

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

**FOR THE YEAR ENDED
31 MARCH 2004**

(REVENUE RECEIPTS)

GOVERNMENT OF BIHAR

<http://cagindia.org/states/bihar/2004>

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PREFACE

This Report for the year ended 31 March 2004 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising taxes on sales, trade etc., 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 2003-2004 as well as those which came to notice in earlier years but could not be covered in previous Reports.

OVERVIEW

This Report contains 28 paragraphs including three reviews relating to non-levy/short levy of tax, interest etc. involving Rs 1,117.71 crore. Some of the major findings are mentioned below:

I. GENERAL

The total receipts of the Government of Bihar for the year 2003-2004 were Rs 12,455.56 crore. The revenue raised by the State Government amounted to Rs 3,210.07 crore comprising tax revenue of Rs 2,889.69 crore and non-tax revenue of Rs 320.38 crore. The receipts from the Government of India were Rs 9,245.49 crore (State's share of divisible Union taxes Rs 7,627.87 crore and grants-in-aid Rs 1,617.62 crore). Thus, the State Government could raise only 26 per cent of total revenue. Taxes on Sales, Trade etc. (Rs 1,637.23 crore) and Non-ferrous Mining and Metallurgical Industries (Rs 73.34 crore) were the major source of tax and non-tax revenue respectively during the year 2003-2004.

(Paragraph 1.1.1, 1.1.2 and 1.1.3)

The percentage of cost of collection in respect of State Excise and Stamps and Registration fee during the year 2003-2004 was notably higher than that of all India average for the corresponding period.

(Paragraph 1.3)

Test check of the records of Commercial Taxes, State Excise, Taxes on Vehicle, Land Revenue, Non-ferrous Mining and Metallurgical Industries and other departmental offices conducted during the year 2003-2004 revealed under assessment/short levy/loss of revenue amounting to Rs 1,666.87 crore in 1,230 cases. During the course of the year 2003-2004, the concerned departments accepted under assessments etc. of 9.92 crore involved in 36 cases pointed out in audit prior to 2003-2004.

(Paragraph 1.10)

The number of Inspection Reports and audit observations issued upto December 2003 but not settled by June 2004 stood at 8,078 and 32,639 respectively involving Rs 3,047.09 crore. In respect of 1,997 Inspection Reports, even first replies have not been received although these were required to be furnished within six weeks of their receipts.

(Paragraph 1.11)

II. TAXES ON SALES, TRADE ETC.

A review on **Arrears of revenue in Sales Tax** revealed the following:

- The amount of arrears increased from Rs 692 crore to Rs 1,145 crore (65 per cent) over the period from 2000-2001 to 2002-2003 whereas amount of certified arrears increased by 29 per cent only. The pace of recovery process was slow against the mounting arrears.

(Paragraph 2.2.5)

- Cross verification of Dues statement with Register VI maintained in 15 circles revealed incorrect exhibition of dues of Rs 38.51 crore, short exhibition of dues of Rs 2.45 crore and excess exhibition of dues of Rs 0.61 crore.

(Paragraph 2.2.6)

- The Revenue authorities failed to reconcile discrepancy of Rs.2.76 crore between Register IX and Register X. Besides, in case of two dealers of a circle, institution of certificate was short by Rs.17.83 lakh.

- In two circles, five certificate cases for recovery of dues of Rs 92.54 lakh remained pending till 2002-2003 as distress warrants/body warrants during 1994-1995 and 2002-2003 could not be executed.

(Paragraph 2.2.7)

- In the case of 10 dealers of a circle, registration certificate was granted to *benami* (non-existent) dealers though certificate cases were instituted for non payment of tax amounting to Rs 13.19 crore. The defaulters were not traceable.

(Paragraph 2.2.10)

Cross verification of assessment records of 21 dealers of various commodities registered with four commercial taxes circles with the records maintained in Custom Department revealed that incorrect exemption on excess taxable turnover of Rs 17.27 crore were allowed resulting in short levy of tax amounting to Rs 6.35 crore including additional tax and surcharge.

(Paragraph 2.3)

In three commercial taxes circles, in case of six dealers though the sale of goods valued at Rs 14.18 crore was not supported by prescribed declaration forms, tax was levied at lower rate. This resulted in under assessment of tax amounting to Rs 56.27 lakh.

(Paragraph 2.6)

III. STATE EXCISE

In six excise offices, 27 CS shops, 40 SCS shops and 21 IMFL shops remained unsettled or inoperative departmentally during 2001-2002 and 2002-2003. This resulted in loss of excise duty and licence fee of Rs 5.08 crore.

(Paragraph 3.2)

Short recovery of 57,231.65 LPL of spirit from molasses in a distillery resulted in loss of revenue amounting to Rs 57.23 lakh.

(Paragraph 3.4)

IV. TAXES ON MOTOR VEHICLES

In 15 District Transport Offices, tax of Rs 8.09 crore including penalty of Rs 5.39 crore pertaining to the period from April 1999 to January 2004 was not recovered from owners of 875 transport vehicles.

(Paragraph 4.2)

In five District Transport Offices, rates of taxes in respect of 55 vehicles were not revised according to their seating capacity/wheel base resulting in non/short realisation of taxes of Rs 20.24 lakh.

(Paragraph 4.4)

V. OTHER TAX RECEIPTS

A Review on **Stamp Duty** revealed the following:

- Discrepancy of Rs.18.59 crore between departmental figures of receipts and those shown in Finance Accounts were not reconciled by the Department for the years 1993-1994 to 2002-2003.

(Paragraph 5.2.6)

- Out of 12 districts test checked, it was noticed that two Treasury Officers had not started recording six digit serial number on the stamps as of May 2004 and in seven districts there was inordinate delay in starting six digit number and sending the details to concerned District Sub-Registrars for verification of stamps in execution of deeds.

(Paragraph 5.2.8)

- In 12 test checked districts, only 858 out of 1,004 vendors had been rendering their accounts to concerned Treasury Officers/Deputy Collectors. Of these, accounts of 140 vendors were checked and it was noticed that inspection/verification/reconciliation was not done by the

Treasury Officers/Deputy Collectors with the records of District Sub-Registrars.

- In five DSR offices, during the years 1995-1996 to 2002-2003, non-judicial stamp papers worth Rs 10.02 crore were utilised in excess for registration than the stamp papers sold by the concerned treasuries.

(Paragraph 5.2.9)

- In a Treasury, stamp papers valued at Rs 3.06 crore were lost in January 2004 due to theft.

(Paragraph 5.2.11)

- The sale of stamps valued at Rs 2.87 crore by unauthorised vendors of other States resulted in loss of revenue to the State exchequer.

(Paragraph 5.2.13)

- There was no evidence on record of inspections carried out by the Inspectors and action taken if any, on their reports. The internal audit system was non-existent.

(Paragraph 5.2.17)

VI. NON-TAX RECEIPTS

A Review on **Interest Receipts** revealed the following:

- The Administrative departments had not prepared budget estimates or revised estimates for the years 1998-1999 to 2002-2003 under the head 'Interest receipts' for submission to the Finance Department though the Finance Department had issued directions reiterating preparation/submission of budget estimates and revised estimates.

(Paragraph 6.2.5)

- None of the Administrative departments test checked had maintained loan ledger and demand, collection and balance register. The Departments failed to exercise control over recovery of principal and interest.

(Paragraph 6.2.6)

- Interest and penal interest of Rs 687.67 crore accrued as of March 2003 was neither worked out nor demanded by the Administrative departments. Of this, Rs-648.89 crore pertained to the years 1998-1999 to 2002-2003.

- Interest of Rs 70.63 crore accrued upto March 2003 on loans outstanding against three loanees of Co-operative department. Of this Rs 39.97 crore pertained to the years 1998-1999 to 2002-2003.

(Paragraph 6.2.7)

- Non-finalisation of terms and conditions of loan by the Housing Department had resulted in non-realisation of interest of Rs.1.53 crore.

(Paragraph 6.2.8)

In 14 Districts Mining Offices, 1,679 brick kilns were operated in brick season 2001-2002 and 2002-2003 without payment of prescribed consolidated royalty and without obtaining valid permit. The competent authorities failed to stop such business and levy penalty of Rs 8.43 crore.

(Paragraph 6.3)

Non-adherence to the provisions of Forest Conservation Act resulted in loss in shape of depletion of forest affecting environmental stability and ecological balance besides non-realisation of Net Present Value (Rs 6.65 crore) and cost of compensatory afforestation (Rs 32.45 lakh).

(Paragraph 6.6)

In four Water Ways divisions, *khatiani* in respect of 4.11 lakh acres of *Kharif* and 1.01 lakh acres of *rabi* land irrigated during the years 1999-2000 to 2002-2003 were not prepared and forwarded to the concerned revenue divisions for raising demand and collection of water rates for Rs 3.73 crore.

(Paragraph 6.9)

CHAPTER- I: General

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Bihar during the year 2003-2004, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below: -

		(Rupees in crore)				
		1999-2000	2000-2001 ¹	2001-2002	2002-2003	2003-2004
I.	Revenue raised by the State Government					
	(a) Tax revenue	3,084.79	2,809.23	2,318.95	2,761.05	2,889.69
	(b) Non-tax revenue	1,165.86	711.68	286.70	260.82	320.38
Total		4,250.65	3,520.91	2,605.65	3,021.87	3,210.07
II.	Receipts from the Government of India					
	(a) State's share of divisible Union taxes	4,962.59	6,575.63	6,176.62	6,549.23	7,627.87
	(b) Grants-in-aid	1,446.29	1,080.78	1,057.02	1,397.32	1,617.62
Total		6,408.88	7,656.41	7,233.64	7,946.55	9,245.49
III	Total receipts of the State Government ² (I&II)	10,659.53	11,177.32	9,839.29	10,968.42	12,455.56
IV	Percentage of I to III	40	31	26	28	26

The above table indicates that during the year 2003-2004, the State Government could raise only 26 *per cent* of the total revenue receipts (Rs 12,455.56 crore) and 74 *per cent* of receipts were from the Government of India. The contribution of revenue raised by the State Government to the total revenue receipts has decreased continuously during the period from 1999-2000 to 2003-2004 except marginal increase of two *per cent* during 2002-2003.

¹ The figures for 1999-2000 represent receipt for erstwhile Bihar (including Jharkhand) whereas the same for 2000-2001 represent Bihar excluding Jharkhand.

For details, please see Statement No.11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government for the year 2003-2004. Figures under the Major Heads "0020-Corporation Tax", "0021-Taxes on Income other than Corporation Tax", "0028- Other Taxes on Income and Expenditure", "0032-Taxes on Wealth", "0037-Customs", "0038-Union Excise Duties", "0044-Service Tax" and "0045-Other Taxes and Duties on Commodities and Services" - Minor Head - "901-Share of net proceeds assigned to State" booked in the Finance Accounts under "A-Tax Revenue" have been excluded from "Revenue raised by the State" and included in "State's share of divisible Union Taxes" in this statement.

1.1.2 The details of the tax revenue raised during the year 2003-2004 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Head of Revenue	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Percentage of Increase (+) / decrease (-) in 2003-2004 over 2002-2003
1	Taxes on Sales, Trade etc.	2,067.79	1,821.47	1,412.96	1,647.62	1,637.23	(-) 0.63
2	State Excise	277.80	242.58	238.90	241.95	240.01	(-) 0.80
3	Stamps and Registration Fees	325.77	301.86	304.44	348.21	417.56	(+) 19.92
4	Taxes and Duties on Electricity	85.25	36.77	14.08	14.30	17.60	(+) 23.22
5	Taxes on Vehicles	178.47	223.98	141.54	177.98	209.50	(+) 17.71
6	Taxes on Goods and Passengers- Tax on entry of goods into Local Areas	93.92	124.84	153.32	262.91	305.83	(+) 16.32
7	Other Taxes on Income and Expenditure – Tax on Professions, Trades, Callings and Employments	---	---	---	3.95	---	---
8	Other Taxes and Duties on Commodities and Services	27.10	23.38	19.62	27.98	28.14	(+) 9.93
9	Land Revenue	28.67	34.33	34.08	36.15	33.80	(-) 6.50
10	Taxes on Agricultural Income	0.02	0.02	0.01	---	---	--
	Total	3,084.79	2,809.23	2,318.95	2,761.05	2,889.69	(+) 4.66

The reasons for significant variation in receipts from that of previous year, though called for (May and July 2004) from the concerned departments, have not been received (October 2004).

1.1.3 The details of non-tax revenue raised during the year 2003-2004 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Head of Revenue	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Percentage of Increase (+) / decrease (-) in 2003-2004 over 2002-2003
1.	Interest Receipts	135.75	30.68	11.75	53.01	23.08	(-) 56.46
2.	Dairy development	0.04	0.17	0.55	0.00*	0.01	(+) 108.33
3.	Forestry and Wild Life	28.03	11.50	17.07	10.04	6.29	(-) 37.35
4.	Mining and Metallurgical Industries	707.56	409.92	39.20	61.20	73.34	(+) 19.84

* Only Rs 0.48 lakh

Sl. No.	Head of Revenue	1999-2000	2000 -2001	2001-2002	2002-2003	2003-2004	Percentage of Increase(+)/ decrease (-) in 2003-2004 over 2002-2003
5.	Miscellaneous General Services (including lottery receipts)	29.82	0.61	13.95	0.60	0.15	(-) 75.00
6.	Power	0.02	0.00	0.04	0.00	0.00	--
7.	Major and Medium Irrigation	41.40	33.90	15.58	15.43	26.22	(+) 69.93
8.	Medical and Public Health	15.07	13.70	16.50	13.92	11.97	(-) 14.01
9.	Co-operation	1.95	7.97	6.82	1.84	0.84	(-) 54.35
10.	Public Works	1.36	0.99	0.78	1.11	1.15	(+) 3.60
11.	Police	3.63	4.70	3.98	22.71	16.86	(-) 25.76
12.	Other Administrative Services	88.67	61.58	22.43	15.19	80.72	(+) 431.40
13.	Other Non-Tax Receipts	112.56	135.96	138.05	65.77	79.75	(+) 21.25
	Total	1,165.86	711.68	286.70	260.82	320.38	(+) 22.83

The reasons for substantial variations in receipts from that of previous year, though called for (May and July 2004) from the concerned departments, have not been received (October 2004).

1.2 Variations between budget estimates and actual

The variations between budget estimates of revenue receipts for the year 2003-2004 and the actual receipts under the principal heads of revenue are given below:

(Rupees in crore)					
Sl. No.	Revenue head	Budget estimates revised	Actual receipts	Variations increase (+) shortfall (-)	Percentage
A	Tax Revenue				
1	Taxes on Sales, Trade etc.	1,995.29	1,637.23	(-) 358.06	17.95
2	State Excise	280.00	240.01	(-) 39.99	14.28
3	Stamps and Registration fees	480.00	417.56	(-) 62.44	13.01
4	Taxes on Vehicles	275.00	209.50	(-) 65.50	23.82
5	Taxes and Duties on Electricity	17.28	17.62	(+) 0.34	1.97
6	Land Revenue	75.00	33.80	(+) 41.20	54.93
7	Other Taxes and Duties on Commodities and services	50.33	28.14	(-) 22.19	44.09
8	Taxes on Goods and Passengers –Tax on entry of goods into Local Areas	217.62	305.83	(+) 88.21	40.53
B	Non-Tax Revenue				
1	Non-ferrous Mining and Metallurgical Industries	75.00	73.34	(-) 1.66	2.21
2	Forestry and Wild Life	21.00	6.29	(-) 14.71	70.04

Sl. No.	Revenue head	Budget estimates revised	Actual receipts	Variations increase (+) shortfall (-)	Percentage
3	Interest Receipts	29.98	23.08	(-) 6.90	23.02
4	Water Rates	30.00	26.22	(-) 3.78	12.60

Non-ferrous Mining and Metallurgical Industries: Reasons for variations were attributed to licenses not being issued for want of No Objection Certificates from Pollution Control Board and non-establishment of expected numbers of fixed brick kiln.

Forestry and Wild Life: Reasons for variations were attributed to scheme of exploitation of dry trees in North Bihar not being implemented. Only fallen trees were sold.

The reasons for variation between the budget estimates and actual receipts though called for (May and July 2004) from other departments have not been received (October 2004).

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 2001-2002 to 2003-2004 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 2002-2003 are given below:

(Rupees in crore)						
Sl. No.	Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2002-2003
1	Taxes on Sales, Trade etc.	2001-2002	1,412.96	18.81	1.33	1.18
		2002-2003	1,647.62	21.30	1.30	
		2003-2004	1,637.23	21.46	1.31	
2	State Excise	2001-2002	238.90	13.72	5.74	2.92
		2002-2003	241.95	13.75	5.68	
		2003-2004	240.01	16.20	6.74	
3	Stamps and Registration fees	2001-2002	304.44	18.22	5.76	3.46
		2002-2003	348.21	17.56	5.04	
		2003-2004	417.56	22.52	5.39	
4	Taxes on Vehicles	2001-2002	141.54	4.14	2.92	2.86
		2002-2003	177.98	4.11	2.30	
		2003-2004	209.50	3.94	1.88	

The above table indicates that the percentage of expenditure on collection in respect of State Excise and Stamps and Registration Fees was more than the all India average percentage for the year 2002-2003.

1.4 Collection of sales tax per assessee

Year	No. of assessees	Sales tax revenue (Rupees in Crore)	Revenue per assessee (Rupees in lakh)
1999-2000 ³	79,938	2,067.79	2.58
2000-2001	50,407	1,821.47	3.61
2001-2002	55,077	1,412.96	2.56
2002-2003	58,495	1,647.62	2.81
2003-2004	49,202	1,637.23	3.33

The above table reveals that revenue collection per assessee increased from Rs 2.81 lakh in the year 2002-2003 to Rs 3.33 lakh in 2003-2004.

1.5 Analysis of collection

The break-up of the total collection at pre-assessment stage and after regular assessment of Taxes on Sales, Trade etc. during the year 2003-2004 and the corresponding figures for preceding three years, as furnished by the Finance (Commercial Taxes) Department are given below:

(Rupees in crore)								
Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of Taxes and Duties	Amount refunded	Net collection as per department	Net collection as per Finance Account	Percentage of column 3 to 8
1	2	3	4	5	6	7	8	9
Taxes on sales, trade etc.	2000-2001	1,794.11	19.11	1.55	-	1,814.77	1,821.47	98.49
	2001-2002	1,387.17	7.94	-	-	1,395.06	1,412.96	98.17
	2002-2003	1,584.73	111.43	0.82	3.16	1,693.82	1,647.62	96.18
	2003-2004	1,542.98	91.72	1.01	4.17	1,630.53	1,637.23	94.24

Thus the tax including penalties collected after regular assessment constituted a rather low proportion of the total collection.

1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2004 under principal heads of revenue, as reported by the departments, amounted to Rs 1,356.87 crore of which Rs 813.79 crore were outstanding for more than five years as detailed in the table below:

³ The figures for 1999-2000 represent receipt for erstwhile Bihar (including Jharkhand) whereas the same for 2000-2001 represent Bihar excluding Jharkhand.

Audit Report (Revenue Receipts) for the year ended 31 March 2004

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 st March 2004	Arrears more than five years old as on 31 st March	Remarks
1	2	3	4	5
1.	Taxes on Sales, Trades etc.	961.57	550.01	Out of Rs 961.57 crore, demands for Rs 190.02 crore had been certified for recovery as arrear of land revenue. Recovery amounting Rs 456.39 crore had been stayed by courts and Government. Recoveries of Rs.4.31 crore and Rs. 1.17 crore was held up due to rectification/review of applications and dealer/party becoming insolvent respectively. Amount of Rs 1.55 crore was likely to be written off. Action taken in respect of remaining arrears of Rs 308.13 crore though called for (May 2004), has not been intimated (October 2004).
2.	Taxes on Vehicles	85.75	195.98	Demands of total arrear of Rs.85.75 crore had been certified for recovery as arrear of land revenue.
3.	Non-ferrous Mining and Metallurgical Industries	99.03	39.57	Out of Rs 99.03 crore, demands for Rs 81.27 crore had been certified for recovery as arrears of land revenue. Specific action taken in respect of the remaining arrears of Rs 17.76 crore though called for (May 2004) has not been intimated (October 2004).
4.	State Excise	24.99	16.84	Out of Rs 24.99 crore, demands for Rs 11.03 crore had been certified for recovery as arrear of land revenue. Recovery amounting Rs.3.65 crore and Rs.0.48 crore had been stayed by courts and Government respectively. Recoveries of Rs.0.03 crore and Rs. 0.89 crore was held up due to rectification/review of applications and dealer/party becoming insolvent respectively. Amount of Rs.2.65 crore was likely to be written off. Action taken in respect of remaining arrears of Rs 6.26 crore though called for (May 2004), has not been intimated (October 2004).
5.	Tax and duties on Electricity	8.04	7.22	Out of Rs 8.04 crore, demands for Rs 0.03 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs 2.25 crore had been stayed by court and Government. Action taken in respect of remaining arrears of Rs 5.76 crore though called for (May 2004) has not been intimated (October 2004).
6.	Taxes on Sugarcane	19.33	NA	Out of Rs 19.33 crore, demands for Rs 8.19 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs 0.47 crore had been stayed by Courts. Specific action taken in respect of the remaining arrears of Rs 10.67 crore though called for (May 2004) has not been intimated (October 2004).
7.	Entry Tax	154.70	1.44	Out of Rs 154.70 crore, demands for Rs 0.17 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs 90.58 crore had been stayed by Courts. Specific action taken in respect of the remaining arrears of Rs 63.95 crore though called for (May 2004) has not been intimated (October 2004).
8.	Entertainment Tax	3.46	2.73	Out of Rs 3.46 crore, demands for Rs 2.17 crore had been certified for recovery as arrear of land revenue. Recovery amounting to Rs 0.50 crore and Rs. 0.14 crore had been stayed by the Court and Government respectively. Specific action taken in respect of the remaining arrears of Rs 0.65 crore though called for (May 2004) has not been intimated (October 2004).

1.7 Arrears in assessment of sales tax

The details of sales tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases decided during the year and number of cases pending finalisation at the end of each year during 1999-2000 to 2003-2004 as furnished by the department are given below:

Year	Opening balance	New Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the end of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
1999-2000	70,852	1,00,654	1,71,506	79,938	91,568	53
2000-2001	82,902 ⁴	96,560	1,79,462	50,407	1,29,055	72
2001-2002	1,29,055	1,23,660	2,52,715	55,077	1,97,638	78
2002-2003	1,97,638	69,069	2,66,707	58,495	2,08,212	78
2003-2004	2,08,212	66,398	2,74,610	49,202	2,25,408	82

1.8 Evasions of tax

In Commercial Taxes Department, out of 623 cases of evasion of tax detected as on 31 March 2004, assessment/investigation was completed in 376 cases and additional demand of Rs.4.05 crore (including penalty) was raised during the year 2003-2004 leaving a balance of 247 cases pending for finalisation.

Information from other departments, though called for (May 2004), has not been received (October 2004) despite several reminders to departmental heads.

1.9 Refunds

The number of refund cases pending at the beginning of the year 2003-2004, claims received during the year, refunds allowed during the year and cases pending at the close of the year (March 2004), as reported by the departments are given below:

		Sales Tax		Tax on Entry of Goods into Local Areas		State Excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	3024	6.81	Nil	Nil	700	4.39
2.	Claims received during the year	157	8.08	1	2.75	652	2.16
3.	Refunds made during the year	71	4.17	1	2.75	688	2.79
4.	Balance outstanding at the end of the year	3110	11.72	Nil	Nil	664	3.76

⁴ Differs by 8666 from the closing balance 91,568 given earlier by the department and shown in audit report for the year 1999-2000. The department attributed the difference due to exclusion of the cases relating to the Jharkhand State.

1.10 Results of audit

Test check of the records of Sales Tax, State Excise, Motor Vehicles Tax, Stamps and Registration Fees, Electricity Duty, Other Tax Receipts, Forest receipts, Interest Receipts and other Non-tax receipts during the year 2003-2004 revealed under-assessment/short levy/loss of revenue amounting to Rs 1,666.87 crore in 1,230 cases. During the course of year 2003-2004, the concerned department accepted under assessments etc. of Rs 9.92 crore involved in 36 cases pointed out in audit prior to 2003-2004.

The Report contains 28 paragraphs including three reviews relating to non-levy/short levy of taxes, duties, interest and penalties etc. involving Rs 1,117.71 crore. The Departments/Government has accepted audit observations involving Rs 19.53 crore in 10 cases. No replies have been received in remaining cases (October 2004).

1.11 Failure of senior officials to enforce accountability and protect interest of the Government

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

Inspection Reports issued up to December 2003 disclosed that 32,639 paragraphs involving money value of Rs 3,047.09 crore relating to 8,078 IRs remained outstanding at the end of June 2004. Even the first replies required to be received from the heads of office within six weeks from the date of issue of the IRs, were not received in respect of 1997 IRs issued upto December 2003.

- (A) Outstanding audit observations relating to the following departments are given below:

(Rupees in crore)

Sl. No.	Department	Revenue Head	Number of Outstanding		The Year to which earliest inspection report relates	Amount involved
			Inspection Reports	I. R. Paras		
1	Revenue	Land Revenue	4,451	14,141	1980-1981	480.18
2	Finance (Commercial Taxes)	Taxes on Sales, Trade etc.	824	5,887	1982-1983	509.64
		Minor Taxes	185	273	1984-1985	31.29
3	Excise and Prohibition	State Excise	686	4,297	1991-1992	681.82
4	Transport	Taxes on Vehicles	468	3,570	1990-1991	364.07
5	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	322	1,625	1982-1983	111.01
6	Water Resources	Water Rates	401	1,223	1982-1983	650.43
7	Cane	Taxes on Sugarcane	190	475	1977-1978	105.86
8	Forest and Environment	Forest receipts	54	155	1981-1982	31.34
9	Registration	Stamp and Registration Fees	497	993	1990-1991	81.45
Total			8,078	32,639		3,047.09

(B) First replies of Inspection Report not furnished by the Department.

Department	Revenue Head	Number of inspection reports to which even first reply has not been received	The year to which earliest inspection reports relate
1. Revenue	Land Revenue	1,396	1980-1981
2. Excise and Prohibition	State Excise	57	1982-1983
3. Transport	Taxes on vehicles	134	1990-1991
4. Finance (Commercial Taxes)	(i) Taxes on Sales, Trade etc.	67	1999-2000
	(ii) Electricity Duty	20	1999-2000
	(iii) Taxes on Goods and Passengers		
	(iv) Entertainments Tax		
5. Revenue (Registration Department)	Stamps and Registration Fees	145	1990-1991
6. Mines and Geology	Non-ferrous Mining and Metallurgical Industries	67	1990-1991
7. Cane	Taxes on sugarcane	61	1981-1982
8. Water Resources	Water Rates	32	1998-1999
9. Forest and Environment	Forest Receipts	18	1984-1985
Total		1,997	

This large pendency of IRs due to non-receipt of replies is indicative of the fact that the Heads of offices and Heads of Department failed to initiate action

to rectify the defects, omissions and irregularities pointed out by the Principal Accountant General in the IRs.

It is recommended that the Government should take suitable steps to ensure that an effective procedure exists for (a) prompt and appropriate response to the audit observations (b) action against official/officers failing to send replies to the I.Rs/paras as per the prescribed time schedules (c) action to recover loss/outstanding demand in a time bound manner.

1.12 Departmental Audit Committee Meetings

In order to expedite settlement of outstanding audit observations contained in Inspection Reports, Departmental Audit Committees were constituted by the Government. The Committees are chaired by the Administrative Secretary of the department concerned and attended among others by the officers concerned of the State Government and of the office of the Principal Accountant General (Audit) Bihar.

The meetings were required to be held quarterly for reviewing and monitoring the progress of settlement of audit observations/audit Paras. During the year 2003-2004, not a single audit committee meeting was held. The Government departments did not take any initiative for settling outstanding audit observations through this meeting. Government should ensure periodical meeting of this committee for effective progress.

1.13 Response of the departments to Draft Audit Paragraphs

Department of Finance issued directions to all departments to send their response to the Draft Audit Paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The Draft Paragraphs are forwarded by Principal Accountant General to the Secretaries of the departments concerned through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The facts of non-receipt of replies from the departments are invariably indicated at the end of each paragraph included in the Audit Report.

Twenty eight Draft Paragraphs including three Reviews included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2004 were forwarded to the Secretaries of the departments concerned between May and July 2004 through demi-official letters.

The Secretaries of the various departments did not send replies to 25 draft paragraphs and two reviews. Therefore, all the 25 paragraphs and two reviews have been included in this report without the response of the Government.

CHAPTER-II: TAXES ON SALES, TRADE ETC.

2.1 Results of Audit

Test check of the records relating to assessments and refund of Sales Tax in various Commercial taxes circles, conducted in audit during the year 2003-2004, revealed under assessment of tax of Rs 371.27 crore in 298 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non-levy or short levy of tax	14	0.31
2	Irregular allowance of exemption from tax	90	68.74
3	Non-levy of penalty	18	2.42
4	Irregular allowance of concessional rate of tax	17	9.14
5	Non-levy or short levy of additional tax & surcharge	14	1.26
6	Application of incorrect of rates of tax	11	0.11
7	Short levy due to incorrect determination of turnover	27	2.52
8	Non-levy of penalty for excess collection of tax/ mistake in computation	12	0.42
9	Other cases	94	8.77
10	Review on arrears in Sales Tax	1	277.58
	Total	298	371.27

During the year 2003-2004 the Department concerned accepted underassessment etc. of Rs 0.85 crore involved in 20 cases which had been pointed out in audit during earlier years.

A few illustrative cases including a Review on **Arrears of revenue in Sales Tax** involving tax effect of Rs 291.30 crore are discussed in the following paragraphs:

2.2 Review : Arrears of Revenue in Sales Tax

Highlights

- The amount of arrears increased from Rs 692 crore to Rs 1,145 crore (65 *per cent*) over the period from 2000-2001 to 2002-2003 whereas amount of certified arrears increased by 29 *per cent* only. The pace of recovery process was slow against the mounting arrears.

(Paragraph 2.2.5)

- Cross verification of Dues statement with Register VI maintained in 15 circles revealed incorrect exhibition of dues of Rs 38.51 crore, short exhibition of dues of Rs 2.45 crore, excess exhibition of dues of Rs 0.61 crore.

(Paragraph 2.2.6)

- The Revenue authorities failed to reconcile discrepancy of Rs.2.76 crore between Register IX and Register X. Besides, in case of two dealers of a circle, institution of certificate was short by Rs.17.83 lakh.

(Paragraph 2.2.7)

- In two circles, five certificate cases for recovery of dues of Rs 92.54 lakh remained pending till 2002-2003 as distress warrants/body warrants during 1994-1995 and 2002-2003 could not be executed.

(Paragraph 2.2.7)

- In the case of 10 dealers of a circle registration certificate was granted to *Benami* (non-existent) dealers though certificate cases were instituted for non payment of tax amounting to Rs 13.19 crore. The defaulters were not traceable.

(Paragraph 2.2.10)

Introduction

2.2.1 The Bihar Finance Act, 1981 and Rules framed thereunder govern the laws relating to the levy and collection of sales tax in the State. Every registered dealer liable to pay tax is required to file monthly/quarterly/annual returns alongwith proof of payment of tax due from him. Final assessment for the previous year of an assessee is to be initiated and completed before the expiry of four years (introduced with effect from 15 June 1993). Prior to this, the time limit for initiation and completion of assessment was eight years.

The tax assessed shall be paid by the assessee in a manner and within the time specified in the notice of demand. Where tax remains unpaid, the assessing officer may impose penalty. Any tax or penalty which remains unpaid constitutes arrears of sales tax and shall be recoverable as if it were arrears of land revenue. The Act further provides that no proceedings for recovery of arrears of revenue shall be initiated except before the expiry of twelve years from the date of assessment. The proceedings under this Act shall be deemed to be the proceedings for recovery of the public demands under the Bihar and Orissa Public Demands and Recovery (BOPDR) Act, 1914 and all provisions of the said Act for recovery, attachment, sale and arrest shall apply *mutatis mutandis*.

Any dealer objecting to an order of assessment or penalty or both or an order for recovery of arrears passed by prescribed authority could prefer an appeal within specified period after fulfillment of conditions.

Organisational set up

2.2.2 At the apex level, Commissioner of Commercial Taxes (CCT) is responsible for the administration of the Acts and Rules, monitoring of internal control measures through reports and returns received by different divisions/circles in the Commercial Taxes Department. The dues and collection of divisions/circles are watched and monitored through the reports and returns furnished by the divisions/circles. He is assisted by a Senior Joint Commissioner (Taxation), Deputy Commissioner (DC) and Assistant Commissioner of Commercial Taxes (ACCT) at the Headquarters (Secretariat level).

The State is divided into seven Commercial Taxes Divisions, each of which is under the charge of a Joint Commissioner (JC). Divisions are further divided into circles under the charge of DC who is assisted by ACCT and Commercial Tax Officer (CTO) respectively for administration of sales tax laws including the assessment and collection of Sales tax dues. There are in all 47 circles in the State. For effecting recovery of dues under BOPDR Act, the Requiring officer (RO) is primarily responsible for systematic application for certificates and the Certificate Officer (CO) is responsible for prompt disposal of the case.

Scope of Audit

2.2.3 The review covered the period from 1998-1999 to 2002-2003¹ and was conducted from January to June 2004 with reference to the records available in the offices of the CCT. Fifteen² out of 47 circles including two (Muzaffarpur and Patna) out of seven divisions were also test checked. The results of the review are given in the succeeding paragraphs.

Audit Objectives

2.2.4 The review was conducted with a view to:

- ascertain the extent of arrears;
- ascertain the effectiveness of the internal control system; and
- examine effectiveness of the Department in raising demands and collection of arrears.

¹ Cases of arrears relating to the period prior to 1998-1999 were also test checked in view of the provisions of the Bihar Finance Act, 1981 as mentioned in para 2.2.2 of this Report.

² Arrah, Begusarai, Buxar, Danapur, Gaya, Hajipur, Muzaffarpur, Patliputra, Patna Special, Patna North, Patna South, Patna West, Patna City East, Patna City West and Sasaram.

Trend of revenue and arrears

2.2.5 The revenue raised during 1998-1999 to 2002-2003 and arrears outstanding are detailed below:

(Rupees in crore)

Year Upto	Budget Estimates	Actual receipts	Arrears	Percentage of arrears to actual receipts
1998-1999	2,042.00	1,821.85	1,173.57	64.42
1999-2000	2,280.00	2,067.79	1,377.74	66.63
2000-2001	1,950.88	1,821.47	691.79	37.98
2001-2002	1,450.00	1,412.96	905.06	64.05
2002-2003	1,627.01	1,647.62	1,144.99	69.49

The arrears at the close of each year ranged between 37.98 to 69.49 per cent of the actual collection during the above period.

According to the Department, the arrears were under the following stages of recovery:

(Rupees in crore)

Year Upto	Amount of arrears	Certified arrears	Recovery stayed by Court/ Government	Other arrears	Percentage of column 3 to 2	Percentage of column 4 to 2
1	2	3	4	5	6	7
1998-1999	1,173.57	68.60	639.79	465.18	5.85	54.52
1999-2000	1,377.74	158.54	647.04	572.16	11.51	46.96
2000-2001 ³	691.79	172.76	361.89	157.14	24.97	52.31
2001-2002	905.06	249.93	464.60	190.53	27.61	51.33
2002-2003	1,144.99	222.73	400.73	521.53	19.45	35.00

Specific action in respect of other arrears was not furnished, though called for.

The above table revealed the following:

- Amount of arrears increased from Rs 692 crore in 2000-2001 to Rs 1,145 crore in 2002-2003 (65 per cent).
- Amount of certified arrears increased from Rs 173 crore in 2000-2001 to Rs 223 crore in 2002-2003 (29 Per cent) in comparison to 65 per cent increase of total arrears
- The pace of recovery process was slow in comparison to the mounting arrears.

Incorrect reporting of arrears

2.2.6 Under the provisions of Bihar Finance Act and executive instructions issued thereunder, Dues and Collection Register (Register VI) is required to

³ Arrears decreased due to bifurcation of State

be maintained by the circle which would give a complete record of the events occurring in the assessment record and vital information in respect of assessees.

Further, by an executive instruction of September 1998, the circles/monitoring wing were instructed to update Register VI to watch deposit of admitted/assessed tax in time and compliance was to be sent to the headquarters.

It was noticed in all test checked circles that Register VI was neither maintained properly nor reviewed/cross checked by any superior authority after completion of the assessment.

Cross verification of Dues statement furnished by the Department with Register VI maintained in 15⁴ circles for the period between 1998-1999 to 2002-2003 revealed non-exhibition (Rs 38.51 crore), short exhibition (Rs 2.45 crore), over exhibition (Rs 0.61 crore) of arrears and exhibition of different figures under assessee-wise (Rs 62.04 crore) and year wise (57.50 crore).

Failure of follow-up action for recovery of arrears

2.2.7 Under the provisions of Bihar Finance Act, the amount of tax together with penalty if any, which remains unpaid after the date specified in the notice shall without prejudice to any other mode of recovery be recovered as arrear of land revenue. Under the BOPDR, any money which is declared by any law for the time being in force as arrears is recoverable as arrears of land revenue.

Variation between figures of Register IX and X

- Under the provisions of BOPDR Act, certificate proceedings are initiated for realisation of arrears for which the RO sends the proposal to the CO and makes entries of the details of such cases in Register IX and the CO after being satisfied that any public demand payable to the Collector is due, signs a certificate in the prescribed form, stating that the demand is due and shall cause the certificate to be filed in his offices. Further, the CO enters the details in Register X. The Register IX and Register X are to be reconciled at regular intervals. The CO is responsible for ensuring that no delay occurs in the certificate office and certificates are made as soon as applied for.

Cross-verification of entries appearing in Register IX in respect of three⁵ circles for the years 1997-1998 to 2000-2001 and those appearing in Register X (maintained in the certificate office) revealed variations. While Register IX contained 10 certified cases involving Rs 8.43 crore, Register X disclosed only one certified case involving Rs 5.67 crore. Non-reconciliation of Register

⁴ Arrah, Begusarai, Buxar, Danapur, Gaya, Hajipur, Muzaffarpur, Patliputra, Patna Special, Patna North, Patna South, Patna West, Patna City West, Patna City East and Sasaram

⁵ Patna South, Patna city West and Patna North

IX and Register X and lack of co-ordination between RO and CO resulted discrepancy of Rs 2.76 crore.

Non-initiation/ short institution of certificate proceedings

- In six circles⁶ test checked, it was noticed from Register VI / Registration certificate that 17 dealers had either closed down their business or had surrendered registration certificates during 1991-1992 to 2002-2003. They had stopped filing of returns and had not paid the tax due amounting to Rs 64.52 lakh but no certificate proceedings were initiated against them. Further short certificate case for Rs 17.83 lakh was instituted between 2000-2001 and 2001-2002 against two dealers for recovery of arrears. Reasons for short institution of certificate cases were not furnished.

Non levy of penalty before institution of certificate case

- The Bihar Finance Act, provides for levy of penalty on the unpaid amount of assessed tax before institution of certificate case which may extend to five *per cent* of the amount of tax, for each of first three months following the expiry of such date and to 10 *per cent* for each subsequent month or part thereof.

Test check of Certificate Registers (Register IX) and certificate case records of 11 circles⁷, revealed that certificate cases were instituted between 1998-1999 and 2002-2003 against 21 dealers on the unpaid amount of tax for Rs 13.51 crore without imposing penalty of Rs 30.98 crore.

Non-return of certificate requisitions to certificate office

- Under the BOPDR Act, the certificate debtor may, within 30 days from the service of notice file a petition, denying the liability, in whole or in part. The CO may call for para-wise comments on the petition and additional information relevant for the disposal of the certificate cases from the RO.

Test check of Register IX of Patna North Circle disclosed that one case involving Rs 17.59 lakh which was requisitioned for institution of certificate case against the dealer in 2002-2003 was returned to the RO for making compliance of certain comments. However, the same was not returned back to the CO as of June 2004 resulting in delay in institution of certificate case and recovery.

Certificate cases dropped for want of correct address

- No provision exists in the BOPDR Act to drop certificate proceedings once initiated. Further, the BOPDR Act and Board's Instructions issued

⁶ Gaya, Hajipur, Muzaffarpur, Patna North, Patna South and Sasaram.

⁷ Begusarai, Danapur, Gaya, Hazipur, Muzaffarpur, Patna Special, Patna City East, Patna City West, Patna South, Patna North and Patna West.

thereunder from time to time, *interalia*, provide for furnishing of the correct address(es) of the defaulter against whom certificates are to be enforced by the RO. The RO is required to send a report on any case called for by the CO.

Test check of Register IX of four circles⁸ disclosed that while 33 certificate cases involving Rs 62.64 lakh instituted against the dealers between 1992-1993 and 1997-1998 were dropped for want of correct address of the defaulters. This resulted in loss of revenue of Rs 62.64 lakh.

Distress Warrant/Body Warrant issued but not executed

- Under the BOPDR Act, CO may order execution of a certificate by attachment and auction of any property or by arresting the certificate debtor and detaining him in civil prison or by both the methods.

Test check of certificate case records and Register X in two circles revealed that in case of five certificate proceedings, distress warrants/ body warrants issued between October 1994 and December 2002 for recovery of dues of Rs 92.54 lakh, were not executed. The details are as under:

(Rupees in lakh)				
Name of the circle	Certificate case No.	Distress warrant issued on	Body warrant issued on	Amount
Sasaram	17/1983-1984	6.10.1994	-	85.28
	939/1992-1993	-do-	-	2.77
	152/1992-1993	6.10.1994	-	2.39
Muzaffarpur	7/2001-2002	-	11.12.2002	1.05
	10/2001-2002	-	20.11.2002	1.05
Total				92.54

The concerned ROs did not pursue the cases for execution of warrants in time.

Avoidable creation of arrears due to missing challans

2.2.8 Under the provisions of the Bihar Finance Act, and Rules framed thereunder, every dealer is required to pay tax or penalty or both under the Act in Government treasury by challan. The Treasury Officer is required to send portion of the challan marked 'original' to the in-charge of the circle. A portion of the challan marked 'duplicate' is retained by the treasury and the portion marked 'triplicate' and 'quadruplicate' is returned to the dealer/ payee after being duly receipted.

Perusal of uncertified dues statement furnished by two circles (Patliputra and Patna City West) revealed that an amount of Rs 2.98 crore was outstanding against 17 dealers for the assessment periods 1991-1992 to 2002-2003 due to non-availability of challans in token of proof of payment. However, there was nothing on record to indicate that the Department had initiated any action either to ascertain the facts from the treasury or the assessees. Cross verification of records of Patna Treasury in respect of three cases revealed that as against the uncertified dues of Rs 8.65 lakh, the assessee had deposited an

⁸ Muzaffarpur, Patliputra, Patna South and Patna West

amount of Rs 4.34 lakh for the period from 1998-1999 to 2000-2001. Failure on the part of departmental authorities (DCCT/ACCT) to ascertain the facts and initiate recovery proceedings against the defaulters resulted in non-realisation of dues of Rs 2.94 crore.

Amounts locked in appeal

2.2.9 Under the Bihar Finance Act, any dealer objecting to an order of assessment or penalty or both passed by an assessing authority, may appeal to the JC or the DC specially authorised in this behalf who on hearing can confirm, annul, reduce, enhance or otherwise modify the assessment order or remand the case passed by an assessing authority for re-assessment. In December, 1988 the CCT fixed the minimum number to be disposed per month by JCCT (Appeal) as 60 which was again reiterated by the instructions of August 1989.

- *Pending appeal cases*

Test check of records in two divisions revealed that as against the prescribed norms of finalisation of 7,200 cases during the years 1998-1999 to 2002-2003, the appellate authorities could finalised only 4,906 cases as detailed below :

Name of division	Year	Opening balance	Addition	Total	Disposal required as per norms	Disposal (Actual)	Balance	Percentage of short fall in disposal as per norms	percentage of shortfall against total no. of pending cases
Muzaffarpur	1998-1999	1,760	325	2,085	720	1,414	671	-	32.18
	1999-2000	671	350	1,021	720	698	323	3.05	31.64
	2000-2001	323	284	607	720	467	140	35.13	23.06
	2001-2002	140	242	382	720	273	109	62.08	28.53
	2002-2003	109	412	521	720	315	206	56.25	39.53
Patna	1998-1999	167	408	575	720	218	357	69.72	62.09
	1999-2000	357	431	788	720	571	217	20.69	27.54
	2000-2001	217	342	559	720	333	226	53.75	40.43
	2001-2002	226	380	606	720	357	249	50.42	41.09
	2002-2003	249	754	1,003	720	260	743	63.89	74.08
Total					7,200	4,906			

Thus, except for two years in Muzaffarpur division, the disposals were substantially below the minimum target of 720 cases per annum and shortfall ranged between 20.69 and 69.72 per cent during 1998-1999 to 2002-2003.

- *Stay order*

The Supreme Court⁹ has held that the court should refrain from passing any interim orders staying the realisation of indirect taxes or passing such orders which may have the effect of non-realisation of indirect taxes.

⁹ *Empire Industries Ltd. and others vrs. Union of India and others 1985 (20) ELT 17(a)(SC).*

Statement furnished by four circles revealed that 162 appeal cases involving Rs 151.59 crore were under stay, granted by various appellate authorities/tribunal up to 2002-2003 as detailed below:

(Rupees in crore)

Name of the Circle	Stayed by							
	Tribunal		Commissioner		Joint Commissioner		Total	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Patna Special	1	0.17	-	-	82	142.60	83	142.77
Patna city West	-	-	-	-	1	0.07	1	0.07
Sasaram	1	0.02	1	0.01	10	0.16	12	0.19
Patna South	22	1.43	11	1.04	33	6.09	66	8.56
Total	24	1.62	12	1.05	126	148.92	162	151.59

Non-recovery of arrears due to grant of registration certificate to *Benami* dealers

2.2.10 Under the provisions of Bihar Finance Act, and Rules framed thereunder, every dealer who requires a registration certificate shall apply for the same in the prescribed manner to the prescribed authority and the said authority after having been satisfied about the contents and particulars of the application, shall grant a registration certificate to the dealer after furnishing of security for proper payment of tax payable by the dealer and the dealer shall comply with such requirement.

The Collector, Gaya reported (February/May 2002) to the CCT Bihar, that due to delayed initiation of certificate proceedings in case of 10 dealers, the Government had foregone substantial revenue. In addition, the dealers were either *benami* dealers or had given wrong address and as such the recovery proceedings against them were deferred. The Collector had also desired that departmental or vigilance inquiry may be conducted. However, there was nothing on record to indicate that the Department had initiated any action. This has resulted in loss of Government revenue of Rs 13.19 crore.

Non-revision of security

2.2.11 Under the provisions of Bihar Finance Act, and rules made thereunder, the prescribed authority may require any registered dealer to furnish security for proper payment of tax payable by him. If at any time, the said authority finds that the tax payable by the dealer for one year exceeds the amount of security furnished by him, the said authority may direct the dealer to furnish security equivalent to the tax payable by the dealer for one year.

In eight circles¹⁰ in the case of 28 dealers, the assessing officers did not revise the amount of security though the tax payable by these dealers increased substantially in comparison to the amount of security. In absence of

¹⁰ Danapur, Gaya, Hajipur, Patna City East, Patna City West, Patna North, Patna South and Patna West.

proper/equivalent security the assessing officers were not in a position to realise the arrears of Rs 27.39 crore relating to the assessment years 1988-1989 to 1998-1999. Thus non-revision of security in the interest of revenue, led to accumulation of avoidable arrears of to Rs 27.39 crore.

Arrears due to undue delay in issue of demand notice

2.2.12 Under the provisions of Bihar Finance Act, the tax and penalty payable by a dealer shall be paid into Government treasury or in such other manner, as may be prescribed by such date as may be specified in the notice of demand issued by the prescribed authority for this purpose. The prescribed authority may also extend the date of payment and allow him to pay the tax and penalty in instalments. Further, he may require any dealer to make payment forthwith.

In Hajipur Circle, in case of a dealer, assessment order for the assessment period 1988-1989 to 1990-1991 was passed in March 1997 for Rs 6.95 lakh and the demand notice was issued in March 1998 after a lapse of one year. The arrears were, however, not recovered as of June 2004. After this was pointed out in June 2004, the ACCT stated in August 2004 that the dealer has become non-existent. Thus undue delay in issue of demand notice had resulted in avoidable accumulation of arrear.

Conclusion

2.2.13 Sales tax is the major source of revenue in the State. Though, an increasing trend in the arrear position has been noticed during the last two years (2001-2002 and 2002-2003), yet the correctness of dues remained doubtful in view of the fact that Register VI prescribed under executive instructions, was not maintained properly. The exact amount outstanding against the assesseees and the stages of action for recovery was unascertainable. Proper follow-up action was not taken to effect recovery of arrears.

Incorrect raising of demand, time barred assessment or no assessment and delay in issue of demand notice were some of the factors which not only lead to non-recovery of arrears but also brought out shortcomings in the system for realisation of dues.

Recommendations

2.2.14 Government may examine and consider:

- creation of a mechanism for constant watch over the dues and collection;
- taking effective measures for recovery of pending certified dues;
- regular review of security deposit/bank guarantee;
- setting up of a legal directorate or effectively empowered mechanism for fixation of time limit for disposal of appeal cases; and

- making the internal control system more effective.

2.3 Suppression of turnover

Under the provisions of Bihar Finance Act, read with Central Sales Tax (CST) Act, 1956, if the prescribed authority has reason to believe that the dealer has concealed, omitted or failed to disclose willfully the particulars of turnover or has furnished incorrect particulars of such turnover and thereby returned figures below the correct amount, the said authority shall assess or reassess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover. The CST Act also provides that no tax shall be payable on sale of goods which have taken place in the course of export sale. Further, the CCT, Bihar issued instructions in May 1990 and June 1991 that all the Assessing Officer in-charge should cross verify the records with the Custom Department.

Audit scrutiny revealed the following:-

- Cross verification of assessment records of 21 dealers of various commodities¹¹ registered with four commercial taxes circles¹² with the records maintained in Custom Department revealed that the assessee had disclosed turnover on account of export sale of goods to Nepal amounting to Rs 47.77 crore in their returns during the period 1997-1998 to 2001-2002 and were allowed between December 1999 and January 2004 the exemption accordingly, against the actual export value of goods of Rs 30.50 crore as shown in the records of Custom Department. The assessing authorities failed to cross verify the records with the Custom Department which resulted in allowing incorrect exemption on excess taxable turnover of Rs 17.27 crore and consequent short levy of tax amounting to Rs 6.35 crore including additional tax, surcharge and penalty.

After this was pointed out, the Department stated between November 2003 and March 2004 that the cases would be examined. Further reply has not been received (September 2004).

- In seven circles, it was noticed from the assessment records assessed between January 2001 and March 2003, utilisation certificates of declaration forms, Road Permits, and Trading Account etc. that 14 dealers had suppressed purchase/sale turnover of Rs 8.95 crore bought/sold on declaration forms during the years 1997-1998 to 2001-2002 which remained undetected by the Department. Thus, failure of the Department to check the suppression of purchase/sales resulted in short levy of tax amounting to Rs 1.70 crore including additional tax, surcharge and minimum leviable penalty as detailed below:

¹¹ *Medicine, electric fan, sewing machine, powdered milk, ghee-butter, cheese, edible oil, cycle and cycle part, soap, detergent, soda ash, raw jute and consumer products etc.*

¹² *Forbesganj, Katihar, Patna Special and Raxaul.*

Audit Report (Revenue Receipts) for the year ended 31 March 2004

(Rupees in lakh)								
Sl. No.	Name of Circle/ No. of dealers	Period of assessment/ Month/Year of assessment	Commodity	Actual purchase/ Accounted for	Actual sale/ Accounted for	Amount concealed	Amount of tax/ penalty	Total
1	Patna Special 1	2000-2001 & 2001-2002 01/2003	Audio and Video Cassettes	-	305.85 NIL	305.85	44.14 40.13	84.27
2	Patna Special 1	2000-2001 02/2003	Sewing machine, Electric fans	841.36 704.15	-	137.21	13.70 12.46	26.16
3	Patna Special 2	1999-2000 2001/2003	Moulded Luggage	1,072.72 961.92	-	110.80	13.53 12.29	25.82
4	Gaya 3	1997-1998, 1999-2002 07/2001,03/2002,06/2002, 12/2002 & 03/2003	Motor cycle, Horlicks, H.T.S wire, ERC clip	2,677.93 2,411.36	-	266.57	8.72 8.28	17.00
5	Forbesganj 2	1998-2000 06/2002	Plywood, Chemical	43.74 26.02	-	17.72	2.36 2.16	4.52
6	Muzaffarpur 2	1998-2001 01/2003, 02/2003	Cement and sanitary fittings	52.30 35.93	-	16.37	2.04 1.88	3.92
7	Patliputra 1	1998-2000 01/2001, 11/2002	Medicine	-	452.70 429.64	23.06	1.78 1.61	3.39
8	Patna City West 1	2000-2001 01/2003	Rubber goods	44.61 33.38	-	11.23	1.62 1.47	3.09
9	Samastipur 1	1999-2000 08/2001	Motor cycle & parts	16.42 10.67	-	5.75	0.70 0.64	1.34
	14	Total		4,749.08 4,183.43	758.55 429.64	894.56	88.59 80.92	169.51

After this was pointed out, the Department stated between November 2003 and March 2004 that the cases would be reviewed. Further reply has not been received (September 2004).

- In Gaya Circle, the assessment records revealed that the assessing officer while completing the assessment between September 2002 and November 2002 of a dealer found suppression of sales turnover of Rs 8.34 crore which was not shown in the return furnished by the dealer during the period 1998-1999 and 1999-2000. The assessing officer levied the tax on concealed value but did not levy the penalty of Rs 79.32 lakh.

After this was pointed out (December 2003), the department stated in December 2003 that the case would be examined. Further reply has not been received (September 2004).

- In Patna City East Circle, it was noticed in February 2004 that the assessing officer had revised the assessment in August 2003 for the years 1999-2000 and 2000-2001 after information received from CCT Bihar on suppressed purchase of Rs 1.85 crore. The assessing officer levied the tax but did not impose penalty in contravention of the provisions of the Act *ibid*. This resulted in non-levy of penalty of Rs 19.98 lakh.

After this was pointed out in February 2004, the Department stated that penalty would be levied. Further reply has not been received (September 2004).

The above cases were reported to the Government between January 2004 to May 2004; their reply has not been received (September 2004).

2.4 Incorrect determination of taxable turnover

Under the provisions of Bihar Finance Act, taxable turnover of a dealer, shall be that part of his gross turnover which remains after deducting therefrom the amount of sales tax actually collected as such, if any, along with the sale prices received or receivable in respect of sale of goods.

- In Patna Special Circle, it was noticed that a dealer engaged in business of petroleum products had actually collected tax amounting to Rs 90.12 crore (Rs 90.02 crore under Bihar Finance Act and Rs 0.10 crore under CST Act) during the year 2000-2001, whereas a sum of Rs 98.70 crore was incorrectly deducted from his gross turnover on account of tax collected. This resulted in incorrect determination of taxable turnover and consequent short levy of tax of Rs 1.42 crore including surcharge on differential amount of Rs 8.58 crore.

After this was pointed out in March 2004, the Department stated (March 2004) that the case would be examined. Further reply has not been received (September 2004).

The case was reported to the Government in May 2004; their reply has not been received (September 2004).

- In Patna Special Circle, it was noticed that the assessing officer while completing assessment in March 2003 for the year 2000-2001 of a dealer, erroneously levied tax on turnover of sale of lubricants at Rs 1.03 crore instead of actual turnover of Rs 3.18 crore. Thus, turnover of Rs 2.15 crore escaped assessment. This resulted in under assessment of tax of Rs 40.67 lakh including additional tax and surcharge.

After this was pointed out in March 2004, the Department stated that the case would be examined. Further reply has not been received (September 2004).

The case was reported to the Government in May 2004, their reply has not been received (September 2004).

2.5 Short levy of additional tax

Under the Bihar Finance Act, and notification issued thereunder, every dealer is required to pay additional tax at the rate of one *per cent* (except on liquor) on his gross turnover unless specifically exempted from levy of additional tax.

In Patna Special Circle, in case of two dealers dealing in petroleum products assessed in January and February 2003, additional tax was erroneously levied at Rs 861.60 crore instead of the correct amount of Rs 942.05 crore for the assessment year 2000-2001. This resulted in short levy of additional tax of Rs 88.49 lakh including surcharge.

After this was pointed out in February 2004, the department stated (March 2004) that the case would be examined. Further reply has not been received (September 2004).

The case was reported to the Government in May 2004; their reply has not been received (September 2004).

2.6 Under assessment of Central Sales Tax

Under the CST Act, the State Government by issuing a notification in May 1996, granted exemption to industrial units from levy of sales tax on inter-State sale of manufactured goods. In case of inter-State sale of goods which are not supported by prescribed declaration forms, in the case of declared goods tax is leviable at twice the rate applicable in the State and for other goods at the rate of 10 *per cent* or at the rate applicable in the State whichever is higher. It has also been judicially held¹³ that while granting exemption, there is an obligation to produce the 'C' form.

- In Patna South Circle, a manufacturing dealer was granted certificate for availing the benefit of tax exemption on inter-State sale of manufactured goods. The assessing officer allowed the benefit of exemption on inter-State sale of ingots valued at Rs 3.18 crore made during the period 2000-2001 though the sale was not supported by declaration form 'C'. This resulted in under assessment of tax of Rs 25.45 lakh.

After this was pointed out in November 2003, the department stated that the case would be reviewed. Further reply has not been received (September 2004).

The case was reported to the Government in February 2004; their reply has not been received (September 2004).

- In three circles, in case of six dealers for the years between 1997-1998 and 2000-2001 assessed between August 2000 and September 2003 though the sale of goods valued at Rs 14.18 crore was not supported by prescribed declaration forms, tax was levied at lower rate. This resulted in under assessment of tax of Rs 56.27 lakh as detailed below:

(Rupees in lakh)						
Sl. No.	Name of circle/No. of dealers	Period of assessment/ Month/Year of assessment	Commodity	Sale not supported by declaration form	Rate leviable Rate levied (Per cent)	Tax short levied
1.	Forbesganj 4	Between 1997-1998 & 2000-2001 Between 8/2000 & 2/2003	Jute	961.16	$\frac{6}{3}$	28.83
2.	Patliputra 1	1999-2000 12/2002	Tractor parts	71.44	$\frac{10}{4}$	4.29
3.	Gaya 1	1998-99, 1999-2000 09/2002, 11/2002	Concrete Sleeper and clip	385.83	$\frac{10}{4}$	23.15
	Total			1,418.43		56.27

¹³ State of Rajasthan Vs. Sarvottam Vegetables Products (S.C) 1996, 547

After this was pointed out between November and December 2003, the Department stated between November and December 2003 that cases would be reviewed. Further reply has not been received (September 2004).

The cases were reported to the Government in March 2004; their reply has not been received (September 2004).

2.7 Non-levy of penalty

Under the provisions of Bihar Finance Act, if any registered dealer fails to make payment of the admitted tax within the due date or the extended date, the prescribed authority shall impose a penalty which may extend to five *per cent* but not less than two and half *per cent* of the amount of tax for each of the first three months or part thereof following the due date or the extended date and to 10 *per cent* but not less than five *per cent* for each subsequent month or part thereof.

In two circles, (Gaya and Patna Special) it was noticed between December 2003 and March 2004 that four dealers deposited the admitted tax with delay. The delay ranged from four days to 43 months pertaining to the years 1999-2000 to 2001-2002. However, the assessing officers while finalising the assessments between November 2002 and February 2003 did not levy penalty of Rs 86.53 lakh.

After this was pointed out between December 2003 and March 2004, the DCCT, Gaya Circle stated that case would be examined while DCCT, Patna Special Circle, stated that no proceedings under Section 16(9) can be initiated once the dealer had been assessed to tax. Non levy of penalty at the time of assessment resulted in loss of Rs 86.53 lakh.

The cases were reported to the Government between March 2004 and May 2004; their reply has not been received (September 2004).

2.8 Incorrect grant of exemption

Under the provisions of Bihar Finance Act, read with Bihar Sales Tax (BST) Rules, 1983, a dealer who claims that any amount of his turnover should be exempted from sales tax shall substantiate such claim before the prescribed authority by producing the purchase order, if any, the cash memo or bills in original issued by him and a true declaration in writing from the selling dealer in form IXC obtained from the prescribed authority that the goods in question have already been subjected to sales tax in the state.

In Forbesganj Circle, it was noticed in November 2003 that a dealer, assessed in December 2002, was granted exemption on the strength of form IXC, on the purchase of petrol and diesel for Rs 1.75 crore during the period between 15 November 2000 and 31 March 2001 from Jharkhand. The grant of exemption was irregular as the purchase was made from outside the State.

Incorrect grant of exemption resulted in short levy of tax amounting to Rs 28.46 lakh.

After this was pointed out, the department stated in November 2003 that the case would be reviewed. Further reply has not been received (September 2004).

The case was reported to the Government in February 2004; their reply has not been received (September 2004).

CHAPTER-III : STATE EXCISE

3.1 Results of Audit

Test check of the records of the excise offices, conducted in audit during the year 2003-2004, revealed under assessments and losses of revenue of Rs 32.37 crore in 97 cases, which broadly fall under the following categories.

Sl. No.	Categories	(Rupees in Crore)	
		No. of cases	Amount
1	Loss of revenue due to low yield of spirit	4	0.98
2	Non/delayed settlement of excise shop	35	16.68
3	Non realisation of license fee	11	0.76
4	Excess payment/non-realisation of cost price	5	0.04
5	Other cases	42	13.91
	Total	97	32.37

During the year 2003-2004, the concerned Department accepted under assessments etc., of Rs 0.58 crore involved in 8 cases which had been pointed out in audit during earlier years.

A few illustrative cases involving tax effect of Rs 6.08 crore are discussed in the following paragraphs:-

3.2 Loss of revenue due to non-settlement of excise shops

Under the Bihar Excise Act, 1915 and rules framed thereunder, the licences for retail vend of country spirit (CS), spiced country spirit (SCS) and India made foreign liquor (IMFL) are settled annually at auction by the Collector and if reserved/upset fee is not obtained, the Collector of the district may, at his discretion, settle the shops below reserved fee provisionally subject to approval by the Excise Commissioner. The department issued (June 1995) instructions to all Collectors to operate the unsettled excise shops departmentally.

In six excise offices¹, it was noticed in December 2003 and January 2004 that 27 CS shops, 40 SCS shops and 21 IMFL shops remained unsettled or inoperative departmentally during 2001-2002 and 2002-2003. This resulted in loss of excise duty and licence fee of Rs 5.08 crore as worked out on the basis of minimum guaranteed quota (MGQ) and reserve fee respectively fixed for the concerned excise shops.

After this was pointed out by audit in December 2003 and January 2004, the Assistant Commissioner of Excise (ACE), Patna and the Superintendent of Excise (SE), Samastipur stated in December 2003 and January 2004 that the shops could not be settled inspite of efforts as no bidder turned up. The SEs² in respect of four offices stated between August and September 2004 that the shops could not be

¹ Bettiah, Bhagalpur-cum-Banka, Nalanda, Patna, Samastipur and Saran,

² Bettiah, Bhagalpur-cum-Banka, Nalanda and Saran

run departmentally as the Department had not issued any instructions regarding the modalities to run the shops.

The reply of the department was not tenable as no efforts were made to run the shops departmentally or to settle them below the reserved fee.

The cases were reported to the Government between March and June 2004; their reply has not been received (September 2004).

3.3 Loss of revenue due to non-settlement of excise shops after cancellation

Under condition No. 14(b) of the sale notification issued (February 2002) by the department for settlement of shops, successful bidder is required to deposit six month's licence fee immediately after the bid. The balance amount of licence fee is to be deposited in equal monthly instalments between July and December by 10th of each month failing which the licence shall be cancelled and security money forfeited. Further, each licensee of the shop is required to lift the approved minimum guarantee quota (MGQ) of the CS, SCS, IMFL and beer by last day of the month. In case of any failure to comply with the conditions of sale notification, action is required to be taken against the licensee under section 42 of the BE Act. Further, under departmental instructions of June 1995, unsettled excise shops are required to be operated departmentally.

In two excise offices (Nalanda and Saran) it was noticed in September and December 2002 that licences of 6 CS and 9 SCS shops were cancelled between September 2002 and December 2002 due to non-payment of licence fee and short lifting of MGQ by retail licensees. These shops remained unsettled after cancellation upto March 2003 and were not run departmentally also. This resulted in loss of excise revenue of Rs 17.72 lakh as worked out on the basis of MGQ and reserve fee respectively fixed for the concerned excise shops.

After this was pointed out in December 2003, the SEs, Nalanda and Saran stated that despite efforts the shops could not be settled, as no bidder turned up and the shops could not be run departmentally as the department had not issued any instructions regarding modalities to run the shops.

The reply of the department was not tenable as the unsettled shops were not operated departmentally in contravention of instructions.

The matter was reported to the Government in March 2004; their reply has not been received (September 2004).

3.4 Loss of revenue due to low recovery of spirit from molasses

Under the Bihar Excise Act and rules framed thereunder read with Government notification dated 11 January 2000, the distillers shall be responsible for maintaining a minimum recovery of 92 London Proof Litres (LPL) (52.5 alcoholic litres) of alcohol per quintal of fermentable sugar present in molasses.

Test check of records of SE, McDowell Distillery, Hathidah, Patna revealed that 1,54,075.22 quintal of molasses was consumed in the distillery during the period

from October 2002 to September 2003 out of which 31,31,732.20 LPL alcohol was actually recovered against 31,88,963.85 LPL alcohol required as per norms. Short recovery of 57,231.65 LPL of spirit resulted in loss of revenue amounting to Rs 57.23 lakh.

After this was pointed out in audit, the SE stated (October 2003) that action for recovery would be taken after review.

The matter was reported to the Government in February 2004; their reply has not been received (September 2004).

3.5 Undue advantage to retail vendor

Under condition 18 of the sale notification, every bidder is required to lift a fixed MGQ of CS, SCS and IMFL failing which defaulter licensees are liable to be penalised or their licences are to be cancelled under section 68 and 42 of the Bihar Excise Act, 1915. Further, as per condition 15 (*Kh*) of the sale notification licensee is responsible to make available objection free site and in case he fails to start the shop within a month, the licence shall be cancelled without any opportunity to be heard and without any claim for refund of any advance fee and security money deposited by the licensee.

Test check of records of ACE, Patna revealed that CS shop, Lodipur was settled in March 2002 at monthly licence fee of Rs 35,300 per month. The licensee deposited the licence fee for the entire year 2002-2003 but could not open the shop as the licensee failed to provide objection free site for the shop. The Department neither cancelled the licence nor the shop was re-auctioned / run departmentally. This resulted in loss of Rs.16.59 lakh in shape of excise duty as worked out on the basis of MGQ of CS fixed for the shop.

After this was pointed out in audit, the department stated in December 2003 that shop could not be opened due to non-availability of objection free site in the area. The reply was not tenable as the Department failed to cancel the licence and run the shop departmentally.

The matter was reported to the Government in March 2004; their reply has not been received (September 2004).

3.6 Non-realisation of revenue due to default in payment of advance licence fee

The Bihar Excise Act, and the Rules framed thereunder provide that in settlement of excise shops, a person whose bid has been accepted by the Presiding Officer, at the auction, must pay six months advance licence fee immediately. Notification for sale of excise shops issued each year in the prescribed form-127 further stipulates that when a shop is knocked down, the purchaser is liable for any loss that may accrue to Government in case it becomes necessary to re-sell the shop for a lower sum or to keep it non-settled in consequence of his failure to pay the sum at the time of sale. Further, the notification also provides for deposit of security money equal to the reserved fee of the shop by the bidder.

In Bhagalpur-cum-Banka Excise district, one CS, one SCS and one IMFL shop were settled between March 2002 and April 2002 for the year 2002-2003 through auction without obtaining security money, at monthly licence fee of Rs 20,812 per month, Rs. 1,200 per month and Rs 21,318 per month respectively. The bidders of these three shops failed to deposit the advance licence fee for six months as required under the rules and shops remained unsettled for the entire financial year. The Department did not take any action to cancel the settlement and re-auction / run the shops departmentally. This resulted in loss of revenue of Rs. 8.90 lakh as licence fee and excise duty as worked out on the basis of reserve fee and MGQ respectively fixed for the concerned excise shops.

After this was pointed out in September 2003, the SE stated that action would be taken after examination. Further reply has not been received (September 2004).

The matter was reported to Government in April 2004; their reply has not been received (September 2004)

CHAPTER – IV: TAXES ON MOTOR VEHICLES

4.1 Results of Audit

Test check of the records of the transport offices during the year 2003-2004, revealed non/short levy of motor vehicles tax, fees, penalties, fines etc. of Rs 79.63 crore in 103 cases, which broadly fall under the following categories:

Sl. No.	Categories	No. of cases	(Rupees in crore)
			Amount
1	Non-levy and short levy of taxes	15	4.08
2	Other cases	88	75.55
	Total	103	79.63

During the year 2003-2004, the concerned department accepted under assessment and other irregularities in five cases involving Rs 0.89 crore which had been pointed out in audit during earlier years.

A few illustrative cases involving tax effect of Rs 8.60 crore are discussed in the following paragraphs:-

4.2 Lack of control over collection of tax

Under the provisions of Bihar Motor Vehicles Taxation (BMVT) Act, 1994 as amended from time to time and rules made thereunder, tax in respect of a vehicle is payable annually or quarterly within 15 days from the commencement of the year or quarter, as the case may be. Cases of non-payment of tax in time is liable for imposition of penalty at prescribed rates together with the arrears of tax. Further, under provisions of Motor Vehicles (MV) Act, 1988 if the owner of a motor vehicle changes his place of residence/business, he shall within 30 days, intimate his new address to the original registering authority.

In 15 District Transport Offices (DTOs)¹, it was noticed between September 2003 and March 2004 that the owners of 875 transport vehicles did not pay tax in the offices where they were originally registered and no reasons were found recorded for non-payment of the tax. The Department had not taken any action to recover the same except in one case of DTO Darbhanga where demand notices had been issued but tax was yet to be realised. This resulted in non-recovery of tax of Rs 8.09 crore including penalty of Rs 5.39 crore pertaining to the period from April 1999 to January 2004.

After this was pointed out in audit between September 2003 and February 2004, the DTO Darbhanga and Muzaffarpur stated in February 2004 that notices had already been issued and the remaining DTOs stated between September 2003 and

¹ Aurangabad, Begusarai, Bhagalpur, Bhojpur, Buxar, Darbhanga, Gaya, Gopalganj, Khagaria, Munger, Muzaffarpur, Patna, Purnea, Sasaram and Siwan.

March 2004 that demand notices would be issued for realisation of the tax due. Further replies have not been received (September 2004).

The cases were reported to the Government in June 2004; their reply has not been received (September 2004).

4.3 Non-realisation of tax from vehicles

Under the provisions of BMVT Act, 1994 and rules made thereunder, the owner of a motor vehicle who does not intend to use his vehicle for certain period not exceeding six months at a time, can be exempted from payment of tax by the competent authority provided his claim for exemption is supported by the required documents such as certificate of registration, fitness certificate and tax token etc. and furnishes declaration to this effect alongwith surrender of tax token and certificate of registration. He shall also furnish further undertaking to the concerned Taxation Officer if the extension of the said period is required. According to executive instructions issued by the State Transport Commissioner (STC) in December 1990, the DTOs are required to realise the arrear of tax before accepting surrender of vehicles for non-use.

In six DTOs², it was noticed between September 2003 and February 2004 that documents of 77 motor vehicles were surrendered between December 2001 and December 2002, but no further undertakings were received in respect of these vehicles for extending the period of surrender. In the absence of fresh undertakings for extension of surrender, the vehicle owners were liable to pay tax of Rs 30.58 lakh for the period from July 2002 to February 2004.

After this was pointed out in audit between September 2003 and February 2004, the DTO Sasaram stated that demand notices had been issued whereas DTO Muzaffarpur stated that demand notices are being issued while three DTOs³ stated that action would be taken. Further reply has not been received (September 2004).

The cases were reported to the Government between February and May 2004; their reply has not been received (September 2004).

4.4 Short realisation of tax due to non/short revision of seating capacity

Under the provisions of Rule 126 of the Bihar Motor Vehicles Rules, 1940, and the executive instructions issued by the STC Bihar in December 1998 and September 2000 the seating capacity of the Public Service Vehicles is to be fixed on the basis of the wheelbase of the vehicles. The seating capacity of the tourist coach is to be fixed keeping in view the condition laid down under the Central Motor Vehicle Rules, 1989. The tax is leviable at the rate prescribed in the Schedule I and II of BMVT Act.

During scrutiny of Registration registers and statements furnished by five DTOs⁴ it was noticed between August 2002 and December 2003 that in respect of 17

² Bhagalpur, Gaya, Munger, Muzaffarpur, Purnea and Sasaram

³ Gaya, Munger and Purnea

⁴ Aurangabad, Gaya, Muzaffarpur, Purnea and Sasaram

vehicles seating capacity was revised between January and November 1999 but tax at revised rates on these vehicles were realised for the period between October 2000 and July 2002 instead of from the date of revision and in respect of another 38 vehicles seating capacity was not revised as per wheelbase. This resulted in non/short realisation of taxes of Rs 20.24 lakh.

After this was pointed out in audit between August 2002 and December 2003, the DTO Purnea stated that action for revision would be taken and differential tax would be realised whereas the remaining DTOs stated that action would be taken after examination. Further reply has not been received (September 2004).

The cases were reported to the Government in February 2004; their reply has not been received (September 2004).

CHAPTER – V: OTHER TAX RECEIPTS

5.1 Results of Audit

Test check of the records of the following receipts, conducted in audit during the year 2003-2004, revealed under assessments of tax, fee, duty and losses of revenue etc., of Rs 190.37 crore in 498 cases which broadly fall under the following categories:-

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
A Stamp and Registration Fees			
1	Short realisation of stamp duty and Registration fees due to late receipt of revised rates	2	0.33
2	Other cases	82	3.71
3	Review on Stamp Duty	1	41.29
Total		85	45.33
B Land Revenue			
1	Non-levy and short levy of cess and / or interest on arrears of cess	59	24.57
2	Non/fixation of salami and commercial rent	54	10.06
3	Non-settlement of vested lands	52	1.50
4	Non-settlement of <i>sairats</i>	51	1.95
5	Long para on loss of revenue due to non-renewal/violation of terms and conditions of lease – hold <i>Khasmahal</i> Land	1	6.70
6	Other cases	163	77.12
Total		380	121.90
C Education and Health Cess			
	Non-remittance of education and health cess into Government Account	1	4.13
Total		1	4.13
D Electricity Duty			
1	Non-recovery of assessed tax and penalty	1	10.41
Total		1	10.41
E Entry Tax/P.G.Tax			
1	Non-levy or short levy of tax	13	0.15
2	Non-levy of penalty	1	0.01
3	Other cases	1	0.12
Total		15	0.28
F Taxes on Sugarcane			
1	Non-recovery of tax on removal of sugar from factory	3	0.91
2	Other cases	13	7.41
Total		16	8.32
Grand Total		498	190.37

During the year 2003-2004, the concerned departments accepted under assessments and other irregularities in two cases involving Rs 6.97 crore which had been pointed out in audit during earlier years.

A few illustrative cases including a Review on **Stamp Duty** involving tax effect of Rs 62.53 crore are discussed in the following paragraphs:

A: STAMP DUTY

5.2 Review: Review on Stamp Duty

Highlights

Discrepancy of Rs.18.59 crore between departmental figures of receipts and those shown in Finance Accounts were not reconciled by the Department for the years 1993-1994 to 2002-2003.

(Paragraph 5.2.6)

Out of 12 districts test checked, it was noticed that two Treasury Officers had not started recording six digit serial number on the stamps as of May 2004 and in seven districts there was inordinate delays in starting six digit number and sending the details to concerned District Sub-Registrars for verification of stamps in execution of deeds.

(Paragraph 5.2.8)

In 12 test checked districts, only 858 out of 1,004 vendors had been rendering their accounts to concerned Treasury Officers/Deputy Collectors. Of these, accounts of 140 vendors were checked and it was noticed that inspection/verification/reconciliation was not done by the Treasury Officers/Deputy Collectors with the records of District Sub-Registrars.

In five DSR Offices, during the years 1995-1996 to 2002-2003, non-judicial stamp papers worth Rs 10.02 crore were utilised in excess for registration than the stamp papers sold by the concerned treasuries.

(Paragraph 5.2.9)

In a Treasury, stamp papers valued at Rs 3.06 crore were lost in January 2004 due to theft.

(Paragraph 5.2.11)

The sale of stamps valued at Rs 2.87 crore by unauthorised vendors of other States resulted in loss of revenue to the State exchequer.

(Paragraph 5.2.13)

There was no evidence on record of inspections carried out by the Inspectors and action taken if any, on their reports. The internal audit system was non-existent.

(Paragraph 5.2.17)

Introduction

5.2.1 The Indian Stamp Act, 1899 and Rules made thereunder as amended from time to time regulate the levy of stamp duty on the instruments registered with the Registration Department.

The duties and responsibilities of the Registration Department are confined to registration of instruments presented for registration and collection of stamp duty under the Act. The Department is also empowered under the provisions contained in Bihar Stamp Rules, 1954 to make appointment of licensed stamp vendors through the Collector of the concerned districts for sale of stamps.

In the State, Secretary-cum-Inspector General of Registration (IGR), Bihar, Patna places indents for all categories of stamps to the Indian Security Printing Press (ISP), Nasik and Security Printing Press (SPP), Hyderabad. Of the 35 stamp treasuries in Bihar working under the direct control of respective Collector, one treasury (Secretariat Treasury, Patna) is designated as nodal treasury (August 1991). The Treasury Officer (TO) of Secretariat Treasury administers the receipt of stamps from the ISP and SPP and their supply to other district treasuries. The sale of stamps to the general public is effected either directly through treasuries or through the licensed stamp vendors.

On receipt of consignments, the nodal treasury distributes sealed packets of stamp to other stamp treasuries, on the date fixed by the IGR. Stamps having denomination upto Rs. 5000 are sold by the treasuries to the licensed stamp vendors after collecting the sale value through treasury challan while Stamps exceeding denomination of Rs. 5000 are sold to individual after obtaining sale proceeds through treasury challan. The licensed vendors are required to submit the account of stamps sold and in stock to the concerned treasuries by fifth of next month. The treasuries in turn as well as licensed vendors are required to submit the account of sale of stamps to the Collector through the Deputy Collector (DC),(Stamp/Legal Cell) who verifies the accounts of vendors and reports to the Collector.

A flow chart showing the entire process of indent, receipt and sale of stamp papers and collection of stamp duty in registration offices is given in Appendix-I.

Organisational set up

5.2.2 At the apex level, IGR is responsible for administration of the Act and Rules. He is assisted by one Deputy Inspector General of Registration (DIG), four Assistant Inspector General of Registration (AIG) and four Inspectors at

Divisional level. The DIG/AIG is responsible for indenting and supply of stamps while the function of inspectors are confined to inspect and report on all offices in his jurisdiction once in a year to the IGR.

Procurement of stamps from ISP and SPP by the IGR is made on the basis of indents received from the TOs of stamp treasuries for utilisation in District Sub Registrar (DSR)/Sub-Divisional Sub-Registrar (SR), insurance/share sectors in the State.

There are 38 DSR and 71 SR offices in the State. The DSRs/SRs are responsible for levy and collection of stamp duty under the provisions of the Act. The DC (Stamp/Legal cell) is responsible for advising on referred, impounded and refund cases under the Bihar Stamp Rules (BSR), 1954 and also for verification of stamps issued by the treasuries.

The stamps are stored at the Central Stamp Depot (CSD), Patna for issue to different treasuries.

Scope of audit

5.2.3 The review covering the period from 1993-1994 to 2002-2003 was conducted between January and May 2004 with reference to the records of IGR, TOs, DSRs, SRs and DC of 12¹ out of 38 districts in Bihar.

Objective

5.2.4 The review was conducted with a view :

- to ascertain how demand for supply of stamps was projected & Budget estimate in respect of revenues from stamp duty was prepared;
- to ascertain, whether action was taken to ensure adequate supply of stamp papers to/from various treasuries;
- to examine the system of assessment of requirement, indenting, accounting of stock, sale and proceeds;
- to ascertain leakage of revenue under stamp duty; and
- to analyse trends in activity in insurance sector.

Variation between the budget estimates and actual receipts

5.2.5 The position of budget estimates and actual receipts during the period 1996-1997 to 2002-2003 is given below:-

¹ Arrah, Begusarai, Gaya, Khagaria, Madhubani, Muzaffarpur, Nalanda, Patna, Purnea, Saran, Siwan and Vaishali

(Rupees in crore)

Year	Budget Estimate	Actual Receipts	Variation (+) increase/ (-) shortfall	Percentage of variation
1996-1997	347.85	227.41	(-) 120.44	(-) 35
1997-1998	417.57	253.13	(-) 164.44	(-) 39
1998-1999	325.00	279.34	(-) 45.66	(-) 14
1999-2000	372.50	325.77	(-) 46.73	(-) 13
2000-2001	343.48	301.86	(-) 41.62	(-) 12
2001-2002	340.00	304.44	(-) 35.56	(-) 10
2002-2003	400.00	348.21	(-) 51.79	(-) 13

The reasons for variation between the budget estimates and actual receipts have not been received.

Discrepancies between departmental figures of receipt (actuals) and figures as per Finance Account

5.2.6 As per information furnished by the Department, revenue worth Rs 2,574.92 crore was realised during the years 1993-1994 to 2002-2003 whereas, as per Finance Account revenue realised by the Department was Rs 2,556.33 crore as detailed below:-

(Rupees in crore)

Year	Revenue realised as per Department	Revenue realised as per Finance Account	Difference short (-) Excess (+)
1993-1994	162.57	157.94	(-) 4.63
1994-1995	155.25	152.53	(-) 2.72
1995-1996	206.25	205.82	(-) 0.43
1996-1997	219.75	227.41	(+) 7.66
1997-1998	242.82	253.13	(+) 10.31
1998-1999	268.10	279.34	(+) 11.24
1999-2000	339.14	325.77	(-) 13.37
2000-2001	279.24	301.86	(+) 22.62
2001-2002	314.31	304.44	(-) 9.87
2002-2003	387.49	348.09	(-) 39.40
Total	2,574.92	2,556.33	(-) 18.59

Above table indicates that sales of Rs 18.59 crore were either not accounted for in the Government account or treasury challans were actually not routed through the bank. As such possibility of short accounting of sale proceeds in Government account cannot be ruled out.

Unrealistic Assessment and Indenting of requirement of non-judicial stamps

5.2.7 Under the BSR, IGR, has to send consolidated annual requirement of stamps in the State to the ISP and SPP latest by 15th June each year on the basis of annual forecast received from district treasuries by 10th April each year. All forecasts shall be shown in separate columns for each denomination of stamps (whether supply is required or not), the actual issues during each of the preceding

three years, the average annual consumption based on the issue of the preceding three years, the balance in hand on the 1st April, the estimated issues for the current financial year and the forecast of stamps which the Central Stamps Store will be required to supply during the ensuing year.

It was observed in audit that out of 12 district treasuries, only two (Muzaffarpur and Purnea) district treasuries sent indent to the IGR to meet their requirement of stamps. However, the requirement of stamps was assessed by the IGR on the basis of previous year's actual receipt plus ten *per cent* thereof violating the prescribed rules. As per information furnished by the IGR the value of indents for non-judicial stamps placed with the ISP and SPP and stamps received against indent at Central Stamp Depot, Patna during 1996-1997 to 2002-2003 was as under:

(Rupees in crore)				
Year	Indent	Supply	Shortage in supply	Percentage Shortfall
1996-1997	351.83	36.90	314.93	89.51
1997-1998	767.04	111.73	655.31	85.43
1998-1999	402.57	284.18	118.39	29.41
1999-2000	387.27	113.51	273.76	70.69
2000-2001	625.34	356.00	269.34	43.07
2001-2002	1,601.82	70.27	1,531.55	95.61
2002-2003	587.54	298.38	289.16	49.21
Total	4,723.41	1,270.97	3,452.44	73.10

Above table indicates that between 1996-1997 and 2002-2003, against indent for Rs 4,723.41 crore, stamps worth Rs 1,270.97 crore only were received, resulting in an over all shortfall of 73 *per cent* in the supply of stamps against the indent. The shortfall in supply of stamp papers during 1996-1997 to 2002-2003 ranged between 29 and 96 *per cent*.

However, IGR sent (January 2003) emergent indent to ISP Nasik for supply of stamps to fulfill the requirement of the State.

The consolidated position of balance, supply and sale of stamps in 12 test checked treasuries during 1996-1997 to 2002-2003 were as under:

(Rupees in crore)				
Year	Opening stock	Supply	Sales	Closing Stock
1996-1997	309.99	18.23	64.92	263.30
1997-1998	263.30	48.50	73.10	238.70
1998-1999	238.70	63.15	84.27	217.58
1999-2000	217.58	114.36	99.59	232.35
2000-2001	232.35	123.95	110.43	245.87
2001-2002	245.87	97.73	128.10	215.50
2002-2003	215.50	124.73	162.10	177.85

Scrutiny of records relating to account of stamps in the test check treasuries revealed that the value of closing balances of stamps at the end of each year ranged between Rs177.85 crore and Rs 263.30 crore during 1996-1997 to 2002-2003 was far in excess of the value of the stamps sold during the year. The value of stamps sold ranged between Rs. 64.92 crore and Rs 162.10 crore during the corresponding period. The balances at hand were sufficient to cater to the

needs in subsequent years. The supplies made by the IGR to the treasuries during the years resulted in pilling up of the stock. The emergent tender of IGR sent to the supplier was not tenable. The assessment and indenting of stamp was highly unrealistic.

Irregularities in sale and accounting of stamps

5.2.8 As per instruction of the Department issued in November 1996 the TOs were required to record six digit serial number with reference to the year of sale on each and every non-judicial stamp of the denomination of Rs. 500 and above, before sale from the treasury. TOs were also required to send to the concerned DSR/SR, the list with full particulars of stamp papers sold. The DSR/SR had to maintain a register indicating the serial number of stamp paper (denomination wise and vendor wise/party wise) sold by the treasury and to verify it at the time of registration of various instruments as a measure of check against utilisation of fake stamp papers.

In the 12 districts test checked, it was noticed that TOs of Arrah and Gaya had not yet (May 2004) started recording six digit serial numbers on the stamps issued. Information from three district treasuries (Begusarai, Khagaria and Nalanda) was not made available to audit. Position of remaining seven district treasuries was as under:-

Name of districts	Month from which Serial Number started	Month of submission of details to DSR
Madhubani	December 2003	December 2003
Siwan	June 1997	December 2001
Purnea	April 1998	June 2000
Muzaffarpur	August 1998	August 1998
Patna	May 1997	May 1997
Chapra	January 1997	January 1998
Vaishali	August 1997	August 1997

The table above indicates that there was inordinate delay in recording six digit number on the stamps issued by the TOs and sending the details to concerned DSRs/SRs.

5.2.9 The purchase as well as sale of judicial and non-judicial stamps by stamp vendors was restricted to area (registering office) as specified in their licences. Stamp vendors are required to maintain the stock account with the value and denomination of stamp papers. Further, the name of the consumer to whom the stamp papers are sold, the denomination and the value of such stamp papers are to be recorded in the sale account register maintained by the stamp vendors. Every licensed vendor must submit by the fifth day of next month a statement of stock

of stamps to the concerned TO and to the DC (Stamps/Legal cell) showing total procurement and sale of stamps during the month.

The DC (Stamp/Legal Cell) shall conduct comparative study of stamps issued by the TOs, sold by the vendors and utilised in the DSR/SR offices with reference to the statements received from DSRs/TOs and Vendors and report to the Collector. Discrepancies found in course of audit are discussed in succeeding paragraphs:-

- In 12 districts², only 858 out of 1,004 vendors had been rendering their accounts to concerned TOs/DCs (294 vendors to TOs, 564 vendors to DCs). Out of 858 accounts rendered, 140 were checked in audit. Proper inspection/verification of the accounts rendered by the vendors was not done by the concerned TOs/DCs as no proof in support thereof was made available to audit.
- Cross verification of records of five DSR offices³ with concerned treasuries revealed excess utilisation of stamp papers of Rs 10.02 crore between 1995-1996 and 2002-2003 in the concerned DSRs offices as detailed below:

(Rupees in crore)						
Sl. No.	Name of DSR office	Period Between	Nature of Irregularities	D.S.R Office	Treasury	Excess
01	Purnea, Siwan, Vaishali, Saran and Bhojpur	1995-1996 and 2002-2003	Stamp papers worth Rs. 114.63 crore were utilised in DSR offices against sale of Rs. 104.62 crore by treasuries	114.63	104.62	10.01
02	Purnea	1997-1998	71 stamps of denomination of Rs 1000 each shown issued on 19 February 1997 to a vendor were used in DSR whereas 52 stamps were found issued to the vendor on same date in treasury records.	0.0071	0.0052	.0019
03	Siwan	March 1997 and April 1998	10 stamp papers of Rs 5,000 denomination each bearing serial numbers (between 2246 and 2476) other than that issued by the treasuries (1 to 2093 and 1 to 77) were used in DSR office	0.0050	-	0.0050
Total						10.0169

The variation of Rs 10.02 crore between sale of non judicial stamps by concerned treasuries and stamps utilised in concerned DSRs, indicated that the stamp papers used in the DSR offices were either fake or the stamp papers were obtained unauthorisedly.

- Scrutiny of vendors account in DSR Purnea for the year 1996-1997 and 1997-1998 revealed that a vendor had inflated closing balance of stamp of different denominations as detailed below:

² Arrah, Begusarai, Chapra, Gaya, Khagaria, Madhubani, Muzaffarpur, Nalanda, Patna, Purnia, Siwan and Vaishali

³ Arrah, Purnea, Saran, Siwan and Vaishali

(Amount in Rupees)

Position of actual/inflated stock of stamps as on	Denomination	Actual number	Inflated number	Difference	Value
27.04.1996	2,000	15	20	05	10,000
15.05.1996	2,000	24	34	10	20,000
11.6.1997	05	108	208	100	500
	10	07	207	200	2,000
	50	07	57	50	2,500
	100	Nil	67	67	6,700
	500	11	71	60	30,000
	1,000	17	87	70	70,000
Total Value					Rs 1,41,700

The utilisation of excess non-judicial stamp papers was carried forward (eight years) by the vendor in his account but concerned authorities did not take any initiative to reconcile the differences between the sale of the stamp papers from treasuries and their actual utilisation, thus violating the executive instructions.

Thus maintenance of incorrect account of stamps by the vendor and subsequent sale of these excess stamps indicated procurement of doubtful stamps valued at Rs.1,41,700 from sources other than the treasury. Possibility of these stamps being fake cannot be ruled out.

Delay in issue of notification

5.2.10 Collectors are authorised to grant licence to private persons for the sale of stamps under Appendix-V of BSR. The Government issued a notification in May 1999 for renewal of licence of vendors at the rate of Rs. 100 per year as renewal fee. The notification was published in Gazette in December 2002. The IGR however directed in September 2003 (after about five years since the notification was issued) all Collectors, *inter- alia*, to realise the arrear of renewal fee on the licences granted on or after 1999. If licence of any vendor is not renewed according to prescribed procedure, their licences would be treated as invalid for next year.

In Patna district, licenses of 74 vendors were neither renewed nor cancelled and stamps were issued to them violating the above executive instructions. Failure on the part of IGR to issue necessary direction timely and failure on the part of the Collector either to realise the arrears or declaring the licences as invalid had deprived the Government with additional revenue of Rs 0.30 lakh for the period 1999 to 2003 besides allowing illegal sale of stamps.

Theft of stamps from Treasury

5.2.11 The BSR provides that no place should be used as a strong room unless it is certified to be secure and fit for use by an officer (Executive Engineer) of the

Public Works Department. The Inspecting Officer will grant a certificate of safety and it is the duty of the Treasury Officer to obtain such certificate from him.

Test check of double and single lock register and physical verification report of Begusarai treasury revealed that out of 8,818 stamps (each of Rs. 5,000 denomination) 6,119 stamps valued at Rs. 3.06 crore were found stolen on 20 January 2004 and FIR in this regard was lodged with the town police, Begusarai on the same day by the TO.

Scrutiny of records further revealed that the TO had repeatedly requested between September 2000 and September 2003 the Superintendent of Police, Begusarai to record an order prescribing the position of the *sentries* and additional precautions to be taken in the strengthening of security system etc. but no response was received till the date of occurrence. Non-adherence to the security norms made the strong room susceptible to theft.

Incorrect reporting of loss of stamp papers

5.2.12 Under the Bihar Financial Rules read with Bihar Treasury Code any loss of public money, departmental revenue or receipts, stamps, opium, stores or other property, held by or on behalf of Government caused by defalcation or otherwise, which is discovered in a treasury or other office or department, should be immediately reported by the officer concerned to his immediate official superior and Finance Department as well as to the Accountant General.

In treasury office, Jehanabad, the physical verification of strong room conducted on 23 May 2003 by the Department revealed damage of 15,000 stamps of denomination Rs 1,000 valued at Rs 1.50 crore. The damage was reported to be caused by white ants. The fact of damage was reported to the Accountant General, Bihar in April 2004 after delay of 10 months, though the codal provision required for immediate reporting.

However, a joint verification of the damaged stamps conducted by audit with the TO, Jehanabad on 20 August 2004 revealed that out of 15,000 stamps of denomination of Rs 1,000 each, 5,148 number of stamps worth Rs 51.48 lakh were in good condition and usable. This indicated that the physical verification conducted on 23 May 2003 did not depict the correct position of damaged stamps.

INSURANCE SECTOR

Loss of Government revenue due to unauthorised sale of stamps

5.2.13 By a circular issued in June 1994 by Board of Revenue, Bihar, the purchase as well as sale of judicial and non-judicial stamps by stamp vendors was restricted to the area (Registry office) as specified in their licences. Only special circumstances stamps could be purchased from other treasuries with the special order of the DC concerned.

Scrutiny of information furnished by Regional office of National Insurance Company Ltd. (NICTL), Patna and Divisional offices of Life Insurance

Corporation (LIC) of India, Patna, Muzaffarpur and Bhagalpur revealed that out of total purchase of insurance stamps valued Rs 7.07 crore during the years 1999 to 2003, stamps worth Rs 5.05 crore were purchased by these insurance companies from unauthorised vendors of Jamshedpur, Patna and Kolkata though sufficient quantity of insurance stamps were available with the concerned stamp treasuries as detailed below:

(Rupees in crore)

Year	Insurance stamp purchased from				Total	Stamps available with concerned treasuries.	Loss of revenue to State exchequer
	Government treasury	Stampex India, Jamshedpur	Vendors of				
			Kolkata	Patna			
1999-2000	Nil	1.07	Nil	Nil	1.07	8.53	Nil
2000-2001	Nil	1.87	Nil	Nil	1.87	8.48	0.77
2001-2002	1.52	0.90	0.08	Nil	2.50	6.77	0.98
2002-2003	0.50	1.12	Nil	0.005	1.625	6.40	1.12
Total	2.02	4.96 (a)	0.08 (b)	0.005 (c)	7.065		2.87⁴
		(a) + (b) + (c) = 5.045					

Scrutiny of records of TO, Jamshedpur revealed that no licence for stamp vending was issued by the DC, Singhbhum (Jamshedpur) in favour of Stampex India, Jamshedpur. As such, the sale of stamps by Stampex India, Jamshedpur to the insurance companies was unauthorised. Further, a vendor of Patna who sold stamps of Rs. 50,000 to NICL, Patna was also not appearing in the list of vendors furnished by the TO Patna. The sale of stamps worth Rs 2.87 crore by the unauthorised vendors of other States for use by LIC/NICL Patna resulted in loss of revenue to the State exchequer.

Purchase of stamp papers by vendors from other vendors

5.2.14 As per condition of the licence, a vendor shall obtain stamps only from the Government treasury as specified in his licence and submit the monthly statement of accounts of purchase and sale of stamps to the TO and the DC (Stamp/Legal cell).

Scrutiny of statement furnished by the vendors of Jamshedpur revealed that two vendors (Sri Saroj Chanda and Sri Pradip Ghosh, proprietors of Stampex India, Jamshedpur) procured stamps worth Rs. 1.73 crore from vendors of other districts / State as detailed below:

Year	Value of stamps in Rupees	Name of vendors from whom the stamps were purchased.
1999-2000	7,00,000	Sri M. Prasad ,Patna (Bihar), A.K. Saha, Kolkata (West Bengal)
2000-2001	7,25,000	Sri A.K .Saha, Kolkata (West Bengal)
2001-2002	88,83,000	Sri M. Prasad, Patna and A.K. Saha, Kolkata
2002-2003	69,84,000	Sri M. Prasad Patna, Sri S.Jal , D.K. Sahu, R.R. Sahu , K.K. Sahu (All Ranchi) Jharkhand and A.K.Saha , Kolkata .
Total	1,72,92,000	

⁴ Arrived at by ignoring the period prior to bifurcation of Bihar i.e. 15.11.2000 when Jamshedpur was part of Bihar.

Sri Saroj Chanda and Sri P.Ghosh of Jamshedpur stated (June 2004) that insurance stamps worth Rs. 71.83 lakh were purchased between 1999-2000 and 2002-2003 from Sri M. Prasad, a vendor of Patna. On cross verification it was noticed that Sri M. Prasad had not maintained any record of sale of stamps.

After this was pointed out, the DC (Legal cell) collected and furnished to audit (June 2004) the statement of sale/ purchase of stamps by the vendor for the period from 1993-1994 to 2002-2003. This indicated that neither the vendor had submitted the accounts within prescribed period nor the Department had initiated any action to check/detect the unauthorised sale/ purchase by the vendor and cancel the licence for violation of terms and conditions of licence.

Sale of stamps by vendors outside the prescribed area

5.2.15 As per condition of licences, the vendors were authorised to sell the stamps only in areas as prescribed in the licence. Under paragraph 7 of instructions of Board of Revenue issued in June 1994 the DC (Stamp/Legal Cell) shall conduct comparative study of stamps issued by the TOs, sold by the vendors and utilised in the DSR office with reference to the statements received from DSRs/TOs/Vendors. The discrepancy found if any, would be brought to the notice of Collector immediately, but no such system has been prescribed for Insurance companies under these instructions.

- As per the statement of sale of stamps by two vendors of Jamshedpur (Sri Saroj Chanda and Sri Pradip Ghosh), insurance stamps were sold not only in other districts of Bihar (Bhagalpur, Muzaffarpur and Patna) but also in other states (Hazaribagh in Jharkhand, Asansol and Howrah in West Bengal, Sambalpur and Cuttack in Orissa and Raipur in Chhattisgarh). The sale of stamps in areas other than Jamshedpur was in contravention of the condition of licence.

The Department did not take any action to cancel the licences of vendors and stop the sale beyond the specified area.

- Test check revealed that three Divisional Offices (Patna, Muzaffarpur and Bhagalpur) of LIC and Regional Office, Patna of NICL, purchased insurance stamps worth Rs 4.96 crore during the period 1999-2000 to 2002-2003 from Stampex India, Jamshedpur. Cross verification of purchase of stamps by these insurance companies with the records of supply as declared by the supplier revealed that the supplier had actually sold the stamps worth Rs 6.22 crore. This resulted in discrepancy in sale of stamps amounting to Rs 1.26 crore. Possibility of sale of fake stamps can not be ruled out.

Discrepancies in sale and purchase of insurance stamps

5.2.16 As per instructions of Board of Revenue issued in June 1994, the TOs were required to prepare a consolidated statement of sale of stamps (both by treasury and through vendors) and submit the same to concerned DC (Stamps/Legal cell),

who in turn after cross verification with the statement of vendors, reports to the Collector.

Cross verification of statements furnished by TO, Jamshedpur and vendors,(Sri Saroj Chanda and Sri Pradip Ghosh) revealed that TO Jamshedpur sold stamps worth Rs15.62 crore during the period from 1999-2000 to 2002-2003 to these vendors whereas the accounts of these vendors reflected purchase of Rs. 15.69 crore for the corresponding period. Details are as under:

(Rupees in crore)			
Year	Sale of stamp by treasury to Shri Chanda and Shri Ghosh	Purchase shown by Shri Chanda and Shri Ghosh from treasury	Difference
1999-2000	3.10	3.10	Nil
2000-2001	4.39	4.42	0.03
2001-2002	3.28	3.32	0.04
2002-2003	4.85	4.85	Nil
Total	15.62	15.69	0.07

No records were produced to audit to indicate that accounts of sale of stamps by the treasuries/vendors were prepared and submitted to the concerned authorities periodically.

Internal Control and Monitoring

5.2.17 Internal audit is considered to be an effective mechanism for evaluating the various internal controls in the system and identifying their weakness. The Finance (Audit) Department works as internal auditor for all State Government departments including the Registration Department. By an order of May 1960, the internal audit parties are required to conduct cent *per cent* audit of purchase and sale of stamps including scrutiny of registers maintained by offices and verification of deposits of the amount with the treasury records for credit to consolidated Fund of the State.

- Information as made available to audit in the Registration offices, revealed that no internal audit was conducted during the years from 1993-1994 to 2002-2003 as no audit report in support of carrying out the internal audit was made available to audit. This indicated that a very vital component of internal control had not been utilised.

- Scrutiny of records revealed that there were four Inspectors in the Department against a sanctioned strength of nine having their jurisdictions at Bhagalpur, Darbhanga, Koshi, Magadh, Munger, Patna, Purnea, Saran and Tirhut.

Information regarding inspections conducted by the Inspectors and their report was called for during audit but the same was not furnished by the Department till June 2004.

Recommendations

5.2.18 The Government may examine and consider the following:-

- Payment of stamp duty may be made either by cash through treasury challan / demand draft / pay order of any scheduled bank or by cash through authorised bank under receipt;
- Role of intermediaries in the form of stamp vendors may be dispensed with;
- Introduction of online connectivity between banks and DSR/SR offices to ensure that registering authority links the payment of stamp duty with the documents to be registered;
- Treasury Officers should ensure inspection/verification/reconciliation of accounts rendered by the vendors to them with the records of DSRs/SRs;
- Instructions to record six digit serial number on the stamps by the TOs and its cross verification by the concerned DSRs/SRs is ensured till any alternative system is evolved and adopted;
- Strengthen the internal audit set up in the Department.

The matter was reported to the Government in July 2004; they have accepted all the recommendations.

B: LAND REVENUE**5.3 Loss of revenue due to non-renewal/violation of terms and conditions of leasehold Khas Mahal land**

Under the Bihar Government Estates (Khas Mahal) Manual, 1953 and Rules framed thereunder, the State Government is to issue notices to the lessees, for grant of lease, six months prior to the expiry of lease to apply for renewal of such lease, whereas a lessee is required to apply for renewal thereof three months prior to the expiry of his lease. A lessee continuing to occupy lease-hold property without payment of rent and renewal of lease is to be treated as a trespasser and shall have no claim for renewal on previous terms and conditions.

On fresh leases, *Salami*⁵ at the current market value of land besides annual rental (one fiftieth and one twentieth of such *Salami* for residential and commercial leases respectively), is leviable. In case of arrears, the lessees are liable to pay double the rent at a rate of rent as determined in fresh lease from the date of non payment of rent together with interest on arrear rent at 10 per cent per annum.

Mention was also made in paragraph 2.4 of the Report of the Comptroller and Auditor General of India (Revenue Receipts), Government of Bihar for the year

⁵ *Salami* is the Government share in increased value of land.

ended 31 March 1998 on the above subject and revenue implications thereof. The Public Accounts Committee had recommended (December 2002) that survey of leased land be completed within six months.

A test check of records between April 2002 and April 2004 in the office of Additional Collector, Patna revealed that three leases in respect of 6.17 acres of land had expired between February 1998 and March 2000, in which neither the Department issued notices nor the lessees had applied for renewal of expired leases in time. These lessees continued to occupy leasehold property without payment of rent. Inaction on the part of the Department to levy and collect rental dues resulted in non-levy/recovery of Rs 6.70 crore as detailed below:

(Rupees in crore)								
Sl. No.	Name and address of lessees	Area involved (in acre)	Date of expiry of lease	Rate per decimal (Rs)	Salami	Penal rent	Penal interest	Total
1.	New Patna Club, Gardiner Road Patna	4.13	28.2.1998	72,000	2.97	1.47	0.22	4.66
2	M/S Sahay property & investment Pvt. Ltd, Patna Gaya Road	1.01	25.8.1998	72,000	0.72	0.36	0.05	1.13
3.	Sri B. Fransis, Patna Gaya Road	1.03	31.3.2000	72,000	0.74	0.15	0.02	0.91
	Total	6.17			4.43	1.98	0.29	6.70

The case was reported to the Department in April 2002 and April 2004 and to the Government in July 2004; their reply has not been received (September 2004).

5.4 Non-remittance of Education and Health cess into Government account

By Government notifications issued under the provisions of the Bihar and Orissa Municipal Act, 1922 and the Patna Municipal Corporation Act, 1951, the collection of education and health cess was entrusted to all the Municipal bodies in December 1959 and May 1972 with the direction to remit the proceeds of those cess to the State treasuries after deducting 10 per cent thereof as collection charges which shall form part of the Consolidated Fund of the State.

In 15 Bodies,⁶ it was noticed between June 2002 and June 2004 that collected amount of education and health cess of Rs 1.92 crore and Rs 2.21 crore respectively between 1998-1999 and 2002-2003 were not remitted to the Government account. Thus, a sum of Rs 4.13 crore remained out of the Consolidated Fund of the State.

⁶ *Municipal corporation - Bhagalpur and Darbhanga
Municipalities - Dehri - Dalmianagar, Forbesganj, Gopalganj, Hajipur, Jamalpur, Kahalgaon, Nawada and Raxaul
Notified Area Committee - Birpur, Bettiah, Murliganj, Naugachia and Pero*

The matter was reported to the Department and the Government in September 2003, June 2004 and August 2004; their reply has not been received (September 2004).

C: ELECTRICITY DUTY

5.5 Non-recovery of assessed tax and penalty

Under the provisions of Bihar Electricity Duty Act, 1948 as amended from time to time any person/licensee from whom any money is due or may become due, or liable to pay duty, has failed to pay the sum upto the date fixed in the notice of demand served upon him, shall be personally liable to the State Government for payment of the sum due. In case of default, the prescribed authority shall direct that such person shall pay by way of penalty a sum not exceeding twice the amount payable.

In course of audit of the office of the Deputy Commissioner of Commercial Taxes (DCCT), Patna special circle, it was noticed in case of a licensee that electricity duty was levied to the tune of Rs 29.82 crore in January 2003 for the period 1999-2000 but the licensee paid only Rs 26.35 crore and balance amount of Rs 3.47 crore remained unrecovered till March 2004. As the licensee failed to pay the dues within the stipulated time, penalty equivalent to twice the amount payable was leviable but the same was not levied. Thus, total sum recoverable worked out to Rs 10.41 crore including penalty of Rs 6.94 crore.

After this was pointed out in March and June 2004, the DCCT stated (July 2004) that permission has been sought from the CCT Bihar for initiating action under the provisions of Bihar Electricity Duty Act, 1948.

The case was reported to the Government in May 2004; their reply has not been received (September 2004).

CHAPTER - VI: NON-TAX RECEIPTS

6.1 Results of Audit

Test check of the records of the following receipts conducted in audit during the year 2003-2004, revealed losses/non-recovery of revenue etc. of Rs 993.23 crore in 234 cases as indicated below:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
A	Mines and Minerals		
1	Non-levy or short levy of royalties and cesses	4	2.67
2	Non-levy of interest	3	0.31
3	Non-levy of penalty/fees	30	17.69
4	Non-levy of stamp duty and registration fees	8	1.33
5	Non-levy or short levy of auction money due to Non-settlement/irregular settlement of sand ghat	10	1.33
6	Non-initiation of certificates proceedings	10	28.74
7	Other cases	35	35.47
	Total	100	87.54
B	Forest Receipts		
1	Loss of revenue due to departmental lapses	6	1.15
2	Loss of revenue due to delay in initiation of certificate cases	6	1.86
3	Loss of revenue due to non-registration of saw mills	9	0.67
4	Other cases	26	12.61
	Total	47	16.29
C	Water Rates		
1	Delay in assessment of water rates	1	2.74
2	Other cases	85	160.93
	Total	86	163.67
D	Review on Interest Receipts	1	725.73
	Grand Total	234	993.23

During the year 2003-2004, the concerned Department accepted irregularities in one case involving Rs 0.63 crore which had been pointed out in earlier years.

A few illustrative cases including a review on "Interest Receipts" involving tax effect of Rs 749.20 crore are discussed in the following paragraphs:

A: INTEREST RECEIPTS

6.2 Review: Interest Receipts

Highlights

- The Administrative departments had not prepared budget estimates or revised estimates for the years 1998-1999 to 2002-2003 under the head 'Interest receipts' for submission to the Finance Department though the

Finance Department had issued directions reiterating preparation/ submission of budget estimates and revised estimates.

(Paragraph 6.2.5)

- None of the Administrative departments test checked had maintained loan ledger and demand, collection and balance register. The Departments failed to exercise control over recovery of principal and interest.

(Paragraph 6.2.6)

- Interest and penal interest of Rs 687.67 crore accrued as of March 2003 was neither worked out nor demanded by the Administrative departments. Of this, Rs 648.89 pertained to the years 1998-1999 to 2002-2003.
- Interest of Rs 70.63 crore accrued upto March 2003 on loans outstanding against three loanes of Co-operative department. Of this Rs 39.97 crore pertained to the years 1998-1999 to 2002-2003.

(Paragraph 6.2.7)

- Non-finalisation of terms and conditions of loan by the Housing Department had resulted in non-realisation of interest of Rs.1.53 crore

(Paragraph 6.2.8)

Introduction

6.2.1 In pursuance of achievement of various objectives, the State Government sanctions loan and advances to Public Sector Undertakings, Local bodies, Co-operative societies and autonomous bodies. The loans sanctioned carry different rates of interest as fixed by the sanctioning authority keeping in view the purpose for which the loan is sanctioned. The terms and conditions specified in orders sanctioning the loans and advances prescribe the periodicity of instalments, the rates of interest, the mode and the manner of repayment of the principal and interest. Interest is also realised on investment on cash balance investment by the Government and is an important source of revenue.

Organisational set up

6.2.2 The proposals received from different organisations for grant of loans and advances are processed by the concerned Heads of Administrative Department who sanction the loans with the concurrence of Finance Department Recoveries of loans and advances along with the interest are required to be watched by the respective Heads of the Administrative Department.

Scope of audit

6.2.3 Records of six departments¹ alongwith the Finance Department which sanctioned loans and advances and made recoveries of interest etc for the period 1998-1999 to 2002-2003 were test checked during November 2003 to June 2004.

Audit objectives

6.2.4 The Review was conducted with a view to

- evaluate the efficiency of the Administrative departments in ensuring that the levy and collection of interest is in accordance with the prescribed procedure;
- ascertain the correctness and proper maintenance of records containing details of interest receipt and collection; and
- evaluate the efficiency of internal control system.

Trends of Interest receipts and budget estimates

6.2.5 Under the provisions of Rule 54 of Bihar Budget Procedures (BBP), the estimates of revenue and receipt should show the amounts expected to be realised within the year. In estimating fixed revenue for the ensuing year, the calculations should be based upon the actual demand including any arrears due for past years and the probabilities of their realisation during the year. In the case of fluctuating revenue, the estimate should be based upon a comparison of the last three years receipts. Further the Controlling Officer should examine the budget received from the Disbursing Officer and submit it to Finance Department.

The budget estimates and actuals alongwith the percentage of interest receipts to the total non-tax revenue for the years 1998-1999 to 2002-2003 are shown below:

Year	Budget Estimate (Revised)	Actual realisation	Variation between Budget Estimates and Actuals		Total non-tax revenue	Percentage of interest receipts to non-tax revenue
			(+) Increase (-) decrease	Percentage		
1998-1999	309.60	135.99	(-) 173.61	(-) 56	1,146.29	11.86
1999-2000	328.54	135.75	(-) 192.79	(-) 59	1,165.86	11.64
2000-2001	132.81	30.68	(-) 102.13	(-) 77	711.68	4.31
2001-2002	89.08	11.75	(-) 77.33	(-) 87	286.70	4.10
2002-2003	29.03	53.01	(+) 23.98	(+) 83	260.82	20.32

The above table indicates that:

- The actual realisation of interest receipts was short by 56 to 83 per cent of the budget estimates during the years 1998-1999 to 2001-2002.
- There was unusual reduction in the estimate in the year 2002-2003.

¹ Agriculture, Co-operative, Energy, Housing, Industries and Urban Development.

- The percentage of interest receipts to non-tax revenue varied between four per cent and 20 per cent during the years 1998-1999 to 2002-2003.

The examination of the records of budget estimate of the concerned administrative departments for the years 1998-1999 to 2002-2003 revealed that neither the administrative departments prepared estimates nor the same was submitted to the Finance Department. The budget estimates were prepared by the Finance Department on ad-hoc basis by an increase/decrease in the preceding year's budget and the prescribed procedure under BBP for preparation of estimates was not followed.

After this was pointed out, the Energy Department agreed to follow instructions from the next financial year. Replies from other departments have not been received (September 2004).

Position of loans and advances

6.2.6 The loan ledger is the basic record of loans granted in which initial information such as details of loanees, sanction, date of drawal of loan, schedule of repayment, rate of interest and penal interest, particulars of repayment of principal amount, payment of interest are noted. Besides loan ledger, a Demand Collection and Balance (DCB) register is also required to be maintained for raising of demand, watching recoveries of loans granted and interest accrued thereon and working out the balance of outstanding loan from time to time.

It was, however, noticed that none of the Departments test checked, had maintained loan ledgers and DCB registers to watch recovery/repayment of loan and recovery of interest accrued thereon. As such these departments were not in a position to furnish the details of loans and advances granted by them and the interest accrued thereon. The details of loans and advances granted by the Energy, Agriculture, Industry, Urban Development and Co-operative Departments during the years 1998-1999 to 2002-2003 as available in the Finance Accounts indicated that the loans and advances sanctioned were Rs 3,511.29 crore against which only Rs 22.08 crore (0.63 per cent) was repaid by the loanee organisations. Details are given in Appendix-II of this Report.

The concerned Administrative departments could not furnish the details of rates of interest realisable on loans and advances granted for the period prior to 1998-1999. However, the amount of recoverable interest² on the arrears of principal amount outstanding as on 1st April 1998 was worked out to Rs 2,822.93 crore and the same for the period 1998-1999 to 2002-2003 worked out to Rs. 1,020.99 crore. Thus, total amount of interest on loans and advances at the end of the year 2002-2003 stood at Rs. 3,843.92 crore. Details are as under:

Department	Rate of interest (per cent annum)	Interest accrued on outstanding loan as on 1.4.1998	(Rupees in crore)					Total
			Interest accrued on loans paid during the year					
			1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	
Energy	13	1,896.06	277.08	384.52	153.00	62.71	81.94	2,855.31
Agriculture	6	177.72	1.52	1.14	3.54	1.36	1.86	187.14

² At the rate ranging from six to 16 percent per annum on the basis of rate of interest prescribed for the loan granted during 1998-1999 to 2002-2003.

Department	Rate of interest (per cent/ annum)	Interest accrued on outstanding loan as on 1.4.1998	Interest accrued on loans paid during the year					Total
			1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	
Industries and Mines	13	364.08	0.42	1.29	0.008	0.30	0.62	366.72
Housing and Urban Development	13	231.79	7.62	8.89	2.90	2.09	3.12	256.41
Co-operative	16	153.28	4.00	3.04	9.44	3.63	4.95	178.34
Total		2,822.93	290.64	398.88	168.89	70.09	92.49	3,843.92

Due to non-maintenance of loan ledger and DCB registers etc., the administrative departments could not pursue the collection of arrears indicating internal control.

After this was pointed out, two departments (Energy and Urban Development) stated in March 2004 that files were maintained only while Industries Department stated that the records were maintained at district level. The reply was not tenable as the above registers are required to be maintained at administrative department level for watching the repayment of loans/ recovery of interest. Reply from other departments has not been received (September 2004).

Non-raising/realisation of demand

6.2.7 Under the provisions of Bihar Financial Rules (BFR), responsibility for recovery of loan and interest rests with the sanctioning authority. The terms and conditions as specified in the sanction order indicate the manner of repayment of principal and payment of interest. Penal interest is also chargeable on instalments of principal not paid as per the terms and conditions of the sanction.

- Test check of records of the Housing, Energy and Urban Development departments and the loanee organisations revealed that the loanee organisations were granted loans to be repaid within ten years to 20 years along with interest failing which penal interest was chargeable. It was noticed that the Departments had neither worked out nor raised the demand for interest and penal interest of Rs 687.67 crore as on March 2003. Out of this, an amount of Rs 648.89 crore (interest Rs 588.15 crore and penal interest Rs 60.74 crore) pertained to the years 1998-1999 to 2002-2003 as per details given below :

(Rupees in crore)								
Sl. No.	Name of the Loanee organisation	Purpose of loan	Amount of loan Year of payment	Rate of interest/ Rate of penal interest (Per cent)	Period of repayment	Loan repaid	Recoverable interest	Recoverable penal interest
1	Housing Bihar State Housing Board, Patna	Construction of Houses	35.74 1990-1991 to 2001-2002	13 Compound Interest	15 Years	0.47	19.98	4.04
2	Energy Bihar State Electricity Board, Patna	Rural Electrification and assistance	1513.54 1998-1999 to 2002-2003	13 2.5	10 Years	-	541.07	56.70

Sl. No.	Name of the Loanee organisation	Purpose of loan	Amount of loan Year of payment	Rate of interest/ Rate of penal interest (Per cent)	Period of repayment	Loan repaid	Recoverable interest	Recoverable penal interest
3	Urban Development Patna Municipal Corporation	Payment of pay & allowance	38.80 1990-1991 to 2002-2003	13	20 Years	-	19.56	---
	Munger Nagar Parishad	- do -	5.19 1991-1992 to 2002-2003	- do -	20 Years	-	2.54	---
	Jamalpur Nagar Parishad	- do -	2.12 1991-1992 to 2001-2002	- do -	20 Years	-	0.93	---
	Water Board, Gaya	- do -	0.58 1990-1991 to 2002- 2003	- do -	20 Years	-	0.29	---
	Municipal Corporation, Gaya	- do -	7.14 1990-1991 to 2002-2003	- do -	20 Years	-	3.78	---
	Total		1,603.11			0.47	588.15	60.74

The reason for non-payment of principal and interest was attributed to non-availability of funds as stated by Bihar State Housing Board, Municipal Corporation, Patna & Gaya and Water Board Gaya. The reply from Bihar State Electricity Board Patna, Nagar Parishads, Munger and Jamalpur has not been received (September 2004).

- Industries Department sanctioned loan to Bihar State Industrial Development Corporation Ltd., and Bihar State Credit and Investment Corporation Ltd., to be converted into equity shares. As per terms and conditions if loans were not converted into equity shares within a year, the loans would be repayable within 10 years with interest and penal interest at the rate of 13 per cent and 2.5 per cent respectively.

Test check of records of these Corporations revealed that neither the loans were converted into equity shares nor repayment of loans was made. The outstanding interest and penal interest on the loans advanced during the years 1990-1991 to

2002-2003 as reported by these corporations was Rs 91.46 crore as on 31 March 2003. Out of this Rs 35.34 crore (interest Rs 29.66 crore and penal interest Rs 5.68 crore) pertained to the years 1998-1999 to 2002-2003.

The Industries Department had not raised any demand on account of interest and penal interest.

- As per terms and conditions mentioned in the sanction order, interest is chargeable at the prescribed rate and is realisable after one year annually in 10 equal instalments.

As per information furnished by Co-operative Department, interest of Rs 70.63 crore accrued upto March 2003, on loans sanctioned to three loanees³ by the Department were outstanding as on 31 March 2003. Out of this, Rs 39.97 crore pertained to the years 1998-1999 to 2002-2003.

Out of the three loanees, only one (Bihar Land Development Bank, Patna) had repaid loan and interest of Rs 1.02 crore and Rs 0.24 crore respectively during the period 1998-1999 to 2002-2003. However, the Department did not raise any demand for repayment of outstanding loan and interest accrued thereon against the loanees.

Non-realisation of interest

6.2.8 Under the provisions of BFR, while sanctioning the loan, specific terms and conditions should be fixed incorporating therein the due date for payment of instalment of loans and interest.

Test check of records of Bihar State Housing Board, Patna revealed that the Board had issued debentures to banks and financial institution on the guarantee given by the Government of Bihar. The Board did not pay the principal and interest on the debentures. Since the Government of Bihar had given guarantee against the loan, the Finance Department authorised the Reserve Bank of India to arrange payment of loans and advances together with interest to the respective banks and financial institutions by debiting directly from the Consolidated Fund of the State in March, 2002 and February, 2003 for Rs 5 crore and Rs 1.62 crore respectively. The payment so made by the Finance Department was treated as loan to the Board. The Finance Department while authorising the payment also directed the concerned Administrative Department to finalise the terms and conditions of loan. Since Housing department had not finalised the terms and conditions, neither the Housing Department raised the demand nor the Board had made repayment. Thus,

³ (i) Bihar State Co-operative Bank, Patna.
(ii) Bihar Land Development Bank, Patna; and
(iii) Bihar State Co-operative Marketing Union, Patna.

non-finalisation of terms and conditions resulted in non-realisation of interest of Rs 1.53 crore calculated for the period 2002-2004 at the rate of 13 *per cent* per annum.

Conclusion

6.2.9 The Administrative departments had failed to ensure timely repayment of loans and advances from the loanee organisations thereby affecting the ways and means position of the State exchequer. There was system failure with regard to monitoring of overdue loans and advances and recovery of interest/penal interest, even though guidelines in this regard were given in the Rules. As interest receipts constitute a major part of non-tax revenue, it was necessary for the Government to have a detailed look at the system and procedure with a view to ensure prompt assessment and recovery of loans and advances and interest thereon.

Recommendations

6.2.10 The State Government may consider taking following steps to ensure:

- Preparation of budget estimates on realistic basis by the Administrative Departments;
- Maintenance of loan ledgers and DCB Register by Headquarters to keep watch over prompt repayment of loans and recovery of interest; and
- Effective internal control mechanism to monitor the position of overdue principal and interest amount.

The above matter was reported to the Government in July 2004; their reply has not been received (September 2004).

B : MINERAL CONCESSIONS, FEES AND ROYALTIES

6.3 Non/short levy of penalty for illegal mining of brick earth

Under the provisions of Bihar Minor Mineral Concession (BMMC) Rules, 1972 and notification of March 1992, every brick kiln owner/brick earth remover shall pay amount of prescribed consolidated royalty based on categories of brick kilns before issue of permit. Further, Rule 40(8) provides that whoever removes minor mineral without valid lease/permit, shall be liable to pay the price thereof as penalty and the Government may also recover from such person rent, royalty or taxes, as the case may be, for the period during which the land was occupied by such person without any lawful authority. To stop the business of illegal mining, the department issued instructions in October 1986, for periodical raids and report thereon to superior authorities.

In 14 Districts Mining Offices⁴ (DMOs), it was noticed between September 2003 and March 2004 that 1,679 brick kilns operated in brick season 2001-2002 and 2002-2003 without payment of prescribed consolidated royalty and without obtaining valid permit. Out of these, no demand for recovery of price of mineral (brick earth) was raised in 1,529 cases. In 150 cases relating to two DMOs (East Champaran and Purnea), demands for penalty ranging from Rs 2,500 to Rs 26,250 were raised without reference to the price of mineral. The competent authorities also failed to stop such business. Taking the minimum price of mineral equivalent to royalty and deducting the amount of penalty already levied therefrom, there was non/short levy of penalty of Rs 8.43 crore.

After this was pointed out in audit between September 2003 and March 2004, Assistant Mining Officer (AMO), Vaishali stated in March 2004 that action was being taken to levy and recovery of penalty whereas eight AMOs⁵ stated between September 2003 and March 2004 that action would be taken after verification. Five AMOs⁶ stated in September 2004 that there was no provision to levy penalty. The reply was not tenable as operation of brick kilns without permits attracted levy of penalty under Rule 40(8) of BMMC Rules, 1972.

The cases were reported to the Government between February and June 2004; their reply has not been received (September 2004).

6.4 Loss of revenue due to non-execution of deeds of settlement

Under the provisions of BMMC Rules, 1972, settlement of sand is made for one calendar year by the Collector of the district by public auction and deed of settlement is to be executed within 60 days of the order of the settlement. In case of non-execution of deed the settlement order shall be deemed to have been revoked.

In four DMOs⁷, 78 sand bearing areas were settled at Rs 14.83 crore for the years 2002 and 2003 without executing proper deeds of settlement as required under the Rules. Settling sand bearing areas without getting the deeds of settlement executed, resulted in loss of stamp duty of Rs 93.41 lakh including surcharge of Rs 48.93 lakh.

⁴ Aurangabad, Bhojpur, Chapra, Darbhanga, East Champaran (Motihari), Gopalganj, Madhubani, Muzaffarpur, Nalanda (Biharsharif), Nawada, Purnea (Comprising the districts of Araria, Katihar, Kishanganj and Purnea), Rohtas (Sasaram), Samastipur and Vaishali (Hajipur)

⁵ Aurangabad, Darbhanga, E. Champaran (Motihari), Gopalganj, Nalanda (Biharsharif), Nawada, Purnea and Samastipur.

⁶ Bhojpur, Chapra, Madhubani, Muzaffarpur and Rohtas

⁷ Aurangabad, Bhojpur, Chapra and Rohtas (Sasaram)

After this was pointed out in audit between October and December 2003, AMO Bhojpur stated in September 2004 that all concerned were being intimidated to deposit the amount whereas two AMOs, (Aurangabad and Rohtas) stated between October and November 2003 that necessary action would be taken. Further report has not been received (September 2004).

The cases were reported to the Government between February and April 2004; their reply has not been received (September 2004).

6.5 Non-levy of penalty for non-submission of monthly returns

Under the provisions of BMMC Rules, 1972, every lessee or permit holder is required to submit every month a return in the prescribed form for extraction and removal of minor mineral by the fifteenth day of the following month to which it relates. In case a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay as penalty a sum of Rs 20 for every day after the expiry of the prescribed date subject to a maximum of Rs 2,500.

In DMO, Gaya it was noticed between March 2002 and April 2003 that 37 lessees/permit holders did not furnish their monthly returns till the date of audit. Despite non-submission of returns for various months relating to the period from April 1998 to March 2003, AMO did not levy penalty of Rs 8.33 lakh.

After this was pointed out in audit between March 2002 and April 2003, the AMO, Gaya stated between April 2002 and May 2003 that matter would be examined. Further reply has not been received (September 2004).

The case was reported to the Government between March 2004 and September 2004; their reply has not been received (September 2004).

C: FOREST RECEIPTS

6.6 Violation of Forest Conservation Act, 1980

Forest Conservation Act, 1980 and amendments made thereunder stipulate that no forest land may be diverted for any non-forest purposes without the prior approval of the Central Government. Violation in this regard by any person/Government Department is liable to be proceeded against and it is mandatory for the State Government to report each case of violation to the Central Government with complete details. Besides, diversion of forest land for non-forest purposes is also subject to realisation of Net Present Value (NPV) of forest land proposed to be diverted at rates prescribed by the Government in 1991 and 1998 alongwith cost

of standing trees and cost of compensatory afforestation on equivalent non-forest land made available by the user agency.

Test check of records of Afforestation Division, Gaya revealed in December 2003 that 146.09 hectares of Government forest land was unauthorisedly utilised by the Army Service Corps (ASC) Centre, Gaya for enlargement of existing cantonment by constructing a golf course, roads, buildings etc. as noticed by the department in 1998-1999. Proposal for diversion of said forest land submitted (August 1998) by ASC to the Department was returned (January 2001) to ASC for submission of revised proposal encompassing the essential details like provision of non-forest land for transfer to the Department, scheme and cost of compensatory afforestation, NPV, enumeration of standing trees etc. Though revised proposal was not submitted till September 2004, neither legal action was taken by the Department for eviction nor the matter was reported to the Central Government.

Thus, non-adherence to the provisions of Forest Conservation Act resulted in loss in the shape of depletion of forest affecting environmental stability and ecological balance besides non-realisation of NPV of Rs 6.65 crore and cost of compensatory afforestation of Rs 32.45 lakh. Loss of revenue in shape of royalty of standing trees was unascertainable for want of its enumeration.

After this was pointed out in December 2003 and September 2004, the Divisional Forest Officer (DFO) stated in September 2004 that revised proposal was awaited.

The matter was reported to the Government in March 2004; their reply has not been received (September 2004).

6.7 Non eviction of encroached forest land

Under the provisions of Indian Forest Act, 1927, as amended from time to time, the encroachment of forest land shall be a cognizable and non-bailable offence. Any forest officer not below the rank of DFO, if he has reasons to believe that encroachment of Government forest land has been done, may evict the encroachment and may use all the powers conferred on a Magistrate under the Bihar Public Land Encroachment Act, 1956. The Act further provides for realisation of royalty and compensation for the damages of forest produce and forest land from the encroachers. Hon'ble Supreme Court had also ordered for eviction from all encroachments of forest land latest by September 2002.

In light of the orders of the Hon'ble Supreme Court, the department issued instructions on 01 October 2002 for compliance within seven days and initiate recovery proceedings against the defaulting officials. Subsequently, Principal Chief Conservator of Forest, Bihar observed in June 2003 that there was lack of

initiative on the part of the DFOs and directed for accelerated action for eviction and initiate proceedings in case of any dereliction.

In Valmikinagar Tiger Project Division No. II, Valmikinagar, Bettiah, it was however, noticed in January 2004 that in 10 cases, 55.43 hectares of forest land valued at Rs 2.52 crore encroached during the period 1992-2002 was not evicted till the date of audit (January 2004) in spite of mandatory requirements under the Indian Forest Act and specific instructions of the Department. However, no departmental proceeding was initiated for the failure in effecting eviction of encroachments.

After this was pointed out in January 2004, the DFO stated in January and September 2004 that the encroachments were being evicted. Reply of the DFO was not tenable as no eviction had been effected as of September 2004

The matter was reported to the Government in May 2004; their reply has not been received (September 2004).

6.8 Non-realisation of revenue due to non-disposal of collected/unclaimed timber

Bihar Forest Produce (Regulation of Trade) Act, 1984 provides that all forest produce collected or to be collected from the forests of the State shall be disposed off by public auction every year preferably before the end of April.

In two Forest Divisions⁸ it was noticed between December 2003 and March 2004 that 1,571.49 cu. m. of firewood of various species and 4,722 fencing posts valued at Rupees one crore collected during 1999-2003 remained un-disposed till the date of audit. No action was taken for timely disposal of the same by the respective D.F.O, which resulted in non-realisation of revenue of Rupees one crore. Besides, timbers were deteriorating due to prolonged storage in open sky.

After this was pointed in audit between December 2003 and March 2004, the concerned DFOs stated that action for auction was being taken. However, absence of effective action for disposal of timbers was evident from the fact that out of above balances only 353.309 Cu.m (out of 818 Cu.m) could be disposed off at Rs 17.73 lakh. Position remained unchanged till September 2004 in Bhabua division.

The cases were reported to the Government between March and May 2004; their reply has not been received (September 2004).

⁸ Bhabua and Katihar (now Purnea) Divisions.

D : WATER RATES

6.9 Non-raising of demand due to non-preparation of *Khatiani*

Under the provisions of Bengal Irrigation Act, 1876 and Rules framed thereunder as applicable to Bihar, various formalities such as preparation of statement of land irrigated (*Sudkar*), preparation of detailed measurement cultivator-wise (*Khesra*) and preparation of demand statement (*Khatiani*) are required to be completed by 30 November in respect of *Kharif* and 25 May for *rabi* crops by Irrigation Department for the purpose of recovery of water rates from the beneficiaries to whom the water is supplied for irrigation purposes.

In four Water Ways divisions⁹ it was noticed between June and December 2003 that *khatiani* in respect of 4.11 lakh acres of *Kharif* and 1.01 lakh acres of *rabi* land irrigated during the years 1999-2000 to 2002-2003 were not prepared and forwarded to the concerned revenue divisions for raising demand and collection of water rates of Rs 3.73 crore.

After this was pointed out between June and December 2003, the concerned Executive Engineers attributed the reasons for non-preparation of *Khatiani* to shortage of staff. The reply was not tenable as the available manpower in these divisions was more than the work required to be done. Further reply has not been received (September 2004).

The cases were reported to the Government between January and February 2004; their reply has not been received (September 2004).

6.10 Loss of revenue due to settlement of *Chat land* at lower rates

Under the provisions of Bihar Irrigation Manual and instructions issued thereunder, the *chat land*¹⁰ is to be settled on lease for nine months for the period from June to February each year to Scheduled Castes/Scheduled Tribes and landless farmers on priority basis at the prescribed rates, as revised from time to time including water rates.

In two Canal divisions¹¹ it was noticed that 2496.04 acres of double crop *chat land* was settled at old rates of Rs 213 per acre instead of the revised rate of Rs 1,163 per acre for the year 2002-2003, resulting in short realisation of revenue of Rs 23.71 lakh.

⁹ Sone Canal Division Arrah, water ways Division (Bhagalpur, Biharsharif and Jahanabad)

¹⁰ Government land which is situated on both sides of the canal

¹¹ Ganga Pump Canal Division, Buxar and Sone Canal Division, Buxar

After this was pointed out in February 2004, the concerned Executive Engineers stated that the revised rates were not communicated to the divisions by the Department. Reply of the Department was not tenable as the order for the revision of rates was communicated in the month of March 2002.

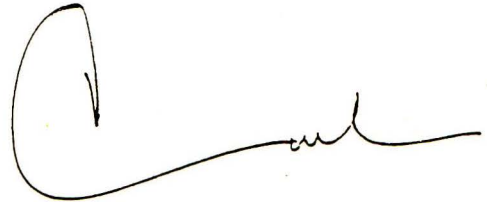
The matter was reported to the Government in May 2004; their reply has not been received (September 2004).



Patna
The

(VIKRAM CHANDRA)
Pr. Accountant General (Audit), Bihar

Countersigned

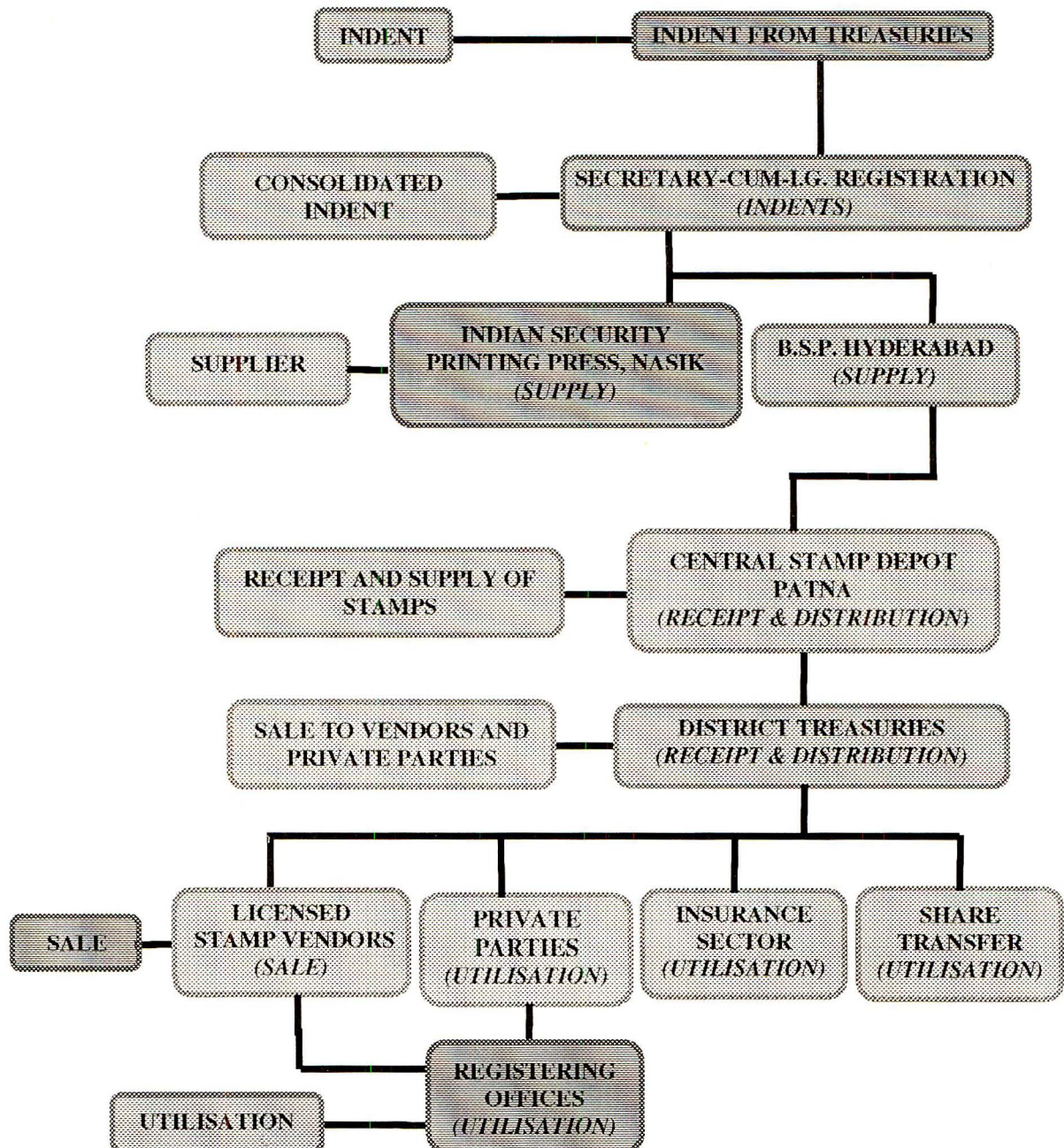


New Delhi
The

(VIJAYENDRA N.KAUL)
Comptroller and Auditor General of India

APPENDIX – I
(Ref : Paragraph 5.2.1)
FLOWCHART OF STAMPS

A flow chart showing the entire process of Indent, receipt and sale of Stamp papers and collection of stamp duty in registration offices is given below:-



APPENDIX – II

(Ref : Paragraph 6.2.6)

Position of loans and advances

(Rupees in crore)					
Name of the department	Year	Opening Balance	Loan granted during the year	Repayment during the year	Closing Balance
Energy	1998-1999	2,917.01	532.85	0.24	3,449.62
	1999-2000	3,449.62	985.96	0.06	4,435.52
	2000-2001	4,435.52	588.46	0.06	5,023.92
	2001-2002	5,025.82 ^ψ	482.42	0.0015	5,508.24
	2002-2003	5,508.24	630.34	---	6,138.58
	Total			3,220.03	0.3615
Agriculture	1998-1999	592.40	6.32	0.39	598.33
	1999-2000	598.33	6.33	0.40	604.26
	2000-2001	604.26	29.51	0.10	633.67
	2001-2002	633.67	22.68	0.35	656.00
	2002-2003	656.00	30.92	0.87	686.05
	Total			95.76	2.11
Industries and Minerals	1998-1999	560.13	0.80	0.97	559.96
	1999-2000	559.96	3.31	1.74	561.53
	2000-2001	561.53	0.03	1.26	560.30
	2001-2002	560.30	2.28	1.21	561.37
	2002-2003	561.37	4.78	0.42	565.73
	Total			11.20	5.60
Housing and Urban development	1998-1999	356.60	14.65	2.37	368.88
	1999-2000	368.88	22.79	2.56	389.11
	2000-2001	389.11	11.07	2.26	397.92
	2001-2002	397.92	16.05	2.94	411.03
	2002-2003	411.03	24.03	1.95	433.11
	Total			88.59	12.08
Cooperative	1998-1999	191.61	6.28	0.38	197.51
	1999-2000	197.51	6.33	0.39	203.45
	2000-2001	203.45	29.50	0.09	232.86
	2001-2002	232.86	22.68	0.20	255.34
	2002-2003	255.34	30.92	0.87	285.39
	Total			95.71	1.93
Grand Total			3,511.29	22.08	

^ψ Rs. 1.90 crore was transferred proforma from the "7055-Loans for head"- Reference: Finance Accounts of Government of Bihar for the year 2001-2002.