee at prescribed rates in accordance with the nature and value of each instrument. According to the notifications issued by Government in March 1982, mortgage/ hypothecation deeds for securing loans for agriculture purposes^T executed by bhoomiswami/ lease holder belonging to scheduled castes/ scheduled tribes and other bhoomiswami/lease holders holding land not exceeding 10 hectares are exempt from payment of stamp duty. Further instructions issued in August 1989 and September 2003 require all officers to ensure that the specific purpose of the loan is mentioned in the deeds and is covered by the definition of agriculture purpose.

Test check of records of Sub Registrars (SRs) Kanker and Narayanpur between May and September 2005 revealed that exemption of stamp duty and registration fee of Rs.3.85 lakh was allowed on 44 mortgage deeds registered between April 2001 to February 2004 for granting loans of Rs.65.81 lakh for construction of houses, purchase of jeeps/ motor cycles and brick kilns. In one case the land held by bhoomiswami was more than 10 hectares and in three cases the purposes of loans were not mentioned in the deeds. This resulted in loss of stamp duty and registration fee of Rs.3.85 lakh.

After this was pointed out, SR, Kanker replied that action would be taken after verification; SR, Narayanpur stated that the cases would be sent to collector of stamps after proper scrutiny. Further report in the matter has not been received (October 2006).

The matter was reported to the Inspector General of Registration and Stamps and Government between July 2005 and November 2005; their reply has not been received (October 2006).

5.3 Under valuation of properties

As per section 47 (A) of the IS Act, as amended in August 2000, if the registering officer while registering any instrument has reason to believe that the market value of any property had not been set forth truly and correctly, he should before registering such document refer the same to the Collector of Stamps for determination of correct market value of such property.

Test check of five SRs[↔] revealed between May and November 2005 that in 77 instruments registered between January 1997 to March 2005, the market value of properties was reckoned as Rs.1.70 crore in the instrument instead of Rs.3.04 crore as worked out on the basis of guideline rates approved by collectors. SRs did not refer the cases to the Collector of Stamps for determination of correct market value and duty leviable thereon. This resulted in short realisation of stamp duty and registration fee of Rs.13.26 lakh.

^T Making land fit for cultivation, land raising and harvesting of crops, horticulture, forestry, planting and farming, cattle breeding, dairy farming, seed farming, piggery and poultry farming and acquisition of implements and machinery in connection with such activities.

[↔] Gariyaband, Gharghora, Jagdalpur, Keshkal and Narayanpur

After this was pointed out, SRs Narayanpur and Jagdalpur stated in May and October 2005 that action was being taken in the matter. No reply has been received in other cases (October 2006).

5.4 Inordinate delay in disposal of cases

Under Section 47(A) of IS Act, if the registering officer while registering any instrument finds that market value of any property set forth is less than market value worked out as per guidelines, he should refer the same to the Collector of Stamps for determination of the correct market value of such property. As per Government of Madhya Pradesh instructions issued in March 1977, cases referred to collector were to be finalised within nine months from the date of reference. Chhattisgarh Government vide letter dated 17 September 2003 reduced this period to 90 days.

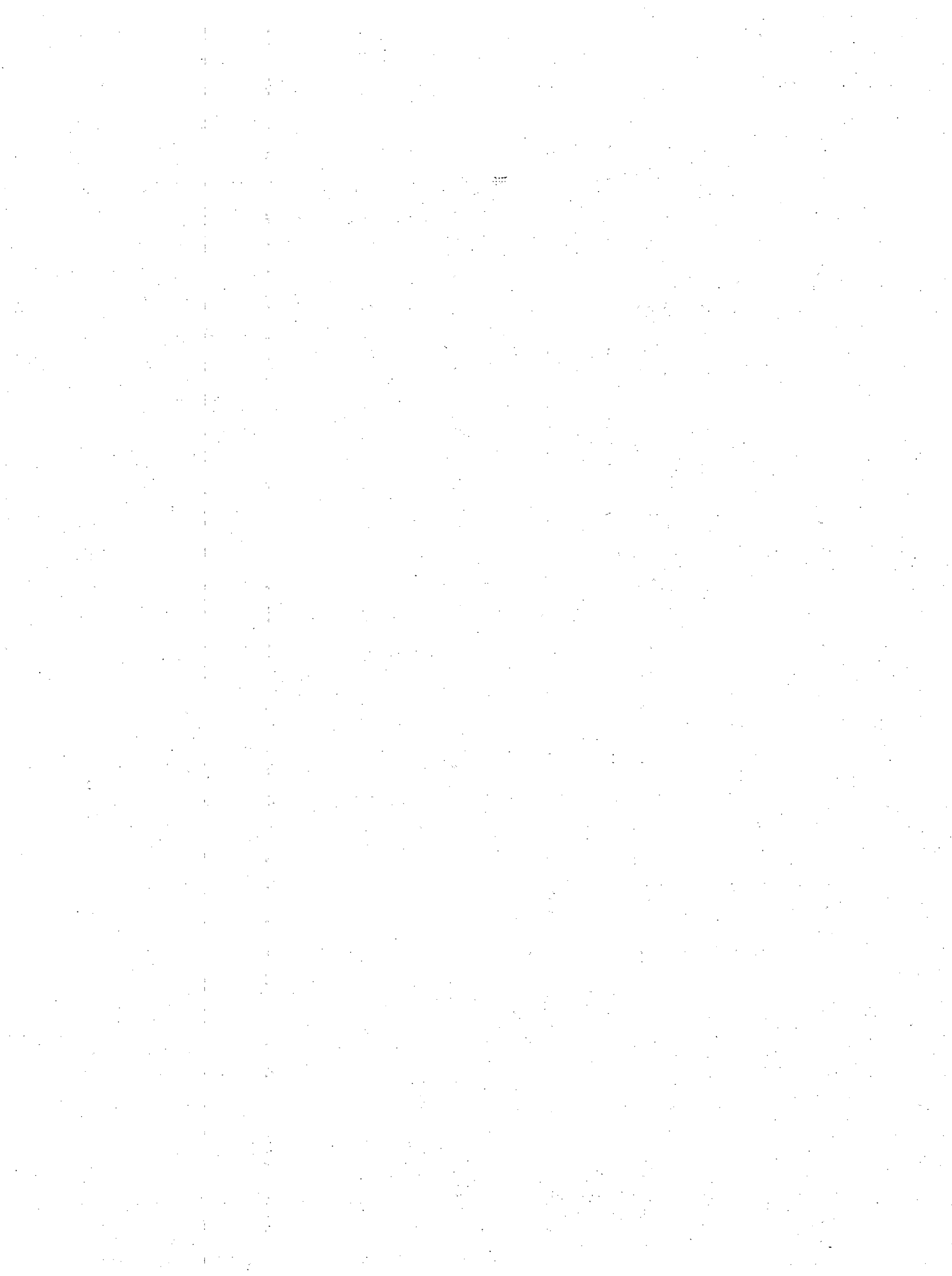
Test check of records of five SRs between February and September 2005 revealed that 67 documents were referred to Collector of Stamps for determination of correct market value of properties during the period between July 1988 to April 2005 as shown under:

Sl. No.	Name of SR	No. of documents referred to Collector	Month in which referred	SD & RF involved (in lakh of rupees)
1.	SR Gariaband	10	June 1999 and April 2004	2.47
2.	SR Janjgir	31	April 2003 to July 2004	8.07
3.	SR Bilaspur	12	July 2001 to April 2003	2.46
4.	SR Kanker	10	July 1988 to February 2003	1.80
5.	SR Surajpur	4	February 2005 to May 2005	1.63
	Total	67		16.43

The cases were still pending with the Collector of Stamps for determination of correct market value. The delay ranged between 11 to 191 months. This resulted in blockage of revenue of Rs.16.43 lakh.

After this was pointed out between February and September 2005, the SRs replied that the concerned Collector of Stamps would be requested to finalise the cases early.

The matter was reported to Inspector General, Registration and Stamps and Government between June 2005 and November 2005; their reply has not been received (October 2006).



CHAPTER VI- FOREST RECEIPTS

6.1 Result of audit

Test check of records of forest receipts during the year 2005-06 revealed loss of revenue amounting to Rs.53.81 crore in 186 cases which can broadly be categorised as under:

(In crore of rupees)

Sl. No.	Category	Number of cases	Amount
1.	Loss due to low yield of timber	48	50.90
2.	Others	138	2.91
	Total	186	53.81

During the year 2005-06 the department accepted one case involving amount of Rs.7.17 crore.

A few illustrative cases involving Rs.12.54 crore are mentioned in the following paragraphs:

6.2 Loss of interest due to non collection/ remittance of funds in the form of fixed deposits

Government of India (GOI), Ministry of Environment and Forest issued instruction in March and September 2004 that the State Government should receive the funds for compensatory afforestation and net present value (NPV) from the user agencies for diversion of forest land for non forestry purposes and keep the fund in the form of fixed deposits (FDs) in the name of concerned divisional forest officer (DFO) or the nodal officer of the State for the amount prescribed by the State Forest Department. During the years 2003 to 2005, interest receivable from nationalised banks on FD ranged between 5.5 and 6.5 per cent.

6.2.1 Test check of records of DFO, Dhamtari in March 2006 revealed that 316.276 hectare forest land was allowed between July 2004 and August 2005 for construction of water tanks under Irrigation Department. NPV amounting to Rs.24.67 crore was however, not recovered, even after delay ranging between 6 and 30 months. This not only resulted in non realisation of Rs.24.67 crore but also loss of minimum interest of Rs.1.20 crore accrued thereon.

After this was pointed out, the DFO stated that efforts are being made to collect the NPV. Further, reply on recovery was awaited (October 2006).

6.2.2 Similarly, test check of records between March and May 2006 of eight^v forest divisions revealed that 1464.653 hectare forest land was diverted for non forestry purposes during 2003-04 to 2004-05. The amount of Rs.118.09 crore received from various users agencies as NPV of diverted land was deposited in personal deposit account (PDA) instead of FDs. Thus, retention of Rs.118.09 crore in PDA instead of FDs for a period ranging between 11 and 25 months resulted in a minimum loss of interest of Rs.10.35 crore^{*}.

After this was pointed out, four⁺ DFOs stated between March and May 2006 that the amount was deposited into PDA as per directions of the State Government and GOI letter of March 2004 was not available in the office records. Replies of remaining four³ DFOs were still awaited. The reply was not tenable, as GOI instructions of March 2004 and September 2004 clearly directed the State Government to deposit the money as FD in any nationalised bank.

The matter was reported to Government in May 2006; their reply had not been received (October 2006).

^v DFO, Dhamtari, Rajnandgaon, Bilaspur, East Raipur, Dantewada, Kanker, Durg, Kawardha.

^{*} Calculated at the minimum interest rate of 5.5 per cent prevalent during the years 2003 to 2005.

⁺ DFO, Dhamtari, Bilaspur, East Raipur, Rajnandgaon.

³ DFO, Dantewada, Kanker, Durg, Kawardha.

6.3 Loss of revenue due to low yield of timber

As per Chief Conservator of Forests (Production) instructions of January 1984, variation upto 10 *per cent* between estimated quantity of timber as assessed by territorial wing and actual yield of timber as per production wing is permissible.

Test check of records of three divisions in October 2003, March and April 2006 for the years 2001-05 revealed huge variations between actual yield and estimated yield of timber and fuel wood as shown under:

S. No	Divisions	Year	Particulars	Estimated quantity (cum)	Actual Yield (cum)	Shortfall (cum)	Percentage of shortfall	Revenue involved [#] (Rs. in lakh)
1.	DFO, Dhamtari	2002-03	Timber	1,023.218	689.688	333.53	33	42.66
			Fuel wood	2,396	1,322	1,074	45	
		2003-04	Timber	2,336.000	1,241.163	1,094.837	47	
			Fuel wood	4,059	1,912	2,147	53	
2.	DFO, East Raipur	2001-02	Timber	1,156.904	345.141	811.763	70	52.87
			Fuel wood	3,433	2,462	971	28	
		2003-04	Timber	595.265	225.484	369.781	62	
			Fuel wood	1,023	768	255	25	
		2004-05	Timber	1,024.144	680.655	343.479	34	
			Fuel wood					
3.	DFO, Korba	2002-03	Timber	71.915	20.456	51.459	72	3.96
			Fuel wood	898	196	702	78	
			Timber	6,207.446	3,202.587	3,004.859	48	
	Fuel wood	11,809	6,660	5,149	44	99.49		

The shortfall in actual production ranged between 33 to 72 *per cent* in case of timber and 25 to 78 *per cent* in case of fuel wood. The production fell short by 3,004.859 cu.m. timber and 5,149 fuel stacks involving revenue of Rs.99.49 lakh. No action was taken at any level to find out the reasons for such shortfall in actual yield which led to loss of revenue of Rs.99.49 lakh.

After this was pointed out DFO, Dhamtari stated in March 2006 that low yield was due to different geographical situations of the division. The DFO, East Raipur stated in April 2006 that the estimation of yield is prepared on the basis of form factor and low yield of timber is due to biotic pressure in the coupes and dense habitations. The DFO, Korba stated in October 2003 that the estimated yield has been worked out on the basis of unfelled trees whereas actual production has been worked out after measurement of felled trees in depot. The replies are not tenable as marking of trees and estimation of yield were carried out keeping in view all these factors. Moreover, excessive variation between estimated and actual yield should have been investigated in the interest of government revenue.

The matter was reported to Government in June 2004 and May 2006; their reply had not been received (October 2006)

[#] Calculated at sale price of timber ranging between Rs.4.142 to Rs.7 and for fuel wood ranging between Rs.500 to Rs.570.

6.4 Blockage of revenue due to non exploitation of bamboo coupes

Bamboo is felled/exploited in four years felling cycle prescribed in the relevant working plan of the division. Non felling of bamboo prevents fresh growth of coppice shoots/clumps which eventually generate future bamboo crop.

Test check of records between September 2005 and May 2006 of three DFOs, Bijapur, Rajnandgaon and Raipur and three Conservators of Forest (CF) Bastar, Durg and Kanker revealed that 88 coupes having 25,148.536 notional tonne bamboo which were due for felling were not felled during the period 2002-03 to 2004-05. There was thus, blockage of revenue of Rs.6.53 crore[⊙].

After this was pointed out, the DFO Rajnandgaon, Bijapur stated (September 2005 and January 2006) that non felling was due to uneconomical working of coupes and naxalite activities. It was also stated that cases were sent to concerned CF, for write off. DFO Raipur stated (May 2006) that since the bamboo coupes were unfit for exploitation, proposal for write off had been sent to CF and coupe B Chengaria had been written off by the CF. Reply from three circles (CF Bastar, Durg and Kanker) is awaited (October 2006).

The replies were not tenable as the Additional PCCF (Development) in March 1998 has already quashed all these reasons as invalid and directed all the forest divisions to invariably carry out operation as per approved working plan.

The matter was reported to the department and Government (May and June 2006); their reply had not been received (October 2006).

[⊙] *The estimated yield was calculated on the basis of average of actual yield of the coupes felled during 2004-05 and Chapter 8 of Part-II of working plan for the year 1999-2000 to 2008-09 in Raipur Division.*

CHAPTER VII- ELECTRICITY & SAFETY**7.1 Result of audit**

Test check of records of electrical and safety during the year 2005-06 revealed non/short realisation of development cess amounting to Rs.2.48 crore in six cases which can broadly be categorised as under:

(In crore of rupees)

Sl. No.	Category	Number of cases	Amount
1.	Non realisation of development cess from producers of electrical energy	1	0.47
2.	Loss due to non inspection of electric installation	1	0.83
3.	Others	4	1.18
	Total	6	2.48

A few cases involving Rs. 1.30 crore are mentioned in following paragraphs:

7.2 Non realisation of development cess from producers of electrical energy

Chhattisgarh Upkar (Sanshodhan) Adhiniyam, 2004 provides that every producer of electrical energy shall pay to the State Government an energy development cess at the rate of 10 paise per unit with effect from 15 February 2005 on electrical energy sold or supplied to a consumer or consumed by himself or his employees by his captive power unit or diesel or other generator sets of more than 100 kilowatt capacity during the month.

Test check of records of Executive Engineer (EE) Electricity and Safety, Raipur revealed in November 2005 that two producers^Ø of electrical energy having capacity power/ DG set of more than 100 kilowatt produced and consumed 4.65 crore units of electrical energy for the period from 15 February 2005 to 31 May 2005 but did not deposit development cess. This resulted in non realisation of Rs.46.56 lakh.

After this was pointed in May 2006, Chief Electrical Inspector stated in June 2006 that in one case matter had been taken up with the producer for recovery of cess. In another case it was stated that recovery of Rs.35.87 lakh has been made through Chhattisgarh State Electricity Board. The details of payments of development cess into Government account were awaited (October 2006).

The matter was reported to Government in January 2006; reply was awaited (October 2006).

7.3 Loss due to non inspection of electric installations

According to the Indian Electricity Act, 1910 read with rules made thereunder fees at prescribed rates are leviable for inspection of electric installations of various categories. Government notification dated 22 August 1987 provided that electric installations of medium voltage were to be inspected triennially and all others were to be inspected annually and also prescribed the fees for inspection of different types of units.

Test check of records of the EE, Electricity & Safety, Raipur revealed in November 2005 that inspection of 79,197 medium voltage electrical installations, 50,443 Chhattisgarh Electricity Board electric installations, 1,690 high voltage electrical installations, 141 generators and 27 X ray installations were not carried out as per prescribed norms during the period from 2001-02 to 2004-05. This resulted in loss of Rs.82.96 lakh on account of inspection fee.

After this was pointed out in November 2005 EE, Electricity & Safety, Raipur stated that inspections were carried out by every inspector as per target fixed by head of the department. The reply was not tenable as inspections had to be carried out as per periodicity prescribed in notification dated 22 August 1987.

Ø

(i) M/S ACC Cement factory

(ii) M/S Hindustan Electro Graphite Pvt. Ltd Boarai, Durg.

The matter was reported to Chief Electrical Inspector, Electricity & Safety and Government in January 2006; their reply had not been received (October 2006).

CHAPTER VIII- MINING RECEIPTS**8.1 Result of audit**

Test check of records relating to assessment and collection of mining revenue during the year 2005-06 revealed non/ short assessment of royalty, dead rent, non recovery of contract money, royalty, mineral area development cess and short levy of interest on belated payment of royalty etc. amounting to Rs.261.80 crore in 484 cases which can broadly be categorised as under:

(In crore of rupees)

Sl. No.	Category	Number of cases	Amount
1.	Non levy of dead rent and interest	54	0.17
2.	Short/ non levy of royalty and interest	47	20.80
3.	Short levy of Stamp duty and registration fee	18	0.16
4.	Review on "Assessment and collection of mining dues from major minerals".	1	228.61
5.	Others	364	12.06
	Total	484	261.80

During the year 2005-06, the department accepted under assessment royalty of Rs.59.27 crore in 349 cases.

A few illustrative cases and a review on assessment and collection of mining dues from major minerals involving Rs.228.61 crore highlighting important cases are mentioned in the following paragraphs:

Geology and Mining Department

8.2 Review on: Assessment and Collection of Mining dues from Major Minerals

Highlights:

Royalty of Rs. 15.12 crore was realised short.

(Paragraph 8.2.7)

Incorrect gradation of coal resulted in loss of revenue of Rs.209.93 crore.

(Paragraph 8.2.9)

Cost of mineral of Rs.23.11 lakh due to unauthorised extraction was not realised.

(Paragraph 8.2.11)

Stamp duty and registration fee of Rs.1.49 crore was realised short due to incorrect calculation of average royalty.

(Paragraph 8.2.15)

Recommendations:-

The State Government may consider implementation of the following recommendations to strengthen its system of assessment and collection

- internal control may be strengthened;
- extraction of minerals should be as per mining plan; and
- royalty should be recovered on mineral despatched from the leased area.

8.2.1 Introduction

Chhattisgarh is endowed with rich major minerals such as iron ore, coal, diamond, limestone, bauxite, tin ore, fireclay and corundum etc.

The exploitation of mineral wealth, assessment of royalty and collection thereof is governed under the provisions of Mines and Minerals (Regulation and Development) Act, 1957 (MMRD Act), Mineral Concession Rules, 1960, (MCR) and Mineral Conservation and Development Rules, 1988 (MCD Rules) and Madhya Pradesh Minor Mineral Rules 1996 (MPMMR).

8.2.2 Organisational set up

The Principal Secretary, Mineral Resources Department is incharge of Geology and Mining Department. The Director, Geology and Mining (Director) is the head of the department who is assisted by three Deputy Directors at regional level i.e. Bilaspur, Jagdalpur and Raipur. At district level mining officer (MO), assistant mining officer (AMO) and mining inspector (MI) are to administer mining activities involving processing of applications for leases, assessment, realisation of revenue, prevention of illegal mining and other activities leading to leakage of revenue. There is a flying squad which works under the control of Director.

8.2.3 Audit objectives

Detailed analysis of records was conducted with a view to:

- ascertain whether the rules and procedures prescribed in the MMRD Act, MCR and MCD Rules were being complied with and
- ascertain the effectiveness of the internal control mechanism for realisation of dues.

8.2.4 Scope of audit

Test check of records of six[©] out of 16 districts for the period from 2001-02 to 2005-06 was conducted between March 2006 to May 2006 to examine the correctness of assessment, collection and recovery of mining dues. The selection of units was done keeping in view the revenue collection and presence of deposits of major minerals in the area. The results of test check are detailed in succeeding paragraphs.

8.2.5 Trend of revenue

The budget estimates, actual receipts for the years from 2001-02 to 2005-06 was as under:

(In crore of rupees)

Year	Budget estimates	Actual receipts	Variation: increase(+)/ decrease(-)	Percentage
1.	2.	3.	4.	5.
2001-02	455.00	454.04	(-)0.96	(-)0.21
2002-03	539.41	538.14	(-)1.27	(-)0.24
2003-04	709.00	629.68	(-)79.32	(-)11.19
2004-05	700.00	679.83	(-)20.17	(-)2.88
2005-06	700.00	721.12	(+)21.12	(+)3.02

© Dantewada, Durg, Janjgir, Korba, Koria and Raipur.

8.2.5.1 Arrears

The arrears of revenue from major and minor minerals as on 31 March of each year were as under:

Year	Arrears
2001-02	8.39
2002-03	8.79
2003-04	1.97
2004-05	2.12
2005-06	1.91

Various stages at which the revenue was pending collection as on 31 March 2006 were stated to be as under:

Sl. No.	Reasons	Amount
1.	Recovery under stay: pending with Court or Government	0.29
2.	Recovery due from companies no more in existence	0.17
3.	Whereabouts of defaulters not known	0.05
4.	RRCs sent to the collectors of other states.	0.01
5.	RRCs sent to the collectors within state	0.72
6.	Recovery in progress	0.67
Total		1.91

8.2.6 Internal control mechanism

8.2.6.1 Non finalisation of periodical assessment of revenue

As per Director, Madhya Pradesh instructions issued in August 1966, assessment of royalty in respect of mining lease shall be done every six months i.e. in June and December every year. Director, Mining, Chhattisgarh also reiterated this in June 2001 and directed that a report of finalisation of assessment is to be sent by the MI before due date to MO for his approval.

Test check of records of six^v district mining offices (DMOs) revealed that in case of 60 mines, assessments of royalty for the period from June 1994 to June 2005 were not finalised. This indicated that internal control instituted by the Director was not being complied with.

Further, test check of records of five out of 26 lessees of limestone in DMO, Durg revealed that six monthly assessments for the period 2001-2005 involving Rs.1.17 crore were not approved by MO though the MI had submitted their assessments. It is evident that six monthly assessments were being given scant attention by MO.

8.2.6.2 Non maintenance of demand and collection register

Demand and Collection Register (DCR) maintained by the Mining Department contains the names and addresses of lessees, area and period of lease etc. to keep

^v Dantewada, Durg, Janjgir, Korba, Korla and Raipur

watch on quantity of minerals extracted and despatched, royalty payable and paid, dead rent payable and paid, demand raised after assessment and arrears of revenue etc.

Test check of records of DMOs, Durg, Korba and Korla revealed that DCRs were not maintained, in the absence of which the authenticity of assessed royalty and dead rent etc. could not be checked. It indicates that the DMOs were not in a position to assess the outstanding dues against the lessees.

After this was pointed out, the department stated that DCR would be maintained and intimated to audit. Failure to maintain DCR may result in non detection of cases such as non levy of dead rent and interest and non cancellation of idle mining leases etc.

8.2.6.3 Inadequate inspections

As per instructions of Director, Madhya Pradesh issued in March 1978 (as adopted by Chhattisgarh) MI is required to inspect mines in his area once in every six months between April to September and October to March each year to ensure that terms and conditions as laid down in the lease deeds are observed by lessee, extraction of mineral is not done outside the leased area and the leased area is properly demarcated.

In five[®] DMOs, it was observed that only 329 mines out of stipulated 795 mines were inspected by MI during the period from 2001-02 to 2005-06 as shown under:

Year	No. of mines	No of mines inspected	Shortfall	Percentage of non inspection
2001-02	150	51	99	66
2002-03	152	64	88	58
2003-04	166	70	96	58
2004-05	167	69	98	59
2005-06	160	75	85	53
	795	329	466	

The percentage of shortage of mines not inspected ranged between 53 to 66 *per cent*. Inspection report of mines conducted by MI were not produced to audit. In the absence of these reports, periodicity of inspections could not be ascertained.

8.2.6.4 Improper maintenance of daily classification register

A daily classification register is required to be maintained by the department to ensure that all payments of royalty claimed to have been made by lessees or remitted by department in treasury office have actually been deposited. At the end of each month the entries of daily classification register are required to be reconciled with list of remittances received from treasury officer.

Test check of the classification registers of DMOs, Durg, Korba, Korla and Raipur revealed that entries were made in the daily classification registers on receipt of list of remittances from the treasury officers instead of from the challans received from the lessees. The number and date of challans had also not been mentioned in these registers. In DMO Raipur, the register was not maintained from January 2005 onwards.

[®] Durg, Janjgir, Korba, Korla and Raipur

After this was pointed out, DMOs stated that copies of challans were not available in all cases and entries were made from treasury remittance lists received from treasury and reconciled with the challans received from lessees. The cases of non availability of challans in DMOs were required to be investigated which was not done. In view of this, chances of fraudulent payment claimed to have been made by the lessees and embezzlement by departmental employees could not be ruled out.

8.2.6.5 Internal audit

There was no internal audit wing (IAW) in the department to ensure effective control over timely assessment of revenue, inspection of mines etc.

After this was pointed out, department stated in October 2006 that IAW was constituted in August 2006.

8.2.7 Short realisation of royalty

As per MMRD Act and rules made therein, the holder of a mining lease shall pay royalty of any mineral removed or consumed by him or his agent or employees from the leased area, at the rates prescribed, before 20th day of the following month.

Test check of records of DMOs, Korba and Korla revealed that a lessee extracted and removed 128.61 lakh MT of coal from two collieries during the period between April 2001 to November 2002, January 2004 to December 2004 and April 2005 to March 2006 but paid royalty on 116.39 lakh MT of coal. This resulted in short realisation of royalty of Rs.15.12 crore on 12.22 lakh MT of coal. The short payment remained undetected as six monthly assessments had not been carried out by the DMOs.

8.2.8 Non realisation of royalty, dead rent and interest

As per MMRD Act, the holder of a mining lease shall pay every year dead rent for total leased area or royalty on the mineral extracted whichever is higher. Lessee is liable to pay dead rent in advance for whole year on or before 20th day of the first month of the ensuing year. Interest at the rate of 24 *per cent* per annum is leviable for belated payment of dead rent from the sixtieth day of the expiry of the due date till default continues.

8.2.8.1 Test check of records of DMOs, Korba and Korla revealed that a lessee who was granted three leases for extraction of coal, between 1995 and 2002, extracted no coal from the mining areas. The lessee was liable to pay dead rent of Rs.82.04 lakh during the period from 2001-02 to 2005-06 but was not paid. In addition, interest of Rs.44.42 lakh was also leviable.

After this was pointed out, department replied that in two cases action would be taken after verification and in one case it was stated that action for surrender/ lapse of the mine had been taken up with Government.

8.2.8.2 Test check of records of DMO, Durg revealed that a lessee (holder of limestone leases) made short payment of royalty of Rs.2.30 lakh during 2001 to 2005 and the department did not raise demand even after finalisation of assessment and interest of Rs.1.30 lakh upto February 2006 was also not levied. This resulted in non realisation of revenue of Rs.3.60 lakh.

8.2.9 Loss of revenue

As per the records of the DMO, Korba the grade of coal of Gevra area mines is F grade on ROM (run of mines). The DMO, Korba vide letter dated 15 July 2004 informed General Manager South Eastern Coal Fields Limited Gevra area that average production of steam coal (E-grade) and slack coal (F-grade) was in the ratio of 60 and 40 *per cent*. The rate of royalty of E-grade coal is Rs.85 per MT where as in the case of grade-F, it is Rs.65 per MT.

Test check of records of DMO, Korba revealed that in Gevra Colliery area a lessee despatched 17,64,63,988.86 MT of coal during 2001-02 to 2005-06 which included 9,12,100.44 MT of E-grade coal (0.52 *per cent*) and 17,55,51,888.42 MT of F grade coal on which royalty of Rs.1,083.20 crore was paid. In view of the ratio of steam coal (E grade) and slack coal (F grade) production/ despatched of coal E grade and grade F should have been 10,58,78,393.32 MT and 7,05,85,595.54 MT respectively, whereas after partial screening only 9,12,100.44 MT E grade coal was despatched. As such there was less screening of 10,49,66,292.88 MT E grade coal. This resulted in loss of royalty of Rs.209.93 crore.

After this was pointed out, the department replied that action will be taken after receipt of guidelines from Directorate/ Government.

8.2.10 Non cancellation of idle mining leases

As per MCR, if any, lease holder does not commence mining operation within one year from the date of execution of the lease deed or the operation is discontinued for a continuous period of one year after commencement of such operations, the State Government, shall, by an order declare the mining lease as lapsed.

Test check of records of DMO, Raipur revealed that 12 lessees who were granted leases between April 1987 and October 2002, had discontinued mining operations between January 1996 and July 2003 but no action was taken by the department to terminate the leases and allot the same to other lessees. Had the leases been sanctioned afresh, royalty upto Rs.4 crore would have accrued on the basis of mineral extracted by lessees during previous years or anticipated extraction as per approved mining plans.

8.2.11 Mining without sanction

As per MMRD Act, wherever any person extracts without any lawful authority, any mineral from any land, Government may recover from such person the mineral so extracted or where such mineral has already been disposed of, the price thereof. The concerned person is liable to pay rent, royalty or tax, as the case may be for the period during which land occupied by such person without any lawful authority.

Test check of records of DMO, Raipur revealed that lease of a mine was transferred to a lessee for the period from 1 July 2003 to 14 November 2020. It was, however, noticed that lessee had extracted 8,850.41 MT limestone unauthorisedly during the period from 1 January 2003 to 30 June 2003 and paid royalty of Rs.3.44 lakh during the period in which he was not holding the lease. The lessee was liable to pay the cost of mineral of Rs.26.55 lakh instead of royalty. This resulted in short realisation of revenue of Rs.23.11 lakh.

8.2.12 Excess extraction against mining plan led to violation of MCD Rule

As per MCD Rules, every holder of mining lease shall carry out mining operations in accordance with the approved mining plan with such conditions as may have been prescribed.

Test check of records of DMO, Durg for the period 2001-2005 revealed that as per mining plans a lessee[&] was allowed to consume 6.50 lakh MT limestone per year from its captive mines at Jamul and Pathriya II to manufacture cement. It was, however, observed that the lessee had consumed 40.55 lakh MT limestone during the period 2001-02 to 2004-05 against 28 lakh MT which resulted in excess consumption of 12.55 lakh MT limestone as shown under :-

Sl. No.	Name of mines	Period	Actual consumption per year (in MT)	Permitted consumption per year (in MT)	Excess Consumption (in MT)
1.	Jamul	January 2001 to December 01	7.07	5.00	2.07
		January 2002 to December 2002	7.33	5.00	2.37
		January 2003 to December 2003	7.07	5.00	2.07
		January 2004 to December 2004	6.57	5.00	1.57
		January 2005 to December 2005	6.28	5.00	1.28
2.	Patahriya II	January 2003 to December 2003	3.49	1.50	1.99
		January 2005 to December 2005	2.74	1.50	1.24
		Total	40.55	28.00	12.55

After this was pointed out, the department replied that royalty was paid by lessee on the excess quantity of limestone extracted. Reply is an acceptance of the fact that the department was agreeable to excess extraction of mineral by the lessee in

[&] M/s Associated Cement Company Limited, Jamul

contravention of MCD Rules provided the royalty was paid. However, the rules had been framed for long term conservation of mineral wealth.

8.2.13 Application of incorrect rate of royalty

As per MMRD Act, the holder of a mining lease shall pay royalty in respect of any mineral removed from the leased area at the rate for the time being specified in the second schedule in respect of that mineral. The rate of iron ore lump and iron ore fine (less than 12.5 mm) was Rs.24.50 per MT and Rs.17 per MT respectively upto 13 October 2004 and Rs.27 per MT and Rs.19 per MT respectively thereafter.

Scrutiny of records of DMO, Dantewada revealed that as per monthly returns a lessee^N had been despatching iron ore as lump after blending with iron ore fines. During the period from January 2004 to March 2006, the lessee had despatched 72.66 lakh MT iron ore lump after blending 6.37 lakh MT iron ore fine and paid royalty on iron ore lump and iron ore fines separately on extraction (production). As the lessee had actually despatched iron ore lump as per returns, the royalty on 6.37 lakh MT Iron ore was recoverable at the rates prescribed for lumps. This resulted in short realisation of royalty of Rs.49.84 lakh.

8.2.14 Short levy of stamp duty and registration fee

IS Act, provides that in case of mining lease granted by or on behalf of Government in which royalty cannot be ascertained on the date of execution it shall be sufficient if the amount of royalty is estimated by the collector for the purpose of stamp duty. As per guidelines issued by MP Government in march 1993, the basis of estimation of royalty in the case of renewal of mining lease is to be done on average royalty paid by lessee in the preceeding three years or on the quantity of minerals expected to be extracted by him as declared in the application for sanction of mining lease or as shown in mining plan whichever is higher.

Test check of records of DMO, Dantewada revealed that a lease agreement was executed in October 2005 for renewal of lease for the period from 13 September 1995 to 12 September 2005. The average royalty paid by lessee during 2002-03 to 2004-05 as per guidelines of Government worked out as Rs.12.64 crore instead of Rs.8.86 crore as shown by him in the agreement. This resulted in short levy of stamp duty and registration fee of Rs.1.49 crore.

8.2.15 Conclusion

It would be seen that department failed in ensuring timely assessment and collection of mining revenue. The assessments were pending for considerable periods. The classification of iron ore is required to be revised as per the classification made by Indian Bureau of Mines. The internal control mechanism though in existence was not followed by the department as various returns and registers were not maintained by them.

8.2.16 Acknowledgment

Audit findings as a result of review were reported to department/ Government on 1 August 2006. The Additional Chief Secretary Mineral Resource Department was requested on 27 October 2006 to attend the meeting of Audit Review Committee (ARC) on the topic so that the views of the department/Government were taken into

account while finalising the review. No reply has been received so far (November 2006).

8.3 Non realisation of dead rent and interest thereon

According to the provisions of the Madhya Pradesh Minor Mineral Rules, 1996, (as adopted by Chhattisgarh Government) and terms of lease deed, lessee shall be liable to pay royalty or dead rent, whichever is higher, on mineral extracted from the lease area at the rates specified in Schedule-II and IV to the rules. Dead rent is, however, required to be deposited in advance on or before 20 January of each year except for first year of lease. If lessee fails to pay the dead rent/ royalty due in time, he shall be liable to pay interest at the rate of 24 *per cent* per annum for the period of default.

Test check of records of DMO, Durg revealed in September 2005 that in seven cases the lessees did not pay dead rent for the period between April 1997 and March 2006. The department had also not raised any demand of dead rent of Rs.3.91 lakh including interest for the period from January 2001 to March 2006.

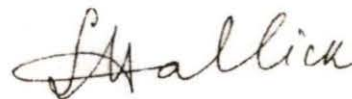
After this was pointed out in September 2005, Mining Officer, Durg stated that audit will be intimated after examination of the cases. Further reply of the department had not been received (October 2006).

The matter was reported to the Director of Geological and Mining Resources and Development and Government (November 2005); their reply had not been received (October 2006).

RAIPUR

The

14 FEB 2007



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