

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector**

for the year ended 31 March 2013

Government of Jharkhand
Report No. 5 of the year 2013

TABLE OF CONTENTS

	Paragraph	Page
Preface		v
Overview		vii- x
CHAPTER – I: GENERAL		
Executive summary		1
Trend of receipts	1.1	3
Variation between budget estimates and actuals	1.2	6
Cost of collection	1.3	6
Analysis of arrears of revenue	1.4	7
Refunds	1.5	8
Response of the Departments/Government towards Audit	1.6	9
Evaluation of clearances of Audit observations- Registration Department	1.7	12
Audit planning	1.8	13
Impact of audit	1.9	14
CHAPTER – II: TAXES ON SALES, TRADE ETC.		
Executive summary		17
Tax administration	2.1	19
Trend of receipts	2.2	19
Cost of collection	2.3	20
Working of Internal Audit Wing	2.4	20
Analysis of arrears of revenue	2.5	20
Arrears in assessment	2.6	21
Analysis of collection	2.7	21
Impact of Audit	2.8	22
Audit observations	2.9	24
Results of cross-verification	2.10	24
Irregularities in determination of turnover	2.11	26
Application of incorrect rate of tax under JVAT Act	2.12	30
Non-levy of interest	2.13	32
Irregularities in grant of Input Tax Credit (ITC)	2.14	34
Irregularities in compliance to the Central Sales Tax Act	2.15	35
Non-imposition of penalty for excess collection of tax	2.16	38
Incorrect allowance of deduction from gross turnover	2.17	39
Mistakes in computation of tax	2.18	39

CHAPTER – III: STATE EXCISE		
Executive summary		41
Tax administration	3.1	43
Trend of receipts	3.2	43
Analysis of arrears of revenue	3.3	44
Cost of collection	3.4	45
Working of Internal Audit Wing	3.5	45
Impact of Audit	3.6	45
Non-observance/compliance of the provisions of Acts/Rules	3.7	47
Non/delayed settlement of retail excise shops	3.8	47
CHAPTER – IV: TAXES ON VEHICLES		
Executive summary		49
Tax administration	4.1	51
Trend of receipts	4.2	51
Cost of collection	4.3	52
Working of Internal Audit Wing	4.4	52
Analysis of arrears of revenue	4.5	52
Impact of Audit	4.6	53
Non-observance/compliance of the provisions of Acts/Rules	4.7	55
Non-collection of taxes on vehicles	4.8	55
Non-levy of one time tax on personalised vehicles	4.9	57
Non-realisation of interest due to delay in deposit of revenue collected by banks	4.10	58
Non-renewal of authorisation of National Permit	4.11	59
Non-levy of taxes from the date of possession of vehicles	4.12	60
Non-realisation of trade tax	4.13	61
Non-issue of certificate of registration in Smart Card	4.14	62
Short levy of tax due to incorrect determination of seating capacity	4.15	63
CHAPTER – V: LAND REVENUE		
Executive summary		65
Tax administration	5.1	67
Trend of receipts	5.2	67
Working of Internal Audit Wing	5.3	68
Analysis of arrears of revenue	5.4	68
Impact of Audit	5.5	69

Audit observations	5.6	71
Non-observance of the provisions of Acts/Rules	5.7	71
Non-realisation/short computation of <i>salami</i> and capitalised value	5.8	71
Short levy of <i>salami</i> and rent for lease hold property	5.9	73
CHAPTER – VI: OTHER TAX RECEIPTS		
Executive summary		75
A. STAMPS AND REGISTRATION FEES		
Tax administration	6.1	77
Trend of receipts	6.2	77
Cost of collection	6.3	77
Analysis of arrears of revenue	6.4	78
Impact of Audit	6.5	78
Non-observance of provisions of Acts/Rules	6.6	80
Levy and collection of Stamp duty and Registration fees on lease agreements of immovable properties and Development Agreements (A paragraph)	6.7	80
B. TAXES AND DUTIES ON ELECTRICITY		
Tax administration	6.8	90
Impact of Audit	6.9	90
Levy and Collection of Electricity Duty in Jharkhand (A review)	6.10	92
Computation mistake	6.11	117
CHAPTER – VII: MINING RECEIPTS		
Executive summary		119
Tax administration	7.1	121
Trend of receipts	7.2	121
Working of Internal Audit Wing	7.3	122
Analysis of arrears of revenue	7.4	122
Impact of audit	7.5	122
Non-observance of the provisions of Acts/Rules	7.6	125
Short levy of royalty due to application of incorrect rate	7.7	125
Short levy of royalty due to downgrading of coal	7.8	126
Short levy of royalty due to suppression of dispatch	7.9	127
Incorrect adjustment of royalty	7.10	128
Appendices		131-149

PREFACE

This Report of the Comptroller and Auditor General of India has been prepared for submission to the Governor under Article 151 of the Constitution for being laid before the State Legislature.

The Report for the year ended 31 March 2013, contains significant audit findings noticed during audit of receipts of taxes on sales, trade etc., state excise, taxes on vehicles, land revenue, stamps and registration fees, taxes and duties on electricity and mining receipts.

The cases mentioned in the Report are among those which came to notice in the course of test audit during 2012-13 of accounts for the period 2011-12 as well as those which came to notice in earlier years but could not be reported in previous Audit Reports; matter relating to the period subsequent to 2011-12 have also been included wherever necessary.

Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India, based on the auditing standards of the International Organisation of Supreme Audit Institutions.

OVERVIEW

This Report contains 27 paragraphs including one review relating to non/short levy/loss of tax/duty having financial implication of ₹ 633.61 crore, of which audit observations of ₹ 513.04 crore have been accepted by the Government/Departments. Some of the major findings are mentioned in the following paragraphs.

I. General

The total receipts of the Government of Jharkhand for the year 2012-13 were ₹ 24,769.55 crore against ₹ 22,419.45 crore during 2011-12. The revenue raised by the State Government amounted to ₹ 11,759.30 crore comprising tax revenue of ₹ 8,223.67 crore and non-tax revenue of ₹ 3,535.63 crore. The receipts from the Government of India were ₹ 13,010.25 crore (State's share of divisible Union taxes: ₹ 8,188.05 crore and grants-in-aid: ₹ 4,822.20 crore). Thus, the State Government could raise only 47 *per cent* of the total revenue. During 2012-13, Taxes on Sales, Trade etc. (₹ 6,421.61 crore) and Non-ferrous Mining and Metallurgical Industries (₹ 3,142.47 crore) were the major source of tax and non-tax revenue respectively.

(Paragraph 1.1)

The number of Inspection Reports (IRs) and audit observations issued upto December 2012, but not settled by June 2013, stood at 994 and 6,945 respectively involving ₹ 10,977.96 crore. In respect of 221 IRs, issued upto December 2012, even the first replies had not been received though these were required to be furnished within one month of the date of issue of the Report.

(Paragraph 1.6.1)

Test check of the records of 130 units relating to Taxes on Sales, Trade etc., State Excise, Land Revenue, Taxes on Vehicles, Stamps and Registration Fees, Taxes and Duties on Electricity and Mining Receipts conducted during 2012-13, revealed underassessment/short levy/loss of revenue aggregating ₹ 1,532.94 crore in 25,784 cases. During the course of the year, the concerned Departments accepted under-assessment and other deficiencies of ₹ 568.52 crore involved in 21,067 cases and effected recovery of ₹ 7.02 crore in 1,024 cases in 2012-13.

(Paragraph 1.9.3)

II. Taxes on Sales, Trade etc.

Cross-verification of records/data obtained from three District Mining Offices, Indian Bureau of Mines, Kolkata and South Eastern Railway, Lohardaga with the records of four Commercial Taxes Circles revealed non-registration of dealers engaged in mining activities/suppression of turnover resulting in non/short realisation of tax of ₹ 12.85 crore including penalty of ₹ 8.38 crore.

(Paragraph 2.10)

Irregularities in determination of sales/purchase turnover of 34 dealers registered in 14 Commercial Taxes Circles resulted in non/short levy of tax and penalty of ₹ 280.70 crore.

(Paragraph 2.11)

In five Commercial Taxes Circles, in case of five assesseees, application of incorrect rate of tax resulted in short levy of tax of ₹ 1.11 crore.

(Paragraph 2.12)

In three Commercial Taxes Circles, in case of five assesseees, there was inadmissible allowance of Input Tax Credit of ₹ 16.98 lakh. Besides, penalty of ₹ 55.59 lakh was also leviable.

(Paragraph 2.14)

In three Commercial Taxes Circles, there was misuse of declarations in Form 'C' by three assesseees. Penalty of ₹ 1.64 crore, though leviable was not levied.

(Paragraph 2.15.1)

Penalty of ₹ 70.90 lakh was not levied for excess collection of tax in case of two dealers registered in two Commercial Taxes Circles. Besides excess collected tax of ₹ 35.45 lakh was also not forfeited.

(Paragraph 2.16)

III. State Excise

There was non/delayed settlement of 138 retail excise shops in eight Excise Districts during the years 2010-11 and 2011-12.

(Paragraph 3.8)

IV. Taxes on Vehicles

Tax and penalty of ₹ 18.97 crore due for the period between May 2009 and February 2013 from 4,204 vehicle owners pertaining to 16 Transport Offices was neither paid by the owners nor demanded by the Department.

(Paragraph 4.8)

In 15 Transport Offices, in case of 3,495 private vehicles, one-time tax of ₹ 6.52 crore though leviable after expiry of tax validity, was not levied. Besides, interest and penalty of ₹ 1.75 crore was also leviable.

(Paragraph 4.9)

In eight Transport offices, collecting banks remitted the tax revenue collected by them into the Government account after delay ranging between one and eleven months. But the interest of ₹ 7.60 crore payable on delayed remittance was not credited by the collecting banks.

(Paragraph 4.10)

V. Land Revenue

GM *Khas/Aam* land measuring 13.341 acres were transferred for commercial purposes by seven *Anchal* offices without realisation/short computation of *salami* and capitalised value of ₹ 4.06 crore.

(Paragraph 5.8)

VI. Other Tax Receipts

Stamps and Registration Fees

A paragraph on “**Levy and Collection of Stamp duty and Registration fees on lease agreements of immovable properties and Development Agreements**” revealed the following:

- Non-renewal of 82 mining leases deprived the Government of Stamp duty and Registration fees of ₹ 47.39 crore.

(Paragraph 6.7.3.1)

- Absence of a mechanism of inter-departmental exchange of data/information resulted in non-registration of leases by Urban Local Bodies/Committees/Anchal Offices/ATMs and consequent non-levy of Stamp duty and Registration fees of ₹ 74.56 lakh.

(Paragraph 6.7.3.2)

- Non-execution/non-registration of lease deeds of 6,764 residential quarters leased out by a Public Sector Undertaking resulted in non-levy of Stamp duty and Registration fees of ₹ 1.51 crore.

(Paragraph 6.7.3.3)

Taxes and Duties on Electricity

A review of “**Levy and Collection of Electricity Duty in Jharkhand**” revealed the following:

- There is no system in place for internal audit and cross-verification of transaction of electrical energy.

(Paragraph 6.10.9)

- Inspection fee amounting to ₹ 3.42 crore was not realised by the Chief Electrical Inspector from 924 industries/units pertaining to the periods between 2008-09 and 2012-13.

(Paragraph 6.10.10.1)

- There was short levy of electricity duty amounting to ₹ 15.80 crore including penalty of ₹ 13.10 crore during the period between 1996-97 and 2008-09 from 16 assesseees in four Commercial Taxes Circles due to application of incorrect rates.

(Paragraph 6.10.12)

- Allowance of incorrect exemption to an assessee during the period between 2003-04 and 2012-13 resulting in underassessment of electricity duty of ₹ 55.43 crore including mandatory penalty of ₹ 43.33 crore.

(Paragraphs 6.10.15.1 & 6.10.15.2)

- Cross-verification of data of the Jharkhand State Energy Regulatory Commission pertaining to the period 2007-08 with the returns furnished by the Jharkhand State Electricity Board led to detection of suppression of 912.46 million units of electrical energy which resulted in non-levy of electricity duty and surcharge of ₹ 8.01 crore besides mandatory penalty of ₹ 22.62 crore.

(Paragraph 6.10.16.1)

- Cross-verification of data of fitness certificate issued to diesel generating sets by the Chief Electrical Inspector to industries and other business establishments led to detection of 804 unregistered assesses of which 48 found registered after due date and consequent non-levy of penalty of ₹ 6.60 crore.

(Paragraph 6.10.18)

VII. Mining Receipts

Application of incorrect rate of royalty on dispatch of 96.31 lakh MT of coal and Iron ore by three District Mining Officers in case of 28 lessees resulted in short levy of royalty of ₹ 32.22 crore.

(Paragraph 7.7)

Downgrading of dispatched coal of 3.88 lakh MT by two collieries and failure of the District Mining Officers (Godda and Ramgarh) to detect the same through scrutiny of returns resulted in short levy of royalty of ₹ 1.22 crore.

(Paragraph 7.8)

Non-scrutiny of monthly returns *vis-à-vis* demand, collection and balance register by the District Mining Officer, Deoghar resulted in suppression of dispatch of 67,740.94 MT of coal by a lessee and consequent short levy of royalty of ₹ 1.18 crore.

(Paragraph 7.9)

CHAPTER-I

GENERAL

EXECUTIVE SUMMARY

Marginal growth rate in revenue receipts of the State	Total tax and non-tax revenue of the State during 2012-13 was ₹ 11,759.30 crore which represented a marginal growth rate of 17.69 <i>per cent</i> over the earlier year. Out of this ₹ 8,223.67 crore was from tax revenue and ₹ 3,535.63 crore from non-tax revenue. The State received ₹ 4,822.20 crore as Grants-in-aid and ₹ 8,188.05 crore as share of net proceeds of divisible Union Taxes.
Poor response of the Department/Government towards audit	We have not received even the first replies to 221 Inspection Reports issued by us from 2003-04 to December 2012.
Non-production of records to audit	Fifteen offices of four Departments (Commercial Taxes, Revenue and Land Reforms, Transport and Mines and Geology) did not furnish 260 assessment records during 2012-13.
Limited impact of Departmental audit committee meetings	Ten Departmental audit committee meetings were held during 2012-13 and 301 outstanding paragraphs having financial implication of ₹ 66.78 crore were settled.
Impact of earlier Audit Reports	Out of the total observations of ₹ 3,787.98 crore pointed out in Audit Reports of 2007-08 to 2011-12, the Government/Departments accepted audit observations having money value of ₹ 1,246.91 crore and recovered ₹ 509.29 crore as of 31 March 2013.
Impact of Audit conducted by us in 2012-13	We test checked 130 ¹ units of various Departments during 2012-13 and noticed non/short levy of taxes, duties, royalties etc. revenue aggregating ₹ 1,532.94 crore in 25,784 cases. During the course of the year, the concerned Departments accepted under-assessment and other deficiencies of ₹ 568.52 crore involved in 21,067 cases. The Departments effected recovery of ₹ 7.02 crore in 1,024 cases in 2012-13.

¹ Excluding one test checked unit of Jharkhand State Mineral Development Corporation.

CHAPTER – I: GENERAL

1.1 Trend of receipts

1.1.1 The tax and non-tax revenue raised by the Government of Jharkhand during 2012-13, the State's share of net proceeds of divisible Union taxes, duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)						
Sl. No.		2008-09	2009-10	2010-11	2011-12	2012-13
I.	Revenue raised by the State Government					
	• Tax revenue	3,753.21	4,500.12	5,716.63	6,953.89	8,223.67
	• Non-tax revenue	1,951.74	2,254.15	2,802.89	3,038.22	3,535.63
	Total	5,704.95	6,754.27	8,519.52	9,992.11	11,759.30
II.	Receipts from the Government of India					
	• State's share of divisible Union taxes	5,392.11	5,547.57	6,154.35	7,169.93	8,188.05 ¹
	• Grants-in-aid	2,115.78	2,816.63	4,107.25	5,257.41	4,822.20
	Total	7,507.89	8,364.20	10,261.60	12,427.34	13,010.25
III.	Total receipts of the State Government (I & II)	13,212.84	15,118.47	18,781.12	22,419.45	24,769.55
IV.	Percentage of I to III	43	45	45	45	47

The above table indicates that during the year 2012-13, the revenue raised by the State Government (₹ 11,759.30 crore) was 47 *per cent* of the total revenue receipts. The balance 53 *per cent* of receipts during 2012-13 was from the Government of India.

It is also seen that the revenues of the State Government were increasing at Compounded Annual Growth Rate (CAGR) of 15.56 *per cent* during past five years.

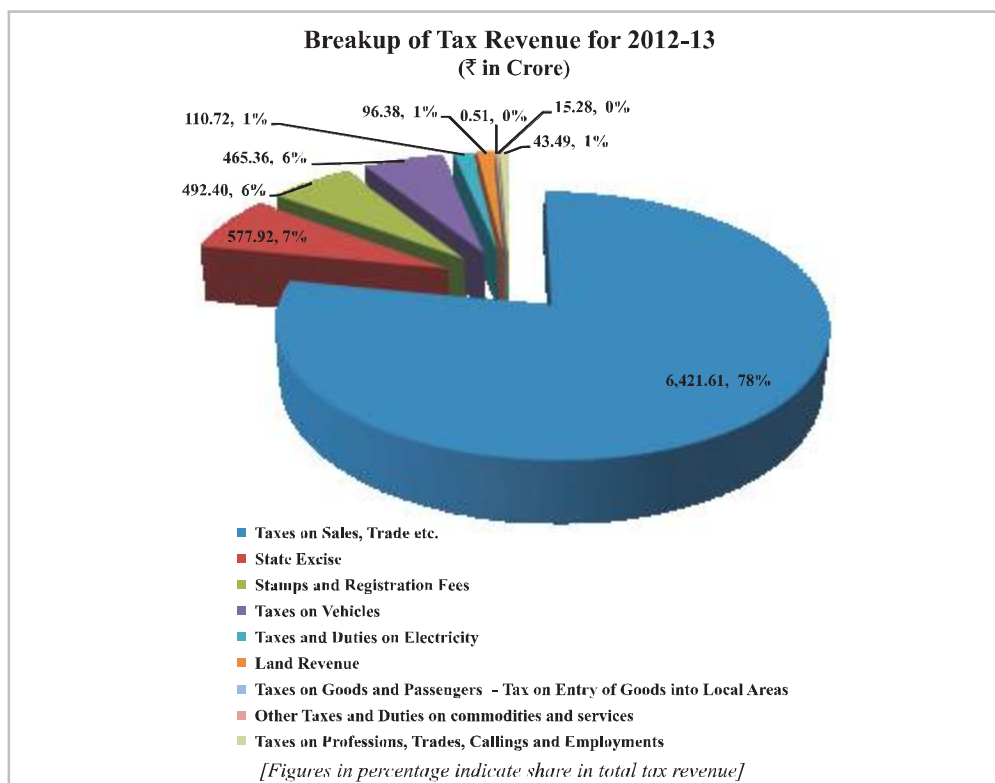
¹ For details, please see Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government for the year 2012-13. Figures under the major heads 0020 - Corporation tax, 0021 - Taxes on income other than corporation tax, 0028 - Other taxes on income and expenditure (except Minor Head - 107- Taxes on Professions, Trades, Callings and Employments), 0032 - Taxes on wealth, 0044 - Service tax, 0037 - Customs, 0038 - Union excise duties 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 the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period 2008-09 to 2012-13:

(₹ in crore)

Sl. No.	Heads of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase/decrease in 2012-13 over 2011-12
1	Taxes on Sales, Trade etc.	2,996.20	3,597.20	4,473.43	5,522.02	6,421.61	(+) 16.29
2	State Excise	205.46	322.75	388.34	457.08	577.92	(+) 26.44
3	Stamps and Registration Fees	192.16	238.20	328.35	401.17	492.40	(+) 22.74
4	Taxes on Vehicles	201.57	234.21	312.37	391.92	465.36	(+) 18.74
5	Taxes and Duties on Electricity	43.47	46.87	53.50	72.76	110.72	(+) 52.17
6	Land Revenue	53.33	41.28	130.65	52.94	96.38	(+) 82.06
7	Taxes on Goods and Passengers - Tax on Entry of Goods into Local Areas	54.02	12.44	21.08	40.95	0.51	(-) 98.75
8	Other Taxes and Duties on commodities and services	7.00	7.17	8.91	15.05	15.28	(+) 1.53
9	Taxes on Professions, Trades, Callings and Employments ²	-	-	-	-	43.49	-
Total		3,753.21	4,500.12	5,716.63	6,953.89	8,223.67	(+) 18.26

Source: Finance Accounts of the Government of Jharkhand.



The reasons for variation in receipts in 2012-13 from those of 2011-12 in respect of some principal heads of tax revenue were as under:

² Enforced by S.O. 7 dated 29 June 2012.

Taxes on Sales, Trade etc.: The increase of 16.29 *per cent* was attributed (September 2013) by the Department to better and effective tax administration and revision/enhancement in rate of VAT.

State Excise: The increase of 26.44 *per cent* was attributed (June 2013) by the Department to increase in the percentage of settlement of excise retail shops and increase in the rates of different kinds of fees.

Stamps and Registration Fees: The increase of 22.74 *per cent* was attributed (August 2013) to increase in the value of land and property.

Taxes on Vehicles: The increase of 18.74 *per cent* was attributed (June 2013) to increase in number of vehicles registered.

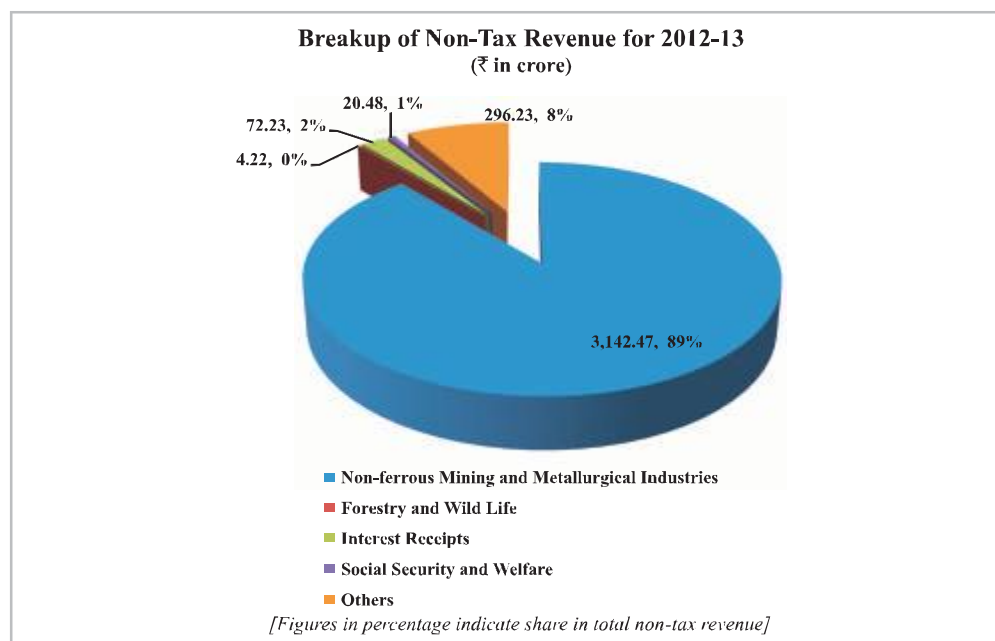
Taxes and Duties on Electricity: The increase of 52.17 *per cent* was attributed (September 2013) to better tax administration.

The other Departments did not furnish the reasons for excess/shortfall despite request (December 2013).

1.1.3 The following table presents the details of non-tax revenue raised during the period 2008-09 to 2012-13:

(₹ in crore)							
Sl. No.	Heads of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase/decrease in 2012-13 over 2011-12
1	Non-ferrous Mining and Metallurgical Industries	1,477.94	1,733.15	2,055.90	2,662.79	3,142.47	(+) 18.01
2	Forestry and Wild Life	7.20	3.57	4.76	3.71	4.22	(+) 13.75
3	Interest Receipts	109.53	153.20	98.74	44.16	72.23	(+) 63.56
4	Social Security and Welfare	4.25	13.49	23.85	15.42	20.48	(+) 32.81
5	Others	352.82	350.74	619.64	312.14	296.23	(-) 5.10
Total		1,951.74	2,254.15	2,802.89	3,038.22	3,535.63	(+) 16.37

Source: Finance Accounts of the Government of Jharkhand.



The reasons for variation in receipts in 2012-13 from those of 2011-12 in respect of Non-ferrous Mining and Metallurgical Industries was attributed (September 2013) by the Department to increase in rate of royalty on coal.

The other Departments did not furnish the reasons for excess/shortfall despite request (December 2013).

1.2 Variation between budget estimates and actuals

The variation between the revised budget estimates (BEs) and actuals of revenue receipts for 2012-13 under the principal heads of tax and non-tax revenue were as mentioned in the following table:

(₹ in crore)					
Sl. No.	Heads of revenue	Revised estimates	Actual receipts	Variation (+) increase (-) shortfall	Percentage of variation (+) increase (-) decrease
A. Tax revenue					
1.	Taxes on Sales, Trade etc.	6,650.00	6,421.61	(-) 228.39	(-) 3.43
2.	State Excise	650.00	577.92	(-) 72.08	(-) 11.09
3.	Stamps and Registration Fees	490.00	492.40	(+) 2.40	(+) 0.49
4.	Taxes on Vehicles	550.00	465.36	(-) 84.64	(-) 15.39
5.	Taxes and Duties on Electricity	142.00	110.72	(-) 31.28	(-) 22.03
6.	Land Revenue	82.00	96.38	(+) 14.38	(+) 17.54
7.	Other Taxes and Duties on Commodities and Services	28.00	0.51	(-) 27.49	(-) 98.18
8.	Taxes on Goods and Passengers –Tax on Entry of Goods into Local Areas	20.00	15.28	(-) 4.72	(-) 23.60
B. Non-tax revenue					
1.	Non-ferrous Mining and Metallurgical Industries	3,209.92	3,142.47	(-) 67.45	(-) 2.10
2.	Forestry and Wild Life	4.80	4.22	(-) 0.58	(-) 12.08
3.	Interest Receipts	65.00	72.23	(+) 7.23	(+) 11.12
4.	Social Security and Welfare	19.00	20.48	(+) 1.48	(+) 7.79

Source: Finance Accounts of the Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of Government of Jharkhand for the year 2013-14.

The reasons for shortfall in receipts against the BE during 2012-13 in respect of some principal heads of tax revenue were as under:

State Excise: The shortfall of 11.09 *per cent* was attributed by the Department to fixation of target higher than the revenue potential of the State in addition to constraints of poor infrastructure and shortage of personnel.

Taxes on Vehicles: The shortfall of 15.39 *per cent* was attributed by the Department to shortage of staff and non-establishment of inter-State permanent check posts.

The other Departments did not inform (December 2013) the reasons for variation despite request (between April and September 2013).

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 2012-13 along with the all-India average percentage of expenditure on collection in 2011-12 were as mentioned in the following table:

(₹ in crore)

Sl. No.	Heads of revenue	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All- India average percentage of 2011-12
1.	Taxes on Sales, Trade etc.	6,421.61	36.50	0.57	0.83
2.	Taxes on Vehicles	465.36	4.51	0.97	2.96
3.	State Excise	577.92	14.92	2.58	2.98
4.	Stamps & Registration Fees	492.40	11.24	2.28	1.89

Source: Finance Accounts of the Government of Jharkhand.

The above table indicates that the percentage of expenditure on collection in Stamps and Registration Fees was higher than all-India average. The Department needs to look into the matter and take steps to reduce the higher cost of collection. However, we appreciate that the cost of Collection on Taxes on Sales, Trade etc., Taxes on Vehicles and State Excise was lower than all-India average.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 in respect of some principal heads of revenue amounted to ₹ 2,986.09 crore, of which ₹ 1,343.30 crore was outstanding for more than five years as mentioned below:

(₹ in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than five years as on 31 March 2013	Remarks
1.	Taxes on Sales, Trade etc.	1,940.85	1,159.59	Out of ₹ 1,940.85 crore, demands of ₹ 160.01 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 641.28 crore and ₹ 1.72 crore was stayed by the Courts and the other appellate authorities respectively. Demand of ₹ 23.15 crore were held up due to dealer/party becoming insolvent and a sum of ₹ 1.78 crore was likely to be written off. Specific action taken in respect of the remaining arrears of ₹ 1,112.91 crore has not been intimated (December 2013).
2.	State Excise	31.37	25.29	Out of the closing balance of arrears of ₹ 31.37 crore as on 31 March 2013, demand for ₹ 13.30 crore was certified for recovery as arrears of land revenue, recovery of ₹ 15.98 crore was stayed by the Courts and other judicial authorities, recovery of ₹ 10.55 lakh was held up due to parties becoming insolvent and a sum of ₹ 16.08 lakh was likely to be written off. Specific action taken in respect of the remaining amount of ₹ 1.82 crore has not been intimated (December 2013).

(₹ in crore)				
Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than five years as on 31 March 2013	Remarks
3.	Taxes on Vehicles	250.70	Not furnished	Out of ₹ 250.70 crore, demands of ₹ 48.14 crore were certified for recovery as arrears of land revenue, recovery of ₹ 1.41 lakh was stayed by the Courts. Specific action taken in respect of the remaining arrears of ₹ 202.55 crore has not been intimated (December 2013).
4.	Non-ferrous Mining and Metallurgical Industries	763.17	158.42	Out of ₹ 933.34 crore ³ , demands of ₹ 463.34 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 408.38 crore and ₹ 8.68 crore was stayed by the Courts and the other appellate authorities respectively. Demand of ₹ 28.65 lakh and ₹ 2.67 crore were held up due to rectification/review of application and dealer/party becoming insolvent respectively. Specific action taken in respect of the remaining arrears of ₹ 49.98 crore had not been intimated (December 2013).
Total		2,986.09	1,343.30	

The position of arrears of revenue pending collection at the end of 2012-13 in respect of other Departments was not furnished (December 2013) despite active pursuance by us (between April and September 2013).

1.5 Refunds

The refund cases pending at the beginning of 2012-13, claims received during the year, refunds allowed during the year and cases pending at the close of the year are indicated in the following table:

(₹ in lakh)			
Sl. No.	Particulars	VAT/Taxes and Duties on Electricity	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year ⁴	608	2,599.86
2.	Claims received during the year	23	1,708.34
3.	Refunds made during the year	1	0.31
4.	Balance outstanding at the end of the year	630	4,307.89
5.	Interest paid due to belated refunds	NIL	NIL

Source: Information furnished by the Commercial Taxes Department.

Refund cases under VAT, pending beyond ninety days of the application claiming refund, entail payment of simple interest at the rate of six *per cent* per annum. The Government may, therefore, take effective steps to dispose of the cases within the stipulated period.

³ The Department furnished stages of recovery of arrears for an amount of ₹ 933.34 crore although they had reported arrears of ₹ 763.17 crore.

⁴ Differs by 134 cases and ₹ 2.06 crore from the data furnished in the previous year.

1.6 Response of the Departments/Government towards Audit

1.6.1 Compliance to Audit Observations

We conduct periodical inspections of the Government departments to test check the transactions and verify the maintenance of the accounts and other records as prescribed in the rules and procedures. Our inspections are followed up with the inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to report compliance through initial reply to us within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

We reviewed the IRs issued upto December 2012 and found that 6,945 paragraphs having financial implication of ₹ 10,977.96 crore relating to 994 IRs remained outstanding at the end of June 2013. The corresponding figures for the preceding two years are mentioned in the following table:

	(₹ in crore)		
	June 2011 ⁵	June 2012	June 2013
Number of outstanding IRs	1,998	963	994
Number of outstanding audit observations	9,320	6,100	6,945
Amount involved	11,500.30	9,794.39	10,977.96

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amounts involved are mentioned below:

(₹ in crore)					
Sl. No.	Names of Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1	Commercial Taxes	Taxes on Sales, Trade etc.	177	3,443	3,126.05
		Entry Tax	48	112	25.79
		Electricity Duty	23	51	54.53
		Entertainment Tax etc.	10	10	0.53
2	Excise and Prohibition	State Excise	106	483	498.86
3	Revenue and Land Reforms	Land Revenue	208	426	1,374.75
4	Transport	Taxes on Motor Vehicles	154	813	391.25
5	Registration	Stamps and Registration Fees	121	367	3,422.06
6	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	147	1,240	2,084.14
Total			994	6,945	10,977.96

Even the first replies, required to be received from the heads of offices within one month from the date of issue of the IRs, were not received for 221 IRs issued from 2003-04 to December 2012. This large pendency of the IRs due to non-receipts of the replies is indicative of the fact that the heads of offices and heads of the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by us in our IRs.

⁵ Including IRs and outstanding observations relating to Forest and Environment Department and Water Resources Department.

We recommend that the Government may take suitable steps to design effective procedures to ensure prompt and appropriate response to audit observations. The Government may also institute systems for taking action against officials/officers who fail to send replies to the IRs/paragraphs as per the prescribed time schedule.

1.6.2 Departmental audit committee meetings

The details of the 10 audit committee meetings held during 2012-13 and the paragraphs settled are mentioned below:

Heads of revenue	Number of meetings held	Number of paragraphs settled	(₹ in crore)
			Amount
Taxes on Sales, Trade etc.	2	57	3.26
Stamps and Registration Fees	1	07	0.37
State Excise	1	31	2.98
Taxes on Vehicles	2	78	34.89
Land Revenue	2	40	0.57
Non-ferrous Mining and Metallurgical Industries	2	88	24.71
Total	10	301	66.78

In view of large number of outstanding audit observation as mentioned in preceding paragraph, it is necessary that audit committees should meet regularly and ensure appropriate action on all audit observations leading to their settlement.

1.6.3 Non-production of records to Audit for scrutiny

The programme for local audit of tax/non-tax receipts offices is drawn up sufficiently in advance and intimations are issued, usually one month before we commence the audit, to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2012-13, 260 assessment records relating to 15 offices of four Departments (Commercial Taxes, Revenue and Land Reforms, Transport and Mines and Geology Departments) were not made available to us for audit. The office-wise break-up of such cases is given below:

Name of Office	Number of assessment cases/ records not produced to audit
Dy. Commissioner of Commercial Taxes (DCCT), Sahebganj Circle	70
DCCT, Jharua Circle	35
DCCT, Ramgarh Circle	26
DCCT, Ranchi South Circle	19
DCCT, Singhbhum Circle, Jamshedpur	7
DCCT, Chirkunda	3
Dy. Collector Land Reforms (DCLR), Ranchi	42
DCLR, Hazaribag	19
DCLR, Bundu	18
DCLR, Ramgarh	10
Additional Collector, Ranchi	1
District Transport Officer, Hazaribag	3
Director of Mines, Jharkhand, Ranchi	3
District Mining Office (DMO), Deoghar	2
DMO, Dhanbad	2
Total	260

1.6.4 Response of the Departments to the draft audit paragraphs

As per the instructions issued (1966) by the Government of Bihar, as applicable to the Government of Jharkhand, audit observations raised during local inspection are to be replied by the concerned authorities after issue of inspection reports. The observations of serious irregularities are converted into draft paragraphs and forwarded to the concerned administrative Departments/ Government for their replies/comments within six weeks. In case of non-receipt of the reply or if the reply furnished by the Departments/Government is not satisfactory, the draft paragraphs are included in the Audit Report. The Government, after laying the Audit Report in the legislature, forwards explanatory notes on the relevant paragraphs to the Committee on Public Accounts (PAC) for vetting by the Principal Accountant General (PAG). After discussion, the PAC makes recommendations for compliance by the Government within six months for final settlement of the paragraph.

Forty Draft Paragraphs (clubbed into 27 paragraphs including one review included in this Report) were forwarded (between May and July 2013) to the Secretaries to the Government of the Departments concerned followed by reminders issued between July and August 2013. The reply furnished by the Government in respect of the 35 draft paragraphs⁶ relating to Taxes on Sales, Trade etc., State Excise, Taxes on Vehicles, Stamps and Registration Fees, Taxes and Duties on Electricity and Non-ferrous Mining and Metallurgical Industries have been suitably incorporated in the Report. In the remaining cases the Government has not furnished any reply (December 2013).

1.6.5 Follow up on Audit Reports – summarised position

The Committee on Public Accounts stipulates submission of explanatory notes by the concerned Department on paragraphs and reviews included in the Audit Report indicating action taken or proposed to be taken, within three months from the date of presentation of the Audit Report to the legislature. The summarised position of follow-up on Audit Reports is as under:

Sl. No.	Audit Report ending on	Date of presentation in the legislature	No. of paragraphs	No. of paragraphs where explanatory notes received	No. of paragraphs where explanatory notes not received
1	31 March 2000 ⁷	21.03.2002	36	17	19
2	31 March 2001	17.12.2003	35	11	24
3	31 March 2002	03.08.2004	27	11	16
4	31 March 2003	24.03.2005	42	25	17
5	31 March 2004	19.12.2005	31	22	09
6	31 March 2005	24.08.2006	29	24	05
7	31 March 2006	04.04.2007	27	17	10
8	31 March 2007	26.03.2008	36	16	20
9	31 March 2008	10.07.2009	42	27	15
10	31 March 2009	13.08.2010	41	14	27
11	31 March 2010	29.08.2011	26	10	16
12	31 March 2011	06.09.2012	32	00	32
13	31 March 2012	27.07.2013	25	00	25
Total			429	194	235

⁶ Including partial reply of 16 draft paragraphs from Commercial Taxes Department.

⁷ Audit had no information about any decision taken by the competent authority about discussion by PAC of the pending paragraphs of the Audit Reports relating to the areas/districts falling under the jurisdiction of Jharkhand, for the periods prior to the constitution of the State of Jharkhand.

Our review of the outstanding 429 paragraphs included in 13 Reports of the Comptroller and Auditor General of India (Revenue Receipts/Sector) for the year ended 31 March 2000 to 31 March 2012 disclosed that the Departments had submitted explanatory notes on 194 paragraphs only.

This indicates that the executive did not take prompt action on the important issues highlighted in the Audit Reports.

1.7 Evaluation of clearances of Audit observations-Registration Department

Status of issues highlighted in the Inspection Reports/Audit Reports of the Departments/Government, the performance of the **Registration Department** to deal with the cases detected in the course of local audit conducted during 2004-05 to 2012-13 and also the cases included in the Audit Reports for the years 2004-05 to 2012-13 was evaluated. The succeeding paragraphs 1.7.1 and 1.7.2 narrate the trend of clearance during the year 2004-05 to 2012-13.

1.7.1 Position of Inspection Reports

The summarised position of inspection reports issued during 2004-05 to 2012-13 in respect of the **Registration Department**, paragraphs included in these reports and their status as on 31 March 2013 are tabulated in the following table:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IR	Para-graphs	Money value	IR	Para-graphs	Money value	IR	Para-graphs	Money value	IR	Para-graphs	Money value
2004-05	174	364	22.79	23	76	4.41	1	2	0	196	438	27.20
2005-06	196	438	27.20	27	75	3.52	6	42	0.21	217	471	30.51
2006-07	217	471	30.51	10	31	0.22	0	3	0.02	227	499	30.71
2007-08	227	499	30.71	13	40	2.51	3	14	0.38	237	525	32.84
2008-09	237	525	32.84	12	51	2.73	38	88	0.69	211	488	34.88
2009-10	211	488	34.88	10	28	5.46	131	320	23.76	90	196	16.58
2010-11	90	196	16.58	18	149	3,410.95	18	65	2.60	90	280	3,424.93
2011-12	90	280	3,424.93	12	49	2.02	1	17	0.57	101	312	3,426.38
2012-13	101	312	3,426.38	13	46	2.71	2	21	0.44	112	337	3,428.65

During the period 2004-05 to 2012-13, we issued 138 IRs containing 545 paragraphs with financial implication of ₹ 3,434.53 crore. At the same time 200 IRs involving 572 paragraphs with monetary value of ₹ 28.67 crore were settled by conducting audit committee meetings with the Department and through regular interactions with them. At present, 112 IRs containing 337 paragraphs with monetary value of ₹ 3,428.65 crore are pending for settlement, of which 54 IRs containing 65 paragraphs having money value of ₹ 5.29 crore are more than five years old (between 2004-05 and 2007-08).

1.7.2 Recovery of accepted cases

During the period 2004-05 to 2012-13, we included nine paragraphs including one review of "Receipts from Stamp Duty and Registration Fees including IT aspect" and a paragraph on "Levy and collection of Stamp duty and Registration fees on lease agreements of immovable properties and

Development Agreements” having financial implication of ₹ 11.38 crore in the Audit Reports. The Department has so far accepted five paragraphs involving ₹ 5.17 crore⁸. However, the Department reported recovery of ₹ 2.39 lakh during 2012-13 against accepted cases.

We recommend that the Government should take appropriate steps to recover the Government revenue against accepted cases.

1.7.2.1 Action taken on the recommendations accepted by the Departments/Government

A review of **"Receipts from Stamp Duty and Registration Fees including IT aspect"** pertaining to the Registration Department featured in the Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India for the year ended 31 March 2010, wherein some recommendations were made by us.

The Government/Department was requested (August 2013) to intimate the system adopted to monitor the action to be taken/action taken on the recommendations included in the review and assurances given by them in the exit conference held in September 2010. We have not received any reply in this connection from the Department (December 2013).

1.8 Audit planning

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

During the year 2012-13, the audit universe comprised of 445 auditable units, of which 131 units were audited during the year. The details are mentioned in the following table:

Sl. No.	Principal Head	Total no. of units	Units audited during 2012-13
1	Taxes on Sales, Trade etc.	46	29
2	Taxes on Vehicles	27	16
3	Stamps and Registration Fees	41	15
4	State Excise	23	18
5	Land Revenue	270	32
6	Non-ferrous Mining and Metallurgical Industries	33	20
7	Jharkhand State Mineral Development Corporation	5	1
Total		445	131

Besides the compliance audits mentioned in the table above, a review of **“Levy and collection of Electricity Duty in Jharkhand”** and a paragraph on

⁸ Includes accepted recoverable cases having financial implication of ₹ 2.46 crore raised in this Report.

“Levy and collection of Stamp duty and Registration fees on lease agreements of immovable properties and Development Agreements” were also taken up to examine the efficacy of the tax administration of these receipts.

1.9 Impact of audit

1.9.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

Out of the total observations of ₹ 3,787.98 crore pointed out in Audit Reports 2007-08 to 2011-12, the Departments/Government accepted audit observations with a total revenue impact of ₹ 1,246.91 crore and recovered ₹ 509.29 crore as of 31 March 2013. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made	
			during 2012-13 ⁹	Upto 2012-13
2007-08	842.65	153.76	1.99	191.78
2008-09	1,171.03	88.57	14.64	235.28
2009-10	237.97	48.74	17.42	54.41
2010-11	1,051.61	644.77	1.69	27.05
2011-12	484.72	311.07 ¹⁰	0.77 ¹¹	0.77
Total	3,787.98	1,246.91	36.51	509.29

1.9.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we test checked 477 units relating to Taxes on Sales, Trade etc., State Excise, Taxes on Vehicles, Land Revenue, Stamps and Registration Fees, Taxes and Duties on Electricity and Non-ferrous Mining and Metallurgical Industries having observations with revenue implication of ₹ 9,302.36 crore in 1,59,155 cases. Of these, the Departments/Government accepted audit observations in 1,23,010 cases involving ₹ 1,833.75 crore and recovered ₹ 9.31 crore upto 2012-13. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered upto 2012-13 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2007-08	84	73,595	1,639.11	69,540	385.74	0.56
2008-09	90	33,254	1,807.08	24,063	585.97	0.23
2009-10	87	4,599	819.44	3,870	62.84	0.37
2010-11	99	16,775	4,066.95	7,058	404.56	6.48
2011-12	117	30,932	969.78	18,479	394.64	1.67
Total	477	1,59,155	9,302.36	1,23,010	1,833.75	9.31

⁹ Figures are based on data/information furnished by the Excise & Prohibition, Transport, Registration and Mines & Geology Departments.

¹⁰ Including notional loss of ₹ 80.63 crore on account of non/delayed settlement of retail excise shops under Excise and Prohibition Department.

¹¹ The Registration Department intimated recovery of ₹ 2.39 lakh during 2012-13. However, year-wise breakup was not furnished.

1.9.3 Status of compliance to Inspection Reports (2012-13)

Our test check of the records of 130 units¹² relating to Taxes on Sales, Trade etc., State Excise, Land Revenue, Taxes on Vehicles, Stamps and Registration Fees, Taxes and Duties on Electricity and Mining Receipts conducted during 2012-13, revealed underassessment, non levy, short levy of revenue, etc. aggregating ₹ 1,532.94 crore in 25,784 cases. During the course of the year, the concerned Departments accepted under-assessment and other deficiencies of ₹ 568.52 crore involved in 21,067 cases of which 20,928 cases involving ₹ 343.47 crore was pointed out during 2012-13 and the rest in earlier years. The Departments effected recovery of ₹ 7.02 crore in 1,024 cases in 2012-13.

1.9.4 This Report

This report (Chapters II to VII) contains 27 paragraphs including one review of **“Levy and Collection of Electricity Duty in Jharkhand”** and a paragraph on **“Levy and collection of Stamp duty and Registration fees on lease agreements of immovable properties and Development Agreements”** relating to short/non-levy of tax, duty and interest and penalty involving financial implications of ₹ 633.61 crore. The Departments/Government have accepted audit observations involving ₹ 513.04 crore.

¹² Excluding one test checked unit of Jharkhand State Mineral Development Corporation.

CHAPTER-II

TAXES ON SALES, TRADE ETC.

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a few illustrative cases having recoverable financial implication of ₹ 304.67 crore selected from observations noticed during our test check of records relating to assessment and collection of Taxes on Sales, Trade etc. in the office of the Deputy Commissioners of Commercial Taxes/Assistant Commissioners of Commercial Taxes, where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Trend of receipts	In 2012-13, the collection of taxes from Taxes on Sales, Trade etc. increased by 16.29 <i>per cent</i> over the previous year which was attributed by the Department to better and effective tax administration and revision/enhancement in rate of VAT.
Internal Audit	The system of VAT audit has been envisaged in the Jharkhand VAT Act. The criteria and guidelines for selection of dealers for the purposes of audit assessment and audit thereof have been notified (July 2011). The Wing has started functioning at the Headquarters' level and at the divisional level at Ranchi, Jamshedpur and Dhanbad.
Impact of audits conducted by us in 2012-13	In 2012-13, we test checked the records of 29 units relating to Taxes on Sales, Trade etc. and found non/short realisation/levy of tax, penalty etc. involving ₹ 511.05 crore in 642 cases. The Department accepted non/short realisation/levy of tax and other deficiencies of ₹ 229.77 crore in 56 cases pointed out by us, of which ₹ 5.23 crore involved in 36 cases were pointed out during 2012-13 and the rest in earlier year.
Our conclusion	The Commercial Taxes Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

CHAPTER – II: TAXES ON SALES, TRADE ETC.

2.1 Tax administration

The levy and collection of Sales Tax/Value Added Tax and Central Sales Tax are governed by the Jharkhand Finance (JF) Act, 2001 (repealed from 1 April 2006), Jharkhand Value Added Tax (JVAT) Act, 2005 and the Central Sales Tax (CST) Act, 1956. The Secretary-cum-Commissioner of Commercial Taxes is responsible for administration of these Acts and Rules in the Commercial Taxes Department (CTD). He is assisted by Additional Commissioner and Joint Commissioners of Commercial Taxes (JCCT), Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB), Vigilance and Monitoring, along with other Deputy/Assistant Commissioners of Commercial Taxes.

The State is divided into five commercial taxes divisions¹, each under the charge of a Joint Commissioner (Administration) and 28 circles², each under the charge of a Deputy/Assistant Commissioner of Commercial Taxes (DCCT/ACCT). The DCCT/ACCT of the circle, responsible for levy and collection of tax due to the Government, besides survey, is assisted by Commercial Taxes Officers. A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of Headquarters in each division.

2.2 Trend of receipts

Actual receipts from Taxes on Sales, Trade etc. during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table:

(₹ in crore)						
Year	Revised budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts from Taxes on Sales, Trade etc. <i>vis-à-vis</i> total tax receipts
2008-09	3,715.00	2,996.20	(-) 718.80	(-) 19.35	3,753.21	80
2009-10	4,200.00	3,597.20	(-) 602.80	(-) 14.35	4,500.12	80
2010-11	4,503.00	4,473.43	(-) 29.57	(-) 0.66	5,716.63	78
2011-12	5,633.25	5,522.02	(-) 111.23	(-) 1.97	6,953.89	79
2012-13	6,650.00	6,421.61	(-) 228.39	(-) 3.43	8,223.67	78

Source: Finance Accounts and the revised estimates as per Statement of Revenue and Receipts of Government of Jharkhand for 2013-14.

From the above table, it could be seen that there was variation between revised budget estimates and actual receipts in all the years which ranged between 0.66 and 19.35 *per cent*. Reasons for this, though called for, have not been furnished.

¹ Dhanbad, Dumka, Hazaribag, Jamshedpur and Ranchi.

² Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahebganj, Singhbhum and Tenughat.

In 2012-13, the collection of taxes from Taxes on Sales, Trade etc. increased by 16.29 *per cent* over the previous year which was attributed by the Department to better and effective tax administration and revision/enhancement in rate of VAT.

2.3 Cost of collection

The gross collection from Taxes on Sales, Trade etc., expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2008-09 to 2012-13 along with the all-India average of the relevant preceding year are mentioned in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All-India average percentage of the preceding year
2008-09	2,996.20	24.88	0.83	0.83
2009-10	3,597.20	31.17	0.87	0.88
2010-11	4,473.43	37.48	0.84	0.96
2011-12	5,522.02	50.20	0.91	0.75
2012-13	6,421.61	36.50	0.57	0.83

Source: Finance Accounts of the Government of Jharkhand.

The above table indicates that percentage of expenditure on gross collection in respect of Taxes on Sales, Trade etc. during 2012-13 was below all India average percentage for the previous year.

We appreciate the efforts of the Department in keeping down the cost of collection and recommend that the Department should ensure this trend in the subsequent years also.

2.4 Working of Internal Audit Wing

The system of VAT audit has been envisaged in the JVAT Act. The criteria and guidelines for selection of dealers for the purposes of audit assessment and audit thereof have been notified (July 2011). The Wing has started functioning at Headquarters' level and divisional level at Ranchi, Jamshedpur and Dhanbad. The Department reported (September 2012) that assessment records of 812 dealers were selected for VAT Audit in March 2012. However, the Department did not report the number of cases covered under audit assessment during the year 2012-13 despite being requested.

2.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 were ₹ 1,940.85 crore, of which ₹ 1,159.59 crore were outstanding for more than five years as reported by the Department. The year-wise position of arrears of revenue during the period 2008-09 to 2012-13 is depicted in the following table:

(₹ in crore)

Year	Opening balance of arrears	Closing balance of arrears
2008-09	1,261.41	1,737.21
2009-10	1,737.21	1,856.26
2010-11	1,856.26	1,737.74
2011-12	1,737.74	1,860.83
2012-13	1,860.83	1,940.85

Source: Commercial Taxes Department, Government of Jharkhand.

The arrears of revenue increased from ₹ 1,860.83 crore as on 31 March 2012 to ₹ 1,940.85 crore on 31 March 2013. While the Department did not furnish information regarding addition and clearance of arrears during the year, it informed that out of ₹ 1,940.85 crore, demands of ₹ 160.01 crore were certified for recovery as arrears of land revenue, recovery of ₹ 641.28 crore and ₹ 1.72 crore was stayed by the Courts and the other appellate authorities respectively, demand of ₹ 23.15 crore was held up due to dealer/party becoming insolvent and amount of ₹ 1.78 crore was likely to be written off. Specific action taken in respect of the remaining arrears of ₹ 1,112.91 crore has not been intimated (December 2013).

We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.

2.6 Arrears in assessment

The details of cases pending at the beginning of the year 2012-13, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year as furnished by the Commercial Taxes Department is shown in the following table:

Year	Opening balance	New cases due for assessment	Total assessments due	Cases disposed of	Balance at the end of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
2008-09	15,009	36,770	51,779	38,544	13,235	25.56
2009-10	13,235	56,106	69,341	49,422	19,919	28.73
2010-11	19,919	64,145	84,064	66,874	17,190	20.45
2011-12	17,190	63,515	80,705	50,473	30,232	37.46
2012-13	31,244 ³	58,087	89,331	53,385	35,946	40.24

Source: Commercial Taxes Department, Government of Jharkhand.

From the above table, it would be seen that pendency in finalisation of assessments ranged between 20 to 40 *per cent*. This would result in delay in realisation of revenue/loss of revenue due to cases becoming barred by limitation.

We recommend that the Department may consider evolving an action plan to finalise the outstanding assessments in a time-bound manner.

2.7 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of Taxes on Sales, Trade etc. during the year 2012-13 and corresponding figures for the preceding four years as furnished by the Commercial Taxes Department is mentioned in the following table:

³ The figures furnished by the Department differ from those reported as balance in previous year.

(₹ in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes	Amount refunded	Net collection as per Finance Accounts	Percentage of column 2 to 6
1	2	3	4	5	6	7
2008-09	2,797.40	54.07	0.56	0.47	2,996.20	93.36
2009-10	3,319.44	84.74	0.82	0.06	3,597.20	92.27
2010-11	4,446.53	98.59	2.53	0.07	4,473.43	99.40
2011-12 ⁴	5,557.94	77.30	2.00	4.25	5,522.02	100.65
2012-13 ⁵	6,464.81	124.84	6.39	0.00 ⁶	6,421.61	100.67

Source: Information furnished by the Commercial Taxes Department.

2.8 Impact of Audit

2.8.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we had pointed out cases of non/short levy of tax, irregular allowance of exemption from tax, application of incorrect rates of tax, non-levy of penalty, short levy of tax due to incorrect determination of turnover, irregular allowance of concessional rate of tax, non-levy of penalty for excess collection of tax etc. of ₹ 1,246.57 crore in 59 paragraphs. Of which the Department/Government accepted our observation of ₹ 537.17 crore and reported recovery of ₹ 149.42 crore upto 2011-12⁷. Details are shown in the following table:

(₹ in crore)

Year	No. of paragraph	Amount objected	Accepted recoverable amount	Amount recovered upto 2011-12 out of Col. 4
1	2	3	4	5
2007-08	16	294.95	77.35	40.60
2008-09	16	199.13	68.69	60.54
2009-10	9	208.10	3.09	26.00
2010-11	10	320.19	320.02	22.28
2011-12	8	224.20	68.02	0.00
Total	59	1,246.57	537.17	149.42

Source: Information furnished by the Commercial Taxes Department.

2.8.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we test checked 103 units relating Taxes on sales, trade etc., and pointed out non/short levy, non/short realisation, under-assessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 2,656.88 crore in 2,225 cases. Of these, the Department/Government accepted audit observations in 278 cases involving ₹ 893.05 crore and recovered ₹ 4.82 crore upto 2012-13. The details are shown in the following table:

⁴ The figures for 2011-12 include amount collected under VAT, Luxury Tax and Entry Tax.

⁵ The figures for 2012-13 include amount collected under VAT, Luxury Tax and Entry Tax.

⁶ ₹ 0.00 crore = ₹ 0.31 lakh.

⁷ Recovery during 2012-13 had not been reported by the Department.

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered upto 2012-13 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2007-08	19	445	589.61	84	138.42	0.16
2008-09	17	227	265.58	53	131.51	0.00
2009-10	22	525	640.42	31	6.49	0.03
2010-11	24	399	366.62	62	324.03	4.13
2011-12	21	629	794.65	48	292.60	0.50
Total	103	2,225	2,656.88	278	893.05	4.82

2.8.3 Status of compliance to Inspection Reports (2012-13)

During 2012-13 we test checked the records of 29 units (having revenue collection of ₹ 4,531.08 crore) out of 46 units relating to Taxes on sales, trade etc., and found non/short levy of tax, irregular allowance of exemption from tax, application of incorrect rates of tax, non-levy of penalty, short levy of tax due to incorrect determination of turnover, irregular allowance of concessional rate of tax, non-levy of penalty for excess collection of tax/ mistake in computation etc. involving ₹ 511.05 crore in 642 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of tax	237	332.53
2	Irregular allowance of exemption from tax	113	35.39
3	Application of incorrect rates of tax	47	10.44
4	Non-levy of penalty	92	32.51
5	Short levy of tax due to incorrect determination of turnover	24	28.95
6	Irregular allowance of concessional rate of tax	22	1.70
7	Non-levy of penalty for excess collection of tax/mistake in computation	11	0.29
8	Other cases	96	69.24
Total		642	511.05

The Department accepted non/short realisation/levy of tax and other deficiencies of ₹ 229.77 crore in 56 cases pointed out by us, of which ₹ 5.23 crore involved in 36 cases were pointed out during 2012-13 and the rest in earlier year and recovered ₹ 9.52 lakh in six cases.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 304.67 crore. These are discussed in the succeeding paragraphs.

2.9 Audit observations

Our scrutiny of assessment records of Sales Tax, Value Added Tax (VAT) and Central Sales Taxes (CST) indicated several cases of non-observance of the provisions of the Acts/Rules and notifications issued thereunder, suppression of sales/purchase turnover, non-registration of dealers, turnover escaping assessment, non/short levy of tax/penalty, incorrect adjustment of input tax credit (ITC), application of incorrect rate of tax etc., as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of assessing authorities (AAs) are pointed out by us each year, but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

2.10 Results of cross-verification

The JVAT Act and Rules made thereunder provide that for widening the tax base the Circle in-charge and Investigation Bureau shall identify through survey, those dealers who though liable to pay tax under the Act, remained unregistered.

During our scrutiny we detected short realisation of revenue of ₹ 12.85 crore pertaining to the period between 2007-08 and 2011-12 indicating lack of co-ordination between the CTD and other Government Departments with regard to exchange of data/information for the purpose of cross verification of transactions as discussed in paragraphs 2.10.1 and 2.10.2.

2.10.1 Non-registration of dealers

Under the provisions of Section 38 of the JVAT Act, 2005, if a dealer liable to pay tax, in respect of any period, has failed to get himself registered under the Act, the prescribed authority shall proceed to assess the dealer to tax to the best of his judgement and may also direct the dealer to pay by way of penalty a sum equal to the amount of tax so assessed or rupees ten thousand, whichever is greater.

We test checked the assessment records of 100 dealers in Pakur and Sahebganj Commercial Taxes Circles (between May and December 2012). We further collected the data relating to despatch of stone chips in respect of 27 mining lessees (Sahebganj: 16 and Pakur: 11) out of 890 lessees from the District Mining offices, Sahebganj and Pakur

and cross verified the same with the records of Pakur and Sahebganj Commercial Taxes Circles between May and December 2012. Our cross verification indicated that 21 mining lessees (Sahebganj: 16 and Pakur: 5) had dispatched/sold 2.07 lakh cum (Sahebganj 1.73 lakh cum and Pakur 0.34 lakh cum) of stone chips

valued at ₹ 4.52 crore⁸ during the periods between 2007-08 and 2011-12 but these lessees were not registered in the Pakur and Sahebganj Commercial Taxes Circles. Due to absence of a mechanism for inter-departmental exchange of data/information, these dealers remained outside the tax net. This resulted in non-levy of tax ₹ 1.13 crore⁹ including penalty of ₹ 56.50 lakh.

After we reported the matter to the Department/Government in July 2013, the Department/Government stated (September 2013) that in case of Pakur Commercial Taxes Circle demand of ₹ 2.27 lakh against recoverable amount of ₹ 17.92 lakh had been raised (between March and July 2013) while action for assessment and realisation in other cases were being taken. Though the assessing authority accepted the quantity of dispatch and the leviable rate as pointed out by us but erroneously calculated the tax and penalty of ₹ 2.27 lakh only. While in the case of Sahebganj Commercial Taxes Circle, it was stated that out of sixteen, two dealers were registered and in other cases, details were being procured from District Mining Offices, however, the Department did not intimate the name and TIN of the two dealers stated to be registered. Further reply has not been received (December 2013). Thereafter, the Department did not inform about the mechanism put in place to plug such leakages.

A similar issue was pointed out in Paragraph No. 2.11.1 of the Audit Report (Revenue Receipts) for the year ending 31 March 2010; the Department accepted our observation and stated that demands for ₹ 61.41 lakh, involved in 12 cases, had been raised. However, nature of lapses/irregularities are still persisting which shows ineffectiveness of internal control system of the Department to prevent recurring leakage of revenue.

2.10.2 Suppression of sales turnover detected in course of cross-verification of data with other Departments

Under the provisions of Section 40 (1) and 37 (6) of the JVAT Act read with the CST Act, if the prescribed authority has reasons to believe that the dealer has concealed, omitted or failed to disclose wilfully, the particulars of such turnover or has furnished incorrect particulars of such turnover and thereby the returned figures are below the real amount, the prescribed authority shall proceed to 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, by way of penalty a sum equivalent to twice the amount of the additional tax so assessed.

We test checked assessment records of 75 dealers registered in Commercial Taxes Circle, Chaibasa. Further, we cross - verified (between February 2012 and January 2013) the returns of sale/despatch of iron ore as disclosed in the Commercial Taxes Circle, Chaibasa with the data relating to

⁸ Rate of stone chips ₹ 200 per cum for 2007-08 and ₹ 220 per cum for 2008-09 and onwards as per schedule of rate of the Works Department. Details of stone chips despatched for intervening period 1.4.2007 to 26.7.2007 and 1.4.2008 to 20.5.2008, when the rates were revised (₹ 200 per cum w.e.f. 20.7.2007 and ₹ 220 per cum w.e.f. 21.5.2008), were not available on records. Hence revised rates have been applied for the whole year.

⁹ Calculated at the rate of 12.5 per cent on ₹ 4.52 crore.

dispatch of iron ore received (September 2011) from Indian Bureau of Mines (IBM), Government of India, Kolkata. We also test checked the assessment records of 43 dealers registered in Lohardaga Commercial Taxes Circle and cross verified the data of dispatch of bauxite received (November 2012) from South Eastern Railway (S.E. Railway), Lohardaga and District Mining Office, Lohardaga.

We noticed that out of 24 mining lessees, six lessees (Chaibasa: Four and Lohardaga: Two) had filed their returns for sale of 77.11 lakh MT of iron ore and bauxite valued at ₹ 553.96 crore during the years 2007-08 and 2008-09. The assessments were finalised between November 2009 and March 2011 on the basis of returns filed by them. However, our cross verification with data of dispatch revealed that the dealers had actually sold 87.96 lakh MT of iron ore and bauxite valued ₹ 651.60 crore. Thus, the dealers had concealed sales turnover of 10.85 lakh MT of iron ores and bauxite valued at ₹ 97.64 crore. Due to absence of a mechanism for inter-departmental exchange of data/information for cross verification purposes there was short levy of tax of ₹ 11.72 crore¹⁰ including mandatory penalty of ₹ 7.81 crore.

After we reported the matter to the Department/Government in July 2013, the Government in one case of Chaibasa Commercial Taxes Circle stated (September 2013) that quantity of 0.92 lakh MT related to overburden and not iron ore which has also been reflected in the VAT Audit Report. The reply was not in order as the figures furnished by IBM related to dispatch of iron ore only. In other two cases it was stated that notices were issued for hearing. The replies in remaining three cases were not furnished. Further reply has not been received (December 2013).

2.11 Irregularities in determination of turnover

Turnover means the aggregate of sale prices received or receivable and purchase prices paid or payable during any given period. Correct determination of turnover is essential for proper assessment and levy of taxes due. The gross turnover of a dealer is taken into account for the purpose of determining his liability for tax but for the purposes of actual levy of taxes, certain deductions are allowed in order to arrive at the taxable turnover.

We noticed that the AAs while finalising the assessments had not assessed the taxable turnover of the dealers correctly as per the provisions of the Act. This resulted in non/short levy of tax and penalty of ₹ 280.70 crore as mentioned in paragraphs 2.11.1 to 2.11.2.

¹⁰ Calculated at the rate of four per cent on ₹ 97.64 crore.

2.11.1 Suppression of sales/purchase turnover under JVAT/JF Act

Under the provisions of Section 40(1) of the JVAT Act read with the CST Act, if the prescribed authority has reasons to believe that the dealer has concealed, omitted or failed to disclose wilfully, the particulars of such turnover or has furnished incorrect particulars of such turnover and thereby the returned figures are below the real amount, the prescribed authority shall proceed to 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, by way of penalty a sum equivalent to twice the amount of the additional tax so assessed.

2.11.1.1 We test checked assessment records of 1,089 dealers (between September 2011 and March 2013) in 14 Commercial Taxes Circles¹¹ and noticed that 28 dealers, dealing in various commodities¹², had filed their returns for sales/purchase of ₹ 5,107.45 crore for the period from

2006-07 to 2009-10. The assessments were finalised between March 2009 and April 2012 on the basis of returns filed by them. However, our scrutiny of records¹³ indicated that the dealers had actually sold/purchased goods worth ₹ 6,196.27 crore. Thus, the dealers had concealed ₹ 1,088.82 crore on account of sales/purchase turnover in their returns. This indicated that the AAs did not cross-verify the returns with the relevant information available in the records submitted by the concerned dealers which resulted in non/short levy of tax of ₹ 245.11 crore including penalty of ₹ 163.41 crore. We mention specific cases in respect of five dealers in five Commercial Taxes Circles based on highest financial implications in the following table:

Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	(₹ in crore)	
				Suppressed turnover Rate of tax (%)	Short levy of VAT Penalty
1	Jamshedpur One	2006-07 to 2008-09 March 2009, March 2010 and March 2011	The dealer engaged in manufacture and sale of coal handling equipments etc. had actual turnover of ₹ 1,278.40 crore as per annual audited accounts but returned ₹ 846.92 crore only in his annual returns and JVAT 409 on which assessments were finalised.	431.48 12.5	53.93 107.87

¹¹ Adityapur, Chaibasa, Chirkunda, Deoghar, Dhanbad, Giridih, Godda, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South, Singhbhum and Tenughat.

¹² MS bar, MS channels, MS angles, MS wire, nails, iron and steel, coal, silico manganese, HEMM parts, electrical equipments, beer, asbestos sheets, heating elements, petroleum products, electrical poles, transformers, two/four wheeler, machinery spares, automobile components, electrical goods, medicines, iron ore, coal handling equipments and heavy engineering parts etc.

¹³ Periodical returns, utilisation certificates of declaration forms, audited annual accounts, trading and manufacturing accounts.

Sl. No.	Name of the circle No. of dealer	Period Month of assessment	Nature of observations	(₹ in crore)	
				Suppressed turnover Rate of tax (%)	Short levy of VAT Penalty
2	<u>Ranchi South</u> One	<u>2008-09</u> March 2011	The dealer had actually received goods on stock transfer from outside the State of ₹ 2,965.78 crore but accounted for in its account for ₹ 2,587.68 crore on which the assessment was finalised.	<u>378.10</u> 4 ¹⁴	<u>15.12</u> 30.24
3	<u>Chirkunda</u> One	<u>2009-10</u> February 2012	As per production and dispatch statement the dealer had dispatched 20.41 lakh MT of coal valued at ₹ 295.23 crore from three sidings but accounted for 11.14 lakh MT valued at ₹ 161.13 crore of two sidings only on which assessment was finalised.	<u>134.10</u> 4	<u>5.36</u> 10.73
4	<u>Singhbhum</u> One	<u>2008-09</u> March 2011	As per utilisation statement of declaration form 'F' as well as cross verification with the assessment records of a dealer registered in the same circle bearing TIN 20451105290 revealed that the dealer actually received goods (copper concentrate) valued at ₹ 167.41 crore but accounted for ₹ 109.86 crore only in his trading accounts on which assessment was finalised.	<u>57.55</u> 4	<u>2.30</u> 4.60
5	<u>Deoghar</u> One	2007-08 and <u>2008-09</u> February 2010 and March 2011	As per utilisation statement of declaration form 'C' the dealer had purchased goods valued at ₹ 16.46 crore but accounted for ₹ 10.83 crore only on which the assessment was finalised.	<u>5.63</u> 14.5 and 20	<u>1.05</u> 2.10

We reported the matter to the Department/Government in July 2013. The Government/Department accepted (September 2013) 13 cases pertaining to seven Commercial Taxes Circles¹⁵ and raised demand of ₹ 162.92 crore in nine cases. Of the above, in one case of Jamshedpur Circle, the assessee went into appeal and the case was remanded to the AA with instruction to re-examine the mode of despatch of goods manufactured in the Jamshedpur unit.

In case of a dealer in Adityapur Circle, the Department/Government stated that purchase figures include purchases made by its Dharwad unit also. The reply is not in order as separate purchase statement for Jamshedpur unit in JVAT409 had been furnished which reflected purchase of raw material worth ₹ 81.57 crore.

In case of a dealer in Ranchi South Circle, it was stated that the dealer company had made requisition for issue of form-F for ₹ 2,965.78 crore which was later rectified as ₹ 2,587.67 crore and filed revised returns accordingly.

¹⁴ The dealer deals in petroleum products taxable at different rates between 4 and 20 per cent. As the break-up of goods involved in suppressed purchase turnover was not on record, the tax has been calculated at the minimum rate of four per cent only.

¹⁵ Adityapur, Giridih, Godda, Jamshedpur, Ramgarh, Ranchi East and Tenughat.

The reply is not in order as Rule 11(2) of the CST (Jharkhand) Rule, 2006, stipulates that requisition and issue of form should be based on actual requirement which was ₹ 2,965.78 crore as per annual return filed on 31 December 2009. Thus, in absence of quantity and value wise details of utilisation of form-F, reduced value of stock receipt of ₹ 2,587.67 crore was not acceptable. In nine cases of eight Commercial Taxes Circles¹⁶ notices for hearing had been issued. In the remaining four cases reply has not been received. Report on realisation and further reply has not been received (December 2013).

Under the provisions of Section 19 (2) of the JF Act, if the dealer has concealed, omitted or failed to disclose wilfully the particulars of turnover or has furnished incorrect particulars of such turnover, the competent authority shall assess or reassess the amount of tax due from the dealer 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.

2.11.1.2 We test checked assessment records of 91 dealers (September 2011) in Jamshedpur Commercial Taxes Circle and noticed that an assessee engaged in manufacturing and sale of different types of machine parts and coal handling plant, had filed returns for sales turnover of ₹ 149.77 crore during 2005-06 and the assessment was finalised in March 2009

on the basis of returns filed by him. However, our scrutiny of the information available in the audited annual accounts indicated that the dealer had actually sold goods worth ₹ 217.09 crore. As such, the dealer had short accounted the sales turnover by ₹ 67.32 crore in the return submitted to the Department. The AA did not cross verify the returns with annual audited account submitted by the dealer, which resulted in short levy of tax of ₹ 22.08 crore¹⁷ including maximum penalty of ₹ 16.16 crore.

We reported the matter to the Department/Government in July 2013. The Government/Department stated (September 2013) that on the case being reassessed and demand notice issued (September 2012), the assessee went into appeal and the case was remanded to the AA with instruction to re-examine the mode of dispatch of goods manufactured in the Jamshedpur unit. Further reply has not been received (December 2013).

¹⁶ Adityapur, Chirkunda, Dhanbad, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South and Singhbhum.

¹⁷ Suppressed turnover: ₹ 67.32 crore. Tax (@ 8 per cent = ₹ 5.39 crore; Surcharge @ 10 per cent of tax = ₹ 53.86 lakh and Penalty = ₹ 16.16 crore. Total: ₹ 22.08 crore.

2.11.2 Incorrect determination of gross turnover under JVAT Act

Under the provisions of Section 2(xxv) of the JVAT Act, gross turnover (GTO) is the aggregate of all amounts received and receivable by a dealer, including the gross amount received or receivable for execution of works contract or the sale of goods made outside the State, in the course of inter-State trade or commerce or export during any given period.

We test checked the assessment records of 446 dealers (between February 2012 and March 2013) in six Commercial Taxes Circles¹⁸ and noticed that in case of six dealers, GTO was determined as ₹ 363.50

crore instead of actual GTO of ₹ 694 crore as per returns/records furnished by them for the period 2007-08 to 2008-09. The AAs while finalising the assessments between February 2010 and May 2011 did not consider the figures mentioned in the returns/records resulting in incorrect determination of GTO by ₹ 330.50 crore and consequential short-levy of tax of ₹ 13.51 crore.

We reported the matter to the Department/Government in July 2013. The Department/Government stated (September 2013) that in two cases pertaining to Adityapur and Tenughat Commercial Taxes Circles, demand for the entire amount under observation of ₹ 18.26 lakh had been raised, while in one case of Godda Commercial Taxes Circle the Department accepted our observation but did not intimate action taken thereon. In the remaining three cases, pertaining to three Commercial Taxes Circles¹⁹, it was stated that notices for hearing had been issued. Further reply has not been received (December 2013).

2.12 Application of incorrect rate of tax under JVAT Act

Under the provisions of Section 9 and 13 of the JVAT Act and schedules appended thereunder, components and parts of motor vehicles, retreaded tyres, tubes and receipt of hire charges on vehicles, being unspecified items, are taxable at the rate of 12.5 *per cent* under schedule II part D of the Act.

We test checked assessment record of 393 dealers (between August 2012 and February 2013) in five Commercial Taxes Circles²⁰ and noticed that five dealers dealing in components and parts of motor vehicles, retreaded tyres, tubes and leasing of vehicles had filed

their returns for the period between 2006-07 and 2009-10 admitting the rate of four *per cent*, instead of leviable rate of 12.5 *per cent*. The AAs also at the time of finalising the assessments, between March 2009 and April 2012, did not consider the figures mentioned in the returns/records *vis-à-vis* schedules of the Act and levied tax at incorrect rates. Thus, incorrect application of the provisions of the Act by the AAs resulted in short-levy of tax of ₹ 1.11 crore as mentioned in the following table:

¹⁸ Adityapur, Chaibasa, Chirkunda, Godda, Ramgarh and Tenughat.

¹⁹ Chaibasa, Chirkunda and Ramgarh.

²⁰ Adityapur, Jamshedpur, Jharia, Ramgarh and Ranchi West.

(₹ in lakh)					
Sl. No.	Number of dealer Circle	Period Month of assessment	Nature of observations	Tax leviable Tax levied	Short levy of VAT
1	One Adityapur	2006-07 March 2009	Tax was levied at the rate of four <i>per cent</i> instead of correct rate of 12.5 <i>per cent</i> on sale of auto components valued at ₹ 1.80 crore.	22.44 7.18	15.26
2	One Ranchi West	2009-10 April 2012	Receipts on leasing of vehicles ₹ 6.70 crore was levied to tax at the rate of four <i>per cent</i> instead of correct rate of 12.5 <i>per cent</i> .	83.78 26.81	56.97
3	One Ramgarh	2008-09 July 2010	Tax was levied at the rate of four <i>per cent</i> instead of correct rate of 12.5 <i>per cent</i> on sales turnover of diesel engines and spares valued at ₹ 2.06 crore.	25.73 8.23	17.50
4	One Jharia	2008-09 and 2009-10 March 2011 and March 2012	Tax was levied at the rate of four <i>per cent</i> instead of correct rate of 12.5 <i>per cent</i> on sales turnover of retreaded tyres valued at ₹ 1.98 crore.	24.69 7.90	16.79
5	One Jamshedpur	2008-09 November 2010	Tax was levied at the rate of four <i>per cent</i> instead of correct rate of 12.5 <i>per cent</i> on sales turnover of tyres and tubes valued at ₹ 55.22 lakh.	6.90 2.21	4.69
Total				163.54 52.33	111.21

We reported the matter to the Department/Government in July 2013. The Department/Government stated (September 2013) that in three cases pertaining to three Commercial Taxes Circles²¹ demand of ₹ 88.69 lakh had been raised, however, we had pointed out irregularities for ₹ 89.02 lakh²² in these cases. Ramgarh Commercial Taxes Circle had issued notice for hearing while reply in respect of Jamshedpur Commercial Taxes Circle has not been received. Further reply has not been received (December 2013)

Similar issue was pointed out in Paragraph No. 2.12 of the Audit Report (Revenue Sector) for the year ending 31 March 2012, the Department accepted our observation and raised demand of ₹ 9.50 crore in 16 cases, of which, ₹ 44.19 lakh had been recovered in three cases. However, nature of these

²¹ Adityapur, Jharia and Ranchi West.

²²

Name of the circle	Period/Date of order	Commodity	Amount (₹ in lakh)
Ranchi West	2009-10 /12.04.2012	Leasing of vehicles	56.97
Adityapur	2006-07 /31.03.2009	Automobile component	15.26
Jharia	2008-09/31.03.2011 2009-10/27.03.2012	Retreaded Tyre	16.79
Total			89.02

lapses/ irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

2.13 Non-levy of interest

Under the provisions of Section 40(2) of the JVAT Act, if the prescribed authority upon any information, which has come into his possession before assessment or otherwise, that any registered dealer has concealed any sales or purchase or any particulars thereof, with a view to reduce the amount of tax payable by him or has furnished incorrect statement of his turnover or incorrect particulars of his sales or purchase in the return furnished by him, he shall direct the assessee, in addition to additional tax assessed on suppressed or concealed turnover, to pay by way of interest a sum at the rate of two *per cent* for each month.

2.13.1 We test checked 408 assessment records in five Commercial Taxes Circles²³ (between March 2012 and February 2013) and noticed that eight dealers had filed their returns for purchase/sale conceding GTO of ₹ 12,301.20 crore for the periods 2007-08 to 2009-10. The assessing authorities (AAs) while finalising the assessments, between August 2010 and August 2012, determined the GTO of ₹ 1,2509.16 crore enhancing it by an additional amount of ₹ 207.96 crore on the basis

of non/short accounting of goods received on road permits, undervaluation of goods received against declaration form 'F' etc. However, our scrutiny indicated that interest of ₹ 4.15 crore though leviable on the additional assessed tax was not levied. Non adherence to the provisions of the Act, mentioned *ibid*, by the AAs resulted in non-levy of interest of ₹ 4.15 crore.

We reported the matter to the Department/Government in July 2013. The Department/Government stated in September 2013 that in two cases pertaining to Bokaro and Jamshedpur Commercial Taxes Circles, demand of ₹ 45.26 lakh had been raised. However, we had pointed out the irregularities for ₹ 3.71 crore²⁴. In four cases pertaining to three Commercial Taxes Circles²⁵ it was stated that notices for hearing had been issued. In the remaining two cases pertaining to Lohardaga and Ramgarh Commercial Taxes Circles reply was awaited. Further reply has not been received (December 2013).

²³ Adityapur, Bokaro, Jamshedpur, Lohardaga and Ramgarh.

24

Adityapur, Bokaro, Jamshedpur, Lonardaga and Rangan.

No. of dealer Name of the circle	Additional tax @ 4%/12.5% on enhanced turnover (₹)	Period		Total period in months	Interest @ 2% pm calculated up to the date of assessment (₹)	Total interest (₹)
One Jamshedpur	12,07,956	01.04.2009	31.03.2011	24	24,159	5,79,819
	10,03,418			24	20,068	4,81,641
One Bokaro	23,38,605	01.04.2009	31.03.2011	24	46,772	11,22,530
	7,26,49,704			24	14,52,994	3,48,71,858
Total						3,70,55,848

²⁵ Adityapur, Bokaro and Ramgarh.

Under the provisions of Section 35(6) of the JVAT Act, read with Section 9(2) of the CST Act and rules framed thereunder, if the self assessment has not been filed within the prescribed time, the prescribed authority shall assess the amount of tax and interest due from the dealer on the basis of filed returns which have come on records and after making such adjustment as may be necessary including disallowance of exemptions and deduction not supported by requisite evidence as required under the JVAT Act. Further Section 30(1) of the JVAT Act provides for levy of interest at the rate of one *per cent* per month from the date of tax payable to the date of payment or to the date of order of assessment, whichever is earlier.

2.13.2 We test checked the assessment records of 137 dealers (between September 2012 and April 2013) in Commercial Taxes Circles, Chirkunda and Tenughat and noticed that five assesseees had claimed exemption on transfer of stock outside/within the State, transit sale and concessional rate of tax on inter-State sales valued at ₹ 446.55 crore in their returns during 2008-09 and 2009-10. The AAs while finalising the assessments between March 2011 and February 2012 allowed exemptions and concessional rate of tax on turnover valued at ₹ 285.01

crore only on submission of required declaration forms and evidences in support of the claims. As the balance turnover of ₹ 161.54 crore was not supported by the required declaration forms and evidences, the AAs levied tax at the prescribed rates. Our scrutiny, however, revealed that interest leviable on the assessed tax on balance turnover was not levied as per provision of the Act. We worked out the amount of interest to ₹ 1.49 crore on the assessed tax of ₹ 6.29 crore at the rate of one *per cent* per month for the period ranging between 22 months 15 days and 24 months. Non-adherence of the provisions of the Act mentioned *ibid* by the AAs led to non-levy of interest of ₹ 1.49 crore.

After we reported the matter to the Department/Government in July 2013, the Department/Government stated in September 2013 that in two cases pertaining to Tenughat Commercial Taxes Circle, demand for the entire amount under observation of ₹ 1.12 crore had been raised. In the remaining three cases (Chirkunda: two cases and Tenughat: one case) it was stated that the matter was under hearing. Further reply has not been received (December 2013).

2.14 Irregularities in grant of Input Tax Credit (ITC)

Under the provisions of the Section 18 of the JVAT Act, and rules made thereunder, a registered dealer is entitled for Input Tax Credit (ITC) on the amount of tax paid by the dealer to another registered dealer on his turnover of purchases made during the tax period. Further, ITC shall not be allowed to a registered dealer in respect of goods used for manufacture of goods for transfer of stock or other than by way of sale or for sale outside the State. However, ITC may be allowed on the tax paid in excess of four *per cent* on such materials used in manufacturing of finished products. Further, where the goods purchased by a registered dealer are returned or destroyed, the purchasing dealer shall reverse the ITC already availed by him. Section 37(6)(c) of the Act also provides for imposition of penalty of a sum equivalent to twice the amount of incorrect ITC availed by the assessee.

2.14.1 We test checked assessment records of 142 assessee (between December 2011 and February 2013) in Dhanbad and Singhbhum Commercial Taxes Circles for the period 2007-08 to 2009-10 and noticed that four assessee had claimed excess ITC of ₹ 16.98 lakh on stock transfer of finished products and against damage of purchased goods. However, we noticed that the AAs while finalising the assessments between March 2010 and March 2012, allowed the ITC in deviation from the provisions of the Act.

This resulted in excess allowance of ITC of ₹ 16.98 lakh. Besides, penalty of ₹ 33.96 lakh was also leviable for availing incorrect ITC. The details are mentioned in the table below:

(₹ in lakh)				
Sl. No.	Number of dealers Circle	Period Month of assessment	Nature of observation	Inadmissible ITC Penalty leviable
1	Three Dhanbad	2008-09 and 2009-10 January 2011 and March 2012	The dealers were allowed ITC of ₹ 79.32 lakh on intra-State purchase of goods valued at ₹ 13.75 crore. The actual admissible ITC worked out to ₹ 66.54 lakh after deducting proportionate ITC not admissible on stock transfer of manufactured goods outside the State valued at ₹ 57.08 crore.	<u>12.78</u> 25.56
2	One Singhbhum	2007-08 March 2010	ITC already availed for ₹ 4.20 lakh in the previous year was not reversed on goods shown as destroyed, valued at ₹ 1.05 crore, deducted from the opening balance for the current year.	<u>4.20</u> 8.40
Total				<u>16.98</u> 33.96

We reported the matter to the Department/Government in July 2013. The Department/Government stated in September 2013 that in three cases pertaining to Dhanbad and Singhbhum Commercial Taxes Circles, additional demand of ₹ 49.39 lakh had been raised. In the remaining one case of Dhanbad Commercial Taxes Circle it was stated that the matter was under hearing. Further reply has not been received (December 2013).

Similar issue was pointed out in Paragraph No. 2.13 of the Audit Report (Revenue Sector) for the year ending 31 March 2012. The Department had accepted our observation and raised demand of ₹ 84.08 lakh in one case. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

2.14.2 Our test check of 48 assessment records in Ranchi South Commercial Taxes Circle (August 2012) revealed that in case of a dealer, engaged in manufacturing of IMFL, the AA in a review assessment (June 2012) for the period 2009-10, disallowed the claim of ITC of ₹ 10.81 lakh on the grounds that ITC on purchase of goods was not admissible as IMFL is a goods of special rate of tax under Schedule II Part E of the Act which was a non-VAT item. Though the AA disallowed the claim of ITC but did not impose penalty of ₹ 21.63 lakh under the provisions of the Act.

We reported the matter to the Department/Government in July 2013. Though the Department/Government accepted our observation, however, it remained silent on the issue of imposition of mandatory penalty under the JVAT Act. Further reply has not been received (December 2013).

2.15 Irregularities in compliance to the Central Sales Tax Act

Under the provisions of the CST Act, 1956 and the rules/notifications issued thereunder, different declarations forms are prescribed for claiming exemptions/concessions from levy of tax. The Act further provides for imposition of penalty for misuse of declaration forms.

We noticed that the AAs did not comply with the provisions of the Act and notifications issued thereunder resulting in short levy of tax and penalty of ₹ 1.93 crore. The cases are described in the succeeding paragraphs:

2.15.1 Misuse of declaration forms

Under the provisions of Section 8(3) of the CST Act, a registered dealer can purchase goods from outside the State at concessional rate of tax by using prescribed declarations in form 'C' for goods intended for resale by him or for use by him in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power or in telecommunication network provided such goods are covered by his registration certificate (RC). Failure to do so renders the dealer liable to prosecution or in lieu of prosecution, the AA may impose penalty of a sum not exceeding one and a half times of the tax leviable as if the purchase is not supported by the prescribed declaration in Form 'C' under Section 10 A of the Act. Further, it has judicially been held[¥] that the buyer must sell the goods received from job work, if he uses the goods for further manufacture, the concession is not available to the dealer doing job work.

[¥] *Bentec Rubber P Ltd. Vs State of Kerala (1997) 106 STC 591.*

We test checked assessment records of 262 dealers (between October 2012 and February 2013) in three Commercial Taxes Circles²⁶ and noticed that three assessees had purchased ash removing machine/ash dumper, lubricant, tyres, DG sets and goods for use in manufacturing or processing valued at ₹ 22.76 crore at concessional rate of tax by utilising declarations in Form 'C' between 2007-08 to 2009-10 which were either not covered by their CST RCs or the

goods were purchased on concessional rate for the purpose of job work (processing of copper concentrate) which was transferred to the manufacturer for further processing of finished goods (copper) for sale. This was in contravention of the judicial pronouncement mentioned *ibid*. The assessing authorities (AAs) while finalising the assessments between October 2009 and June 2012 did not levy penalty for misuse of Form 'C'. This indicated that the AAs did not cross-verify the RCs of the assessees before issue of declaration Form 'C' in two cases of Commercial Taxes Circles, Chaibasa and Tenughat and overlooked the aforesaid judgement in case of Singhbhum Circle. This resulted in unauthorised use of declaration Form 'C' and consequential non-levy of penalty of ₹ 1.64 crore²⁷.

²⁶ Chaibasa, Singhbhum and Tenughat.

²⁷

(₹ in lakh)					
<u>Circle</u> No. of dealer	<u>Period</u> Month of assessment	Purchases on declaration Form 'C'	Commodity	Rate of tax (per cent)	Tax Penalty
<u>Tenughat</u> One	<u>2009-10</u> September 2011	80.03	Ash removing machine/dumper	4	<u>3.20</u> 4.80
<u>Singhbhum</u> One	<u>2007-08 to 2009-10</u> October 2009 and June 2012	1,918.44	Regulated Lead Acid Battery, Float cum Boost Charger, HDPE Pipe etc. for use in manufacturing or processing of copper concentrate	4	<u>76.74</u> 115.11
<u>Chaibasa</u> One	<u>2007-08 to 2008-09</u> March and November 2010	58.92	Blasting Material, Lubricants, D.G. Set etc.	4	<u>2.36</u> 3.53
		218.88		12.5	<u>27.36</u> 41.04
Total		2,276.27			<u>109.66</u> 164.48

We reported the matter to the Department/Government in July 2013. The Department/Government stated (September 2013) that in two cases pertaining to Chaibasa and Tenughat Commercial Taxes Circles, demand of ₹ 1.20 crore²⁸ had been raised while matter was under hearing in the remaining case of Singhbhum Commercial Taxes Circle. Further reply has not been received (December 2013).

Similar issue was pointed out in Paragraph No. 2.15.1 of the Audit Report (Revenue Sector) for the year ending 31 March 2012, the Department accepted our observation and raised demand of ₹ 31.31 crore in one case. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue.

2.15.2 Incorrect allowance of concessional rate of tax under CST

Under the provisions of the Section 8 of the CST Act, every registered dealer who in course of inter-State trade and commerce sells to another registered dealer, goods of the class or classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at concessional rate of four *per cent* up to March 2007, three *per cent* from April 2007 to May 2008 and two *per cent* from June 2008 of such turnover provided such sales are supported by declarations in Form 'C' issued by the purchasing dealer.

Our test check of the assessment records of 116 dealers in Dhanbad and Ramgarh Commercial Taxes Circles (between September and November 2012) revealed that four dealers, dealing in iron, hard coke, limestone, MS ingots and coal had claimed concessional rate of tax on inter-State sales of goods valued at ₹ 13.93 crore for the month April and May 2008 at the rate of two *per cent* during 2008-09. The AAs while finalising the

assessments between October 2010 and March 2011 levied tax at the rate of two *per cent* instead of correct rate of three *per cent* on submission of declaration From 'C'. Further, in case of a dealer in Tenughat Commercial Taxes Circle we noticed that the dealer had not furnished declarations in Form 'C' for inter-State sales of goods valued at ₹ 15.39 crore during 2008-09. However, the AAs while finalising assessment in March 2011 allowed concessional rate of tax at the rate of three *per cent* instead of levying tax at the rate of four *per cent*. Thus, non-scrutiny of returns and non-application of correct rates by the AAs resulted in short levy of tax of ₹ 29.32 lakh.

We reported the matter to the Department/Government in July 2013. The Department/Government stated (September 2013) that in two cases pertaining to Ramgarh and Tenughat Commercial Taxes Circles, demand of ₹ 34.38 lakh had been raised. However, we calculated the amount of ₹ 18.99 lakh at the minimum differential rate of one *per cent*. In other three cases pertaining to Dhanbad and Ramgarh Commercial Taxes Circles it was stated that notices for hearing has been issued. Further reply has not been received (December 2013).

²⁸ The Department raised demand after levying interest and penalty. However, our calculation for penalty was ₹ 49.38 lakh only.

Similar issue was pointed out in Paragraph No. 2.15.3 of the Audit Report (Revenue Sector) for the year ending 31 March 2012. Further action taken in this regard has not been received (December 2013).

2.16 Non-imposition of penalty for excess collection of tax

Under the provisions of Section 47(1) (b) of the JVAT Act, if any person, being a registered dealer, collects any amount by way of tax in excess of the tax payable by him shall be liable, in addition to the tax for which he may be liable, to a penalty of an amount equal to twice the sum so collected by way of tax. Further, the Section 48 of the JVAT Act provides forfeiture of excess tax so collected to the State Government.

We test checked the assessment records of 178 dealers (February and March 2013) in Adityapur and Deoghar Commercial Taxes Circles and noticed that two dealers dealing in chemicals, excavator and extraction of coal had collected tax of ₹ 5.41 crore against the tax liability of ₹ 5.06 crore payable by them for the period 2008-09. Thus, the dealers had

collected ₹ 35.45 lakh in excess of tax payable by them. The AAs, while finalising the assessments in March 2011 did not detect the excess collection of tax by the dealers. Thus the dealers were liable to pay penalty of ₹ 70.90 lakh²⁹ besides forfeiture of excess tax collection of ₹ 35.45 lakh.

We reported the matter to the Department/Government in July 2013. The Department/Government stated (September 2013) that in case of Adityapur Commercial Taxes Circle, the matter was under hearing. Reply in the remaining case had not been received. Further reply has not been received (December 2013).

Similar issue was pointed out in Paragraph No. 2.16 of the Audit Report (Revenue Sector) for the year ending 31 March 2012. The Department accepted our observation and raised additional demand of ₹ 6.06 lakh in one case. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue. Further action taken in this regards has not been received (December 2013).

29

					(₹ in lakh)
Name of circle No. of dealer	Period Month of assessment	Tax Collected	Tax Liability	Excess Collection of Tax	Penalty
Adityapur One	2008-09 March 2011	6.27	4.23	2.04	4.08
Deoghar One	2008-09 March 2011	534.83	501.42	33.41	66.82
Total		541.10	505.65	35.45	70.90

2.17 Incorrect allowance of deduction from gross turnover

Under the provisions of Rule 22(d) of the JVAT Rules, 2006, labour and other specified charges and profit relating to supply of labour can be deducted from the total turnover for arriving at the taxable turnover of a works contractor. Further, output tax is payable in respect of sale of goods by the registered dealer in course of his business.

We test checked the assessment records of 129 dealers (March 2012) in Bokaro Commercial Taxes Circle and noticed that a works contractor claimed deductions of ₹ 29.51 crore from the GTO of ₹ 119.18 crore during 2007-08. The AA while finalising the assessment in February 2010 allowed the claim and assessed tax accordingly. However, our scrutiny of works contract tax (WCT) statement and

other records revealed that the dealer was allowed deduction of ₹ 4.71 crore on account of output tax collected. Since the amount of tax collected was shown as nil in JVAT 409, allowance of deduction was irregular on this account. Thus, non-verification of the returns by the AA resulted in excess allowance of deduction of ₹ 4.71 crore and consequential short levy of tax of ₹ 58.90 lakh.

After we pointed out the case in March 2012, the AA stated (March 2012) that the case would be reviewed. Further reply has not been received (December 2013).

We reported the matter to the Department/Government in July 2013; their reply has not been received (December 2013).

2.18 Mistakes in computation of tax

Under the provisions of CST/JVAT Act, the Assessing Authority (AA) is to finalise the assessment with utmost care and efficiency. He should see that computation of tax has been done accurately to the best of his knowledge and belief.

We test checked assessment records of 100 dealers (between August 2012 and April 2013) in Chirkunda and Ranchi South Commercial Taxes Circles and noticed that in case of two assesseees the AAs while finalising assessments between June 2011 and September 2011 for the period 2008-09 and 2009-10,

erroneously levied tax of ₹ 1.22 crore instead of correct amount of ₹ 1.28 crore due to mistake in computation. This resulted in short levy of tax of ₹ 5.84 lakh.

After we reported the matter to the Department/Government in July 2013, the Department/Government stated (September 2013) that in case of Ranchi South Commercial Taxes Circle, assessment was revised and the amount under observation of ₹ 2.09 lakh had been adjusted from the excess ITC admissible for the next year, while in remaining one case it was stated that matter was under hearing. Further reply has not been received (December 2013).

Similar issue was pointed out in Paragraph No. 2.18 of the Audit Report (Revenue Sector) for the year ending 31 March 2012. The Department accepted our observation and raised additional demand of ₹ 2.58 crore in two

cases. However, nature of lapses/irregularities are still persisting which points to weak internal control of the Department to prevent recurring leakage of revenue. Further action taken in this regards has not been received (December 2013).

CHAPTER-III

STATE EXCISE

EXECUTIVE SUMMARY

What we have highlighted in this Chapter

In this Chapter we present a few illustrative cases of non-observance of the provisions of the Act/Rules regarding non/delayed settlement of Excise shops.

It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the corrective actions taken by the Department has not been able to fully eliminate the problem.

Trend of receipts

In 2012-13, the collection of state excise receipts increased by 26.44 *per cent* over the previous year which was attributed by the Department to increase in the percentage of settlement of excise retail shops and increase in the rates of different kinds of fees.

Internal audit

The Department has no internal audit wing of its own. The auditors of the Finance Department had also not conducted any internal audit during the year 2012-13.

Impact of audit conducted by us in 2012-13

In 2012-13 we test checked the records of 18 units relating to excise duty and other state excise receipts and found non/short realisation of duty, fees, penalty etc. involving ₹ 68.22 crore in 1,173 cases.

Our conclusion

The Excise and Prohibition Department needs to improve its internal control system including setting up of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

CHAPTER – III: STATE EXCISE

3.1 Tax administration

The levy and collection of Excise Duty is governed by the Bihar Excise Act, 1915 and the Rules made/notifications issued thereunder, as adopted by the Government of Jharkhand. The Secretary of the Excise and Prohibition Department is responsible for administration of the State Excise laws at the Government level. The Commissioner of Excise (EC) is the head of the Department. He is primarily responsible for the administration and execution of the excise policies and programmes of the State Government. He is assisted by a Deputy Commissioner of Excise and an Assistant Commissioner of Excise at the Headquarters.

The State of Jharkhand is divided into three excise divisions¹, each under the control of a Deputy Commissioner of Excise. The divisions are further divided into 19 Excise Districts² each under the charge of an Assistant Commissioner of Excise/Superintendent of Excise (ACE/SE).

3.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

Actual receipts from State Excise against the revised estimates during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table:

(₹ in crore)						
Year	Revised estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual State Excise receipts vis-à-vis total tax receipts
2008-09	357.52	205.46	(-) 152.06	(-) 43	3,753.21	5.47
2009-10	550.00	322.75	(-) 227.25	(-) 41	4,500.12	7.17
2010-11	525.00	388.34	(-) 136.66	(-) 26	5,716.63	6.79
2011-12	445.00	457.08	(+) 12.08	(+) 2.71	6,953.89	6.57
2012-13	650.00	577.92	(-) 72.08	(-) 11.09	8,223.67	7.03

Source: Finance Accounts, Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of the Government of Jharkhand for 2013-14.

In 2012-13, the collection of state excise receipts increased by 26.44 *per cent* over the previous year which was attributed by the Department to increase in

¹ North Chotanagpur Division, Hazaribag, South Chotanagpur Division, Ranchi and Santhal Pargana Division, Dumka.

² Bokaro, Chaibasa, Dhanbad, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla-cum-Simdega, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur, Jamtara, Koderma, Lohardaga, Pakur, Palamu-cum-Latehar, Ranchi, Sahebganj and Saraikela-Kharsawan.

the percentage of settlement of excise retail shops and increase in the rates of different kinds of fees.

The Department could not achieve the BEs except during 2011-12. The variation between the revised BEs and actual receipts ranged between (-) 43 and 2.71 *per cent*. In response to our query the Department stated (June 2013) that the BEs were prepared by the Finance Department, Government of Jharkhand based upon the discussion between Secretary and Commissioner of Excise and Finance Secretary. Further, it was informed that the reason for variation between BEs and actual was owing to fixation of target higher than the revenue potential of the State in addition to constraints of poor infrastructure and shortage of personnel.

We recommend that the Government may issue suitable instructions to the Department for preparing the BEs on a realistic and scientific basis to ensure that these are close to the actual.

3.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013, as furnished by the Department, were ₹ 31.37 crore, of which ₹ 25.29 crore were outstanding for more than five years. The year-wise position of arrears of revenue during the period 2008-09 to 2012-13 is shown in the following table:

Year	(₹ in crore)	
	Opening balance of arrears	Closing balance of arrears
2008-09	29.16	29.39
2009-10	29.39	30.94
2010-11	30.94	30.94
2011-12	30.94	31.07
2012-13	31.07	31.37

Source: Figures furnished by the Excise and Prohibition Department, Government of Jharkhand.

The Department did not furnish information regarding the addition and clearance and target for collection of the arrears during the year. As per information furnished by the Department, out of the closing balance of arrears of ₹ 31.37 crore as on 31 March 2013, demand for ₹ 13.30 crore was certified for recovery as arrears of land revenue, recovery of ₹ 15.98 crore was stayed by Courts and other judicial authorities, recovery of ₹ 10.55 lakh was held up due to parties becoming insolvent and a sum of ₹ 16.08 lakh was likely to be written off. Specific action taken in respect of the remaining amount of ₹ 1.82 crore has not been intimated (December 2013).

Thus, from the above it would be seen that only 42.40 *per cent* of the total amount of arrears was recoverable as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery (PDR) Act, 1914.

We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by continuous monitoring the arrears recoverable as arrears of land revenue as well as the court cases in the interest of realisation of revenue due.

3.4 Cost of collection

The gross collection under State Excise, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13, along with the all-India average percentage of cost of collection for the preceding years are mentioned in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of the preceding year
2008-09	205.46	10.38	5.05	3.27
2009-10	322.75	13.75	4.26	3.66
2010-11	388.34	13.27	3.42	3.64
2011-12	457.08	15.95	3.49	3.05
2012-13	577.92	14.92	2.58	2.98

Source: Finance Accounts of the Government of Jharkhand

From above it could be seen that the percentage of expenditure on collection decreased from 5.05 in 2008-09 to 2.58 in 2012-13 against all India average of 2.98 for 2011-12. We appreciate the efforts of the Department in keeping down the cost of collection and recommend that the Department should ensure this trend in the subsequent years also.

3.5 Internal Audit Wing

The Department informed us that it has no Internal Audit Wing of its own. The auditors of the Finance Department had also not conducted any internal audit during the year 2012-13.

The Government may consider setting up an Internal Audit Wing so as to ensure implementation of the Act/Rules for prompt and correct realisation of revenue.

3.6 Impact of Audit

3.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we had pointed out cases of non/short levy of excise duty and licence fee with financial implication of ₹ 350.85 crore in 25 paragraphs. Of which the Department/Government accepted our observation of ₹ 42.58 crore and reported recovery upto 2012-13 of ₹ 1.89 crore. The details are shown in the following table:

(₹ in crore)

Year	No. of paragraph	Amount objected	Accepted recoverable amount	Amount recovered upto 2012-13 out of Col. 4
1	2	3	4	5
2007-08	1	26.92	26.92	NIL
2008-09	7	75.56	1.15	1.15
2009-10	5	0.49	0.49	0.37
2010-11	6	165.95	13.30	0.28
2011-12	6	81.93	0.72	0.09
Total	25	350.85	42.58	1.89

Source: Information furnished by the Excise and Prohibition Department.

It may be seen from the above table that recovery of only ₹ 1.89 crore (4.44 *per cent*) against the accepted amount of ₹ 42.58 crore has been effected by the Department against the Audit Reports for the Period 2007-08 to 2011-12.

3.6.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we test checked 72 units relating to State Excise and pointed out in our Inspection Reports cases of non/delayed settlement of excise shops, non/short realisation of fee, duty etc., with revenue implication of ₹ 462.38 crore in 2,918 cases. Of these, the Department/Government accepted audit observations in 1,149 cases involving ₹ 188.71 crore and recovered ₹ 57 lakh upto 2012-13. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered upto 2012-13 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2007-08	11	121	12.05	94	2.06	0
2008-09	14	87	92.93	63	38.32	0.23
2009-10	9	242	29.78	241	27.98	0.02
2010-11	19	1,560	218.32	164	39.00	0.02
2011-12	19	908	109.30	587	81.35	0.30
Total	72	2,918	462.38	1,149	188.71	0.57

It may be seen from the above table that recovery of only ₹ 57 lakh (0.30 per cent) against the accepted amount of ₹ 188.71 crore has been effected by the Department against the Inspection Reports for the period 2007-08 to 2011-12.

As the recovery made by the Department in accepted cases is very low, we recommend that the Department may take suitable measures to ensure expeditious recovery of revenue in respect of these cases.

3.6.3 Status of compliance to Inspection Reports (2012-13)

Our test check of the records of 18 units, having revenue collection of ₹ 442.25 crore, out of 23 units relating to State Excise during the year 2012-13 revealed non/delayed settlement of excise shops, non-realisation of licence fee etc. involving ₹ 68.22 crore in 1,173 detailed as under:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/delayed settlement of excise shops	138	46.02
2	Non-realisation of license fee	21	0.44
3	Other cases	1,014	21.76
Total		1,173	68.22

During the course of the year, the Department accepted non/short realisation of license fee, duty and other deficiencies of ₹ 41.90 lakh in 190 cases pointed out by us during 2012-13.

The Department adjusted the entire amount of ₹ 38.23 lakh from the security deposit in 119 cases including ₹ 21.21 lakh involved in two draft paragraphs on account of audit observations pointed out by us during 2012-13.

In this chapter we present a few illustrative cases regarding non/delayed settlement of excise shops. These are discussed in the following paragraphs.

3.7 Non-observance of the provisions of Act/Rules

The Bihar Excise Act, 1915 (as adopted by the Government of Jharkhand), Rules made and notifications issued thereunder provide for cent per cent settlement of retail excise shops.

Non/delayed settlement of retail excise shops due to non-observance of the provisions of the Act/Rules is mentioned in paragraph No. 3.8.

3.8 Non/delayed settlement of retail excise shops

Under the provisions of Section 30 of the Bihar Excise Act, 1915 and Para 88 of the Appendices of the Excise Laws of Bihar (as adopted by the Government of Jharkhand) and policies made thereunder, the Department of Excise and Prohibition, Government of Jharkhand by the resolution and notification no. 367 and 647, dated 20th February 2009 and 27th March 2009 respectively, adopted a new Excise Policy along with guidelines to settle all retail shops through lottery system with a view to generate more excise revenue, check sale of illicit liquor, control monopoly of a single unit/person and provide standard liquor to the consumers. For these purposes licence fee was to be fixed on the Minimum Guaranteed Quota (MGQ) of each category of liquor to be lifted by the licensee. Further, all retail shops were to be divided into groups (maximum three numbers of retail shops included in one group). In case of non-settlement of retail shops, licensing authorities have the discretion to recommend settlement at reduced licence fee to the Excise Commissioner (EC) for issue of licence to any individual/Committee/ Company so that the EC can approve the settlement of retail shops in the interest of excise revenue.

3.8.1 We noticed from the Settlement Register and related records³ (between May 2012 and February 2013) in eight excise districts⁴ that a list of excise retail shops specifying their MGQ and licence fee, advance licence fee and security money was prepared at district level and sale notifications containing all these facts were published in February 2010 and February 2011 for settlement of 46 and 894 (total

940 shops) for the years 2010-11 and 2011-12 respectively. However, 128 retail shops⁵ remained unsettled during these years (2010-11: 2 and 2011-12: 126) despite publication of sale notifications from time to time. No efforts were however made for settlement of these excise shops at reduced licence fee at the district level by the concerned ACsE/SsE, who were responsible for the cent per cent settlement of excise retail shops.

³ Sale Notification, Licence Fee Register and Lottery Register.

⁴ Bokaro, Dhanbad, Godda, Gumla-cum-Simdega, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur, Jamtara and Ranchi.

⁵ Number of shops unsettled/offered: **2010-11:** Godda (2/46), **2011-12:** Bokaro (11/103), Dhanbad (21/217), Gumla-cum-Simdega (3/38), Hazaribag-cum-Ramgarh-cum-Chatra (Ramgarh-26/80), Jamshedpur (45/224), Jamtara (1/41), Ranchi (19/191).

After we pointed out the matter in June 2013, the Government/Department stated (July 2013) that proposal for settlement of shops at the reduced licence fee was not received in any of the excise districts. Thus, fact remains that the Department did not make any effort to invite tender for settlement of excise shops at reduced licence fee in the interest of revenue.

Similar issue was pointed out in Paragraph No. 3.8.1 of Audit Report (Revenue Sector) for the year ending 31 March 2012 wherein the Government/Department attributed non-settlement to non-availability of willing tenderers. Thus, none of the cases were referred to the Excise Commissioner for settlement at the reduced license fees and the issue of non-settlement still persists.

3.8.2 We noticed (between August 2012 and February 2013) from the Settlement Register and related records⁶ in five excise districts⁷ that out of 734 retail excise shops, 10 shops of 2011-12, required to be settled by 31 March 2011, were settled between 16 May 2011 and 8 October 2011 after delays ranging between one month 15 days (from 1 April to 15 May 2011) and 6 months 7 days (from 1 April to 7 October 2011). As such, MGQ of 94,055.04 London Proof Litre (LPL)/Bulk Litre (BL) of liquor could not be lifted by the licensees. Delayed settlement of these shops indicated that either MGQ was improperly distributed or the grouping of shops was not properly done.

After we reported the matter in June 2013, the Government/Department stated (July 2013) that settlement of a few shops on full licence fee out of unsettled shops could be possible due to tireless efforts of district offices. The reply is not convincing in view of the fact that settlement procedure for the next period of settlement could have been regulated in such a manner to enable settlement of all shops before expiry of the existing period of licence.

Similar issue was pointed out in Paragraph No. 3.8.2 of Audit Report (Revenue Sector) for the year ending 31 March 2012. The Government/Department has not taken any suitable steps to prevent loss of revenue due to delayed settlement of shops and the issue still persists.

⁶ Sale Notification, Licence Fee Register and Lottery Register.

⁷ Dhanbad, Godda, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur and Ranchi.

CHAPTER-IV

TAXES ON VEHICLES

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ₹ 36.23 crore selected from observations noticed during our test check of records relating to assessment and collection of Taxes from Vehicles in the offices of the Transport Commissioner and District Transport Officers, where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Trend of receipts	In 2012-13, the collection from Taxes on Vehicles increased by 18.74 <i>per cent</i> over the previous year which was attributed by the Department to increase in number of vehicles registered.
Internal Audit	The Department informed us that it has no Internal Audit Wing of its own, the Internal Audit was being conducted by the auditors of the Finance Department. The Department did not furnish overall picture of audit conducted by the Finance Department during 2012-13 but had submitted position of audit conducted only in one unit covering the period 2008-09 to 2010-11.
Impact of audit conducted by us in 2012-13	In 2012-13, we test checked the records of 16 units out of 27 units relating to taxes on vehicles and found non/short realisation/levy of tax, fees, penalty etc. involving ₹ 41.96 crore in 18,533 cases, of which the Department accepted non/short realisation/levy of tax and other deficiencies of ₹ 39.87 crore in 18,165 cases, of which 18,046 cases involving ₹ 39.36 crore were pointed out by us in 2012-13 and 119 cases in 2011-12.
Our conclusion	The Transport Department needs to improve the internal control system including arranging for internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

CHAPTER – IV: TAXES ON VEHICLES

4.1 Tax administration

The levy and collection of Motor Vehicles tax and fee in the State is governed by the Jharkhand Motor Vehicles Taxation (JMVT) Act, 2001, rules made thereunder (Jharkhand Motor Vehicles Taxation (JMVT) Rules, 2001), Motor Vehicles (MV) Act, 1988 and Bihar Financial Rules (as adopted by Government of Jharkhand).

At the apex level, the Transport Commissioner (TC), Jharkhand is responsible for administration of the Acts and Rules in the Transport Department. He is assisted by a Joint Transport Commissioner at the Headquarters. The State has been divided into four regions¹ and 22 transport districts², which are controlled by the State Transport Authority (STA), Regional Transport Authorities (RTAs) and District Transport Officers (DTOs). They are assisted by Motor Vehicles Inspectors, the Enforcement Wing and nine check posts³.

4.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

Actual receipts from Taxes on Vehicles against the revised budget estimates during the period from 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table:

(₹ in crore)						
Year	Revised estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts of the State
2008-09	400.60	201.57	(-) 199.03	(-) 50	3,753.21	5.37
2009-10	500.00	234.21	(-) 265.79	(-) 53	4,500.12	5.20
2010-11	440.00	312.37	(-) 127.63	(-) 29	5,716.63	5.46
2011-12	356.00	391.92	(+) 35.92	(+) 10.09	6,953.89	5.64
2012-13	550.00	465.36	(-) 84.64	(-) 15.39	8,223.67	5.66

Source: Finance Accounts and revised estimates as per Statement of Revenue and Receipts of 2013-14 of the Government of Jharkhand.

¹ Dumka, Hazaribag, Palamu and Ranchi.

² Bokaro, Chaibasa, Chatra, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshepur, Jamtara, Koderma, Latehar, Lohardaga, Palamu, Pakur, Ranchi, Sahebganj, Saraikela-Kharsawan and Simdega.

³ Bahragora (East Singhbhum), Bansjore (Simdega), Chas More (Bokaro), Chauparan (Hazaribag), Chirkunda (Dhanbad), Dhulian (Pakur), Manjhatoli (Gumla), Meghatari (Koderma) and Murisemar (Garhwa).

The Department could not achieve the revised budget estimates except during 2011-12. The shortfall in actuals compared to the revised budget estimates ranged between 53 and 15.39 *per cent* during the period 2008-09 to 2012-13. In response to our query regarding preparation of the budget the Department stated (August 2013) that the BEs were prepared by the Finance Department, Government of Jharkhand. Further, the reason for shortfall in receipts against the BE during 2012-13 was attributed by the Department to shortage of staff and non-establishment of inter-State permanent check posts.

In 2012-13, the collection from Taxes on Vehicles increased by 18.74 *per cent* over the previous year which was attributed by the Department to increase in number of vehicles registered.

4.3 Cost of collection

The gross collection from Taxes on Vehicles, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13 are mentioned in the following table:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of the preceding year
2008-09	201.57	4.03	2.00	2.58
2009-10	234.21	5.02	2.14	2.93
2010-11	312.37	4.83	1.55	3.07
2011-12	391.92	4.60	1.17	3.71
2012-13	465.36	4.51	0.97	2.96

Source: Finance Accounts of the Government of Jharkhand.

The above table indicates that the percentage of expenditure on collection was showing a decreasing trend and it was lower than the all India average in all the above years. We appreciate the performance of the Department in this regard.

4.4 Working of Internal Audit Wing

The Department informed us that as it has no Internal Audit Wing of its own, the Internal Audit was being conducted by the auditors of the Finance Department. The Department did not furnish overall picture of audit conducted by the Finance Department during 2012-13. Position of audit conducted only in one unit covering the period 2008-09 to 2010-11 was furnished. However, the corrective measures taken thereon was not furnished to us.

The Government may consider setting up an Internal Audit Wing so as to ensure effective implementation of the Acts/Rules for prompt and correct realisation of revenue.

4.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 were ₹ 250.70 crore. The year-wise position of arrears of revenue during the period 2008-09 to 2012-13 is depicted in the following table:

(₹ in crore)		
Year	Opening balance of arrears	Closing balance of arrears
2008-09	174.30	136.52 ⁴
2009-10	136.52	140.05
2010-11	140.05	117.87
2011-12	117.87	137.31
2012-13	137.31	250.70

Source: Transport Department, Government of Jharkhand.

The arrears of revenue increased from ₹ 137.31 crore as on 31 March 2012 to ₹ 250.70 crore on 31 March 2013 registering a growth of arrears (₹ 113.39 crore⁵) of 83 *per cent*. The Department did not furnish information regarding addition and clearance of arrears during the year. As regards fixation of target for collection of arrears the Department stated that no such target had been fixed by the Finance Department.

As per information furnished by the Department, out of ₹ 250.70 crore, demands of ₹ 48.14 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 1.41 lakh was stayed by the High Court and other judicial authorities. Specific action taken in respect of the remaining arrears of ₹ 202.55 crore has not been intimated (December 2013).

The Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.

4.6 Impact of Audit

4.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we had pointed out cases of non/short levy, non/short realisation of tax, fee etc. with financial implication of ₹ 99.64 crore in 27 paragraphs, of which the Department/Government accepted our observation of ₹ 79.43 crore and reported recovery of ₹ 98.66 crore upto 2012-13. The details are shown in the following table:

(₹ in crore)				
Year	No. of paragraphs	Amount objected	Accepted recoverable amount	Amount recovered ⁶ upto 2012-13 out of Col. 4
1	2	3	4	5
2007-08	6	29.80	29.80	33.52
2008-09	6	22.79	2.58	49.15
2009-10	5	12.16	12.16	13.09
2010-11	5	21.41	21.41	2.60
2011-12	5	13.48	13.48	0.30
Total	27	99.64	79.43	98.66

⁴ The closing balance of arrears as on 31 March 2009 has been reconciled on the basis of figures furnished by the Department.

⁵ Year-wise bifurcated figures of arrears as furnished by the Department reflected amount of arrears as ₹ 20.87 crore for the year 2012-13. The Department needs to reconcile the figures of arrears.

⁶ Though the objected money value under Taxes on Vehicles was ₹ 29.80 crore, ₹ 22.79 crore and ₹ 12.16 crore for the Audit Report 2007-08, 2008-09 and 2009-10 respectively, the Department/Government reported recovery of ₹ 33.52 crore, ₹ 49.15 crore and ₹ 13.09 crore respectively.

4.6.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we test checked 82 units and pointed out in our Inspection Reports cases of non/short levy, non/short realisation of tax, fee etc., with revenue implication of ₹ 177.24 crore in 1,24,389 cases. Of these, the Department/Government accepted our observations in 1,08,159 cases involving ₹ 115.32 crore and recovered ₹ 3.48 crore upto 2012-13. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered upto 2012-13 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2007-08	15	58,554	36.97	58,554	36.97	0.30
2008-09	18	26,574	77.79	21,385	26.81	Nil
2009-10	13	3,560	20.74	3,557	17.08	Nil
2010-11	19	6,885	20.55	6,829	20.47	2.31
2011-12	17	28,816	21.19	17,834	13.99	0.87
Total	82	1,24,389	177.24	1,08,159	115.32	3.48

It may be seen from the above table that recovery of only ₹ 3.48 crore (3.02 per cent) against the accepted amount of ₹ 115.32 crore has been effected by the Department against the Inspection Reports for the period 2007-08 to 2011-12.

As the recovery made by the Department in accepted cases is very low, we recommend that the Department may take suitable measures to ensure expeditious recovery of revenue in respect of these cases.

4.6.3 Status of compliance to Inspection Reports (2012-13)

Our test check of the records of 16 units having revenue collection of ₹ 327.35 crore, out of 27 units during 2012-13 relating to 'Taxes on Vehicles' revealed non/short levy of taxes, short levy of taxes due to wrong fixation of seating capacity/registered laden weight, non-issue of certificate of registration in Smart Card, non-imposition of fees, fines and penalties etc. involving ₹ 41.96 crore in 18,533 cases detailed as under:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of taxes	4,537	14.64
2	Short-levy of taxes due to wrong fixation of seating capacity/registered laden weight	75	0.08
3	Non-issue of certificate of registration in Smart Card	8,928	0.18
4	Non-imposition of fees, fines and penalties	3	0.13
5	Other cases	4,990	26.93
Total		18,533	41.96

During the course of the year, the Department accepted non/short levy of motor vehicles tax, fees, penalties, fines etc. of ₹ 39.87 crore in 18,165 cases, of which 18,046 cases involving ₹ 39.36 crore were pointed out by us in 2012-13 and 119 cases in 2011-12. The Department recovered ₹ 2.26 crore in 893 cases.

In this chapter we present a few illustrative cases having financial implications of ₹ 36.23 crore. These are discussed in the succeeding paragraphs.

4.7 Non-observance/compliance of the provisions of Acts/Rules

The Jharkhand Motor Vehicles Taxation (JMVT) Act, 2001, Motor Vehicles Act, 1988, Bihar Financial Rules (as adopted by the Government of Jharkhand) and Rules made thereunder provide for:

- (i) *payment of motor vehicles tax by the owner of the vehicle at the prescribed rate;*
- (ii) *timely deposit of collected revenue into the Government account;*
- (iii) *payment of registration fee at the prescribed rate;*
- (iv) *issue and renewal of authorisation of national permit; and*
- (v) *issue and renewal of driving licence.*

We noticed that the Transport Department did not observe the provisions of the Act/Rules in the cases mentioned in the succeeding paragraphs.

4.8 Non-collection of taxes on vehicles

Under the provisions of Sections 5 and 9 of the JMVT Act, 2001 and the Rule 4 of the JMVT Rules, 2001, the owner of a registered vehicle (other than personal vehicles) is liable to pay tax after the date of expiry of the period for which the tax had been paid to the taxation officer in whose jurisdiction the vehicle is registered. The vehicle owner can pay the tax to the new taxing authority in case of change of residence/ business, subject to the production of No Objection Certificate (NOC) from the previous taxing authority. In case of non-payment of tax within the stipulated period, the taxation authority may impose penalty at the prescribed rates. If the delay in payment of tax exceeds 90 days, penalty at twice the amount of taxes due may be imposed. Further, the Rules provide that every taxation officer is required to maintain the Demand, Collection and Balance (DCB) Register which shall be updated periodically in October and March every year to keep effective control over regular and timely realisation of taxes. The district transport officers are required to issue demand notices to the defaulters.

4.8.1 We noticed from test check of the Taxation Register, DCB Registers, Surrender Registers and the computerised data in 16 District Transport Offices⁷ between April 2012 and February 2013 that the owners of 2,103 vehicles out of 35,397 vehicles test checked did not pay tax between July 2009 and February 2013. In none of these cases, change of address of the owners or surrender of documents for securing exemption from payment of tax was found on record. As such, they were liable to pay tax. Further, owing to failure of the DTOs to update the DCB Register periodically, they did not have details of the number of defaulting vehicle owners and taxes

⁷ Bokaro, Chaibasa, Deoghar, Dhanbad, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Jamtara, Koderma, Pakur, Palamu, Ranchi, Sahebganj and Saraikela-Kharsawan.

to be realised from them. The District Transport Officers also did not raise demand for tax and penalty against the defaulting vehicle owners resulting in non-levy of tax of ₹ 16.55 crore⁸ including penalty of ₹ 11.04 crore.

After we pointed out the cases (between April 2012 and March 2013), the Government stated (July 2013) that in case of 13 DTOs⁹ notices of demand had been issued in 1,612 cases involving ₹ 12.38 crore, of which certificate cases were instituted in 350 cases involving ₹ 2.38 crore pertaining to three DTOs¹⁰ and ₹ 54.44 lakh involved in 78 cases had been recovered by nine DTOs¹¹. In respect of three DTOs¹², the Government issued instruction to realise the amount involved. Further reply has not been received (December 2013).

4.8.2 We noticed from test check of the Taxation Register and the computerised data in 15 District Transport Offices¹³ between April 2012 and February 2013 that the owners of 2,101 trailers out of 12,109 trailers test checked did not pay road tax and additional motor vehicle tax for the period between May 2009 and February 2013. Owing to failure of the DTOs to update the DCB Register, they did not have details of the number of defaulting vehicle owners and taxes to be realised from them. The Department failed to raise demand on the defaulters. Failure of the Department to enforce the provisions of the Act/Rules resulted in non-levy of tax of ₹ 2.42 crore including penalty of ₹ 1.61 crore.

After we pointed out the cases (between April 2012 and February 2013), the Government stated (July 2013) that in case of 13 DTOs¹⁴ demand notice had been issued in 1,886 cases involving ₹ 2.20 crore, of which certificate cases were instituted in 327 cases involving ₹ 35.89 lakh pertaining to three DTOs¹⁵ and ₹ 7.48 lakh involved in 58 cases had been recovered by eight DTOs¹⁶. In respect of two DTOs, Deoghar and Jamtara, the Government issued instruction to realise the amount involved. Further reply has not been received (December 2013).

Similar issue was pointed out in Paragraph No. 4.9 of the Audit Report (Revenue Sector) for the year ending 31 March 2012, the Government/

⁸ **Goods carriage vehicle:** Road Tax (RT) leviable is ₹ 1,662.50 *per annum* and ₹ 136.50 for every additional 250 Kg or part thereof above 8,000 kg registered laden weight (RLW). Additional Road Tax (AT) of ₹ 310 *per annum* and ₹ 232.50 for every additional 500 kg or part thereof above 500 Kg RLW.

Passenger vehicles: RT ₹ 3,485 for seating capacity of 33 persons plus ₹ 53 for every additional person beyond 33 persons. Additional Road Tax ₹ 416 *per annum* having seating capacity more than 32 persons.

⁹ Bokaro, Chaibasa, Dhanbad, Dumka, Giridih, Godda, Jamshedpur, Koderma, Pakur, Palamu, Ranchi, Sahebganj and Saraikela-Kharsawan.

¹⁰ Chaibasa, Dumka and Ranchi.

¹¹ Bokaro, Chaibasa, Dhanbad, Giridih, Jamshedpur, Koderma, Ranchi, Sahebganj and Saraikela-Kharsawan.

¹² Deoghar, Hazaribag and Jamtara.

¹³ Bokaro, Chaibasa, Deoghar, Dhanbad, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Jamtara, Koderma, Pakur, Palamu, Ranchi and Sahebganj.

¹⁴ Bokaro, Chaibasa, Dhanbad, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Koderma, Pakur, Palamu, Ranchi and Sahebganj.

¹⁵ Chaibasa, Dumka and Ranchi.

¹⁶ Bokaro, Chaibasa, Dhanbad, Dumka, Giridih, Jamshedpur, Ranchi and Sahebganj.

Department accepted our observation and stated that demand had been raised in 2,422 cases involving ₹ 10.12 crore of which recovery had been made in 133 cases involving ₹ 36.24 lakh . However, the nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

We recommend that the Government may issue necessary instructions for strengthening the Internal Control System by enforcing adherence to the prescribed rules in respect of periodical updating of the DCB Register.

4.9 Non-levy of one time tax on personalised vehicles

Under the provisions of Section 2(g) of Jharkhand Motor Vehicles Taxation (Amendment) Act, 2011, Motor car, Omni Bus or Station wagon, having seating capacity of more than four but not exceeding 10 including driver, which are used solely for personal purpose, was brought under the purview of personalised vehicles. The revised rate of one time tax was leviable on cost of the vehicle depending on seating capacity and age of the vehicle as per substituted Schedule 1 Part (A) of the Act. Further, Section 7(1) of the Act envisaged interest at the rate of two *per cent* per month on delayed payment of one time tax. Prior to the amendment (upto 22 May 2011) tax was leviable at the annual rate under Section 7(3) of the JMVT Act, 2001 and penalty was also leviable for non/delayed payment of tax. Further, the Rules provide that every taxation officer is required to maintain the Demand, Collections and Balance (DCB) Register which shall be updated periodically in October and March every year to exercise control over regular and timely realisation of taxes.

We noticed from test check of the Taxation Register and the computerised data in 15 District Transport Offices¹⁷ between May 2012 and February 2013 that in case of 3,495 private vehicles out of 27,247 vehicles with seating capacity six to 10, whose tax validity had expired between June 2008 and December 2012, road tax and one time tax of ₹ 8.13 crore¹⁸ including interest of ₹ 1.65 crore was not levied by the Department as DTOs did not review the DCB Registers periodically. Besides, tax of ₹ 14.38 lakh including penalty of

₹ 9.59 lakh upto 22 May 2011 was also leviable.

¹⁷ Bokaro, Chaibasa, Deoghar, Dhanbad, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Jamtara, Koderma, Pakur, Ranchi, Sahebganj and Saraikela-Kharsawan.

¹⁸ **One Time Tax:** At the time of registration, ₹ 9,000 or 3 *per cent* of cost of vehicle, ₹ 20,000 or 4 *per cent* of cost of vehicle and ₹ 25,000 or 5 *per cent* of cost of vehicle, which ever is more for personalised vehicles with seating capacity of more than 3 persons but not more than 5 persons, more than 5 persons but not more than 8 persons and more than 8 persons but not more than 10 persons respectively and in cases where vehicles are already registered, one time tax is leviable on percentage basis depending on the age of the vehicles.

After we pointed out the cases (between May 2012 and February 2013), the Government stated (July 2013) that in case of 13 DTOs¹⁹ demand notice had been issued in 3,125 cases involving ₹ 7.62 crore, of which certificate cases were instituted in 209 cases involving ₹ 37.91 lakh pertaining to four DTOs²⁰ and ₹ 1.64 crore involved in 754 cases had been recovered by 11 DTOs²¹. In respect of two DTOs, Deoghar and Jamtara, the Government issued instruction to realise the amount involved (December 2013).

4.10 Non-realisation of interest due to delay in deposit of revenue collected by banks

Under the provisions of Rule 37 of the Bihar Financial Rules (adopted by the Government of Jharkhand), all money received as Government dues should be credited to Government Account. As per instructions of State Transport Commissioner, Jharkhand (January 2001) the amount collected by the banks during April to February should be transferred to the State Bank of India (SBI), Doranda Branch, Ranchi in such a manner that all receipts during a particular month are transferred latest by the first week of the following month. The amount deposited in the month of March, is to be transferred by 31st March positively so that all amounts deposited in the financial year are transferred to the Government account in the same financial year. As per the instructions issued by the Reserve Bank of India penal interest, on balance exceeding rupees one lakh, is payable by the banks at the rate notified from time to time on delayed remittances to Government Account.

We noticed during the test check of bank statements of remittances of revenue collected in the office of State Transport Commissioner, Jharkhand and seven District Transport Offices²² between July 2012 and February 2013 that the collecting banks i.e. Punjab National Bank, Bank of India and State Bank of India did not credit a sum of ₹ 1,122.60 crore for the years 2009-10 to 2011-12 into SBI, Doranda Branch, for credit into Government Account within the prescribed time. The delay ranged from one month to 11 months. The collecting banks did not credit

interest of ₹ 7.60 crore²³ for delayed transfer of the Government revenue into SBI, Doranda, Ranchi. This indicated that the Department did not monitor and effectively pursued the matter of payment of interest with the collecting banks.

After we pointed out the cases (between July 2012 and February 2013), the Government stated (July 2013) that all seven DTOs had issued instruction to the concerned banks for timely transfer of the collected revenue and to deposit

¹⁹ Bokaro, Chaibasa, Dhanbad, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Koderma, Pakur, Ranchi, Sahebganj and Saraikela-Kharsawan.

²⁰ Chaibasa, Dumka, Ranchi and Saraikela-Kharsawan.

²¹ Bokaro, Chaibasa, Dhanbad, Dumka, Giridih, Godda, Jamshedpur, Koderma, Ranchi, Sahebganj and Saraikela-Kharsawan.

²² Bokaro, Deoghar, Dhanbad, Dumka, Hazaribag, Koderma and Sahebganj.

²³ Amount of penal interest calculated at the rate of 8 per cent per annum upto February 2012 and thereafter at 11.5 per cent per annum.

penal interest. In case of the STC, it stated that delay was due to time taken in clearance of Bank Drafts. The reply is not in consonance with the instructions issued by the Department.

Similar issue was pointed out in Paragraph No. 4.12 of the Audit Report (Revenue Sector) for the year ending 31 March 2012. In reply, the Government accepted our observation and stated (September 2012) that DTOs, Bokaro and Dhanbad had issued necessary instructions to the concerned bank for timely transfer of the collected revenue and deposit the penal interest. However, the Department has not yet been able to ensure timely transfer of collected money to Government Account and issue still persists.

4.11 Non-renewal of authorisation of National Permit

Under the provisions of Section 81 of the Motor Vehicles (MV) Act, 1988 and Rule 87 of the Central Motor Vehicles (CMV) Rules, 1989, a permit other than a temporary or special permit shall be effective for a period of five years and the period of validity of an authorisation shall not exceed one year at a time. The owner of the vehicle had to pay in advance the authorisation fee of ₹ 500 along with composite fee in the shape of bank drafts for transmission to the States where the vehicle is intended to ply. This authorisation is a continuous process unless the permit expires or is surrendered by the permit holder. Further, under the Central Motor Vehicle (Amendment) Rules, a new national permit system was made effective with effect from 8 May 2010 which envisaged levy of ₹ 1,000 towards home state authorisation fee and ₹ 15,000 towards consolidated fee per annum per vehicle authorising the national permit holder to operate throughout the country.

We noticed (July 2012) from test check of the National Permit Register in the office of the Transport Commissioner, Jharkhand that in cases of 290 vehicles out of 33,589 vehicles, subsequent authorisation for national permit for the period between October 2009 and March 2013 was not renewed during the validity period of the permits. We also observed that there was absence of mechanism in the office of the Transport Commissioner for monitoring the subsequent authorisation during currency of the national permits. This resulted in non-realisation of composite/

consolidated fee and authorisation fee of ₹ 76.10 lakh²⁴.

After we pointed out the cases (July 2012), the Government stated (July 2013) that show cause notices had been issued to the vehicle owners. Further reply has not been received (December 2013).

Similar issue was pointed out in Paragraph No. 4.12 of the Audit Report (Revenue Receipts) for the year ending 31 March 2010, where the Department accepted our observation and stated that demand notices would be issued

24

No. of permit	Authorisation fee	Consolidated fee	(Amount in ₹)
			Total
290	4,25,500	71,84,500	76,10,000

against the defaulters. Further action taken in this regard has not yet been received (December 2013).

4.12 Non-levy of taxes from the date of possession of vehicles

Under the provisions of Rule 4(1) of the JMVT Rules, in cases where no tax had previously been paid, the date of acquisition of the vehicle or the date when such tax is imposed by law shall be the due date for tax payment. Further, Rules 42 and 47 of the CMV Rules, 1989 provides that no holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent and application for registration has to be made within seven days from taking delivery of the vehicle. Non-payment of taxes in time attracts penalty at the rates prescribed depending upon the period of delay, which ranges from 25 to 200 *per cent* of the tax due.

We noticed from test check of the Taxation Register and the computerised data in five district transport offices²⁵ between August 2012 and February 2013 that the owners of 163 vehicles out of 311 vehicles applied for registration of their vehicles with delay between 36 to 811 days. The registering authority levied tax from the date of registration instead of from the date of possession or date of

expiry of the temporary registration of the vehicles. We observed that till the date of audit (between August 2012 and February 2013) neither the owner of the vehicles paid the taxes nor did the registering authority levy tax and penalty on the defaulting vehicles for the intervening periods from the date of possession of vehicles to the date of their registration. Thus, non-compliance with the provisions of the rule resulted in non-levy of revenue amounting to ₹ 40.83 lakh²⁶ including penalty of ₹ 27.22 lakh. As the tax remained unpaid even after delays ranging between 635 days and 1393 days vehicles owners were liable to pay tax and maximum penalty at the rate of 200 *per cent*.

After we pointed out the cases (between August 2012 and February 2013), the Government stated (July 2013) that in case of DTO, Bokaro and Dhanbad notices of demand had been issued in 77 cases involving ₹ 24.55 lakh. In respect other DTOs, the Government issued instruction to realise the amount involved. Further reply has not been received (December 2013).

Similar issue was pointed out in Paragraph No. 4.8 of the Audit Report (Revenue Receipts) for the year ending 31 March 2006. The Department in

²⁵ Bokaro, Deoghar, Dhanbad, Giridih and Hazaribag.

²⁶

(Amount in ₹)					
Sl. No.	Name of DTO	No. of vehicles	Tax	Penalty	Total
1	Bokaro	53	5,93,764	11,87,528	17,81,292
2	Deoghar	19	2,16,893	4,33,786	6,50,679
3	Dhanbad	24	2,24,406	4,48,812	6,73,218
4	Giridih	18	61,911	1,23,822	1,85,733
5	Hazaribag	49	2,63,951	5,27,902	7,91,853
Total		163	13,60,925	27,21,850	40,82,775

their Departmental notes accepted the audit observation and stated that notices of demand had been issued in all 13 cases involving ₹ 5.50 lakh. Thus, despite assurance of the Department the irregularities are still persisting.

4.13 Non-realisation of trade tax

Under the provisions of Section 6 of the JMVT Act, trade tax at the annual rate specified in Schedule-III shall be paid by a manufacturer/dealer in respect of motor vehicles held in possession by him in the course of business. Trade tax is payable (based on the type of vehicle) on a block of seven vehicles, for which returns are required to be submitted in Form B2 by the manufacturer/dealer. The taxation authority after verifying the amount of trade tax renews the trade certificate. In case of non-payment of tax within the stipulated period, the taxation authority may impose penalty at the prescribed rates. If delay in payment exceeds 90 days, penalty at twice the amount of tax due may be imposed.

We noticed during test check of the Trade Tax Register and files of five District Transport Offices²⁷ between April 2012 and February 2013 that 18 dealers out of 220 dealers of motor vehicles were liable to pay trade tax along with penalty of ₹ 15.57 lakh for the period between 2009-10 and 2011-12. However, neither did the dealers submit the returns nor was any action taken by the Department to obtain the returns and realise the amounts due.

Thus, non-prescribing the periodicity of submission of return B2 and periodical check of the Trade Tax Register resulted in non-realisation of Trade tax and penalty of ₹ 15.57 lakh²⁸ including maximum penalty of ₹ 10.38 lakh.

After we pointed out the cases (between April 2012 and February 2013), the Government stated (July 2013) that in case of three DTOs²⁹, demand notices had been issued in case of five dealers involving ₹ 5.13 lakh, of which certificate cases were instituted in one case involving ₹ 24,000 pertaining to DTO, Ranchi and ₹ 51,800 involved in three cases had been recovered by three DTOs³⁰. Further reply has not been received (December 2013).

²⁷ Deoghar, Giridih, Koderma, Palamu and Ranchi.

²⁸

(Amount in ₹)										
District	Type of vehicles	No. of dealers	No. of vehicles	Block of seven	Rate per seven vehicles	Amount of trade tax	Penalty	Total	Amount realised	Non-realisation
Deoghar	Two-wheeler	5	574	84	400	33,600	67,200	1,00,800	0	1,00,800
	LMV	5	951	138	500	69,000	1,38,000	2,07,000	0	2,07,000
Giridih	Two-wheeler	2	2,693	386	400	1,54,400	3,08,800	4,63,200	0	4,63,200
Koderma	Two-wheeler	1	58	9	400	3,600	7,200	10,800	0	10,800
Palamu	Two-wheeler	2	4,160	595	400	2,38,000	4,76,000	7,14,000	0	7,14,000
	LMV	1	103	15	500	7,500	15,000	22,500	0	22,500
Ranchi	LMV	2	175	26	500	13,000	26,000	39,000	0	39,000
Total		18	8,714			5,19,100	10,38,200	15,57,300	0	15,57,300

(Block of seven calculated on individual dealers)

²⁹ Giridih, Koderma and Ranchi.

³⁰ Giridih, Koderma and Ranchi.

Similar issue was pointed out in Para 4.10.1 of the Audit Report (Revenue Sector) for the year ending 31 March 2012, the Government/ Department accepted our observation and stated that demand had been raised against 25 dealers and recovery of ₹ 1.14 lakh had been made from four dealers. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Inter Control System of the Department to prevent recurring leakage of revenue.

We recommend that the Government may consider prescribing periodicity for submission of return in Form B2 for timely realisation of Government revenue.

4.14 Non-issue of certificate of registration in Smart Card

Under the provisions of Rules 48 and 81 of the Central Motor Vehicles Rules, the registering authority shall issue to the owner of the motor vehicle a certificate of registration in Form 23 or Form 23 A (Smart Card). Further, Rule 81 provides that an additional amount of fee of rupees two hundred shall be charged for issue of certificate of registration in smart card effective from May 2002. The Government of Jharkhand had signed an agreement with M/s A K S Smart Card Ltd. in September 2004 and allowed the firm to recover service fee of ₹ 99 for issue of vehicle registration certificate in Smart Card. Issuance of Smart Card based driving licence and registration certificate was introduced to prevent the use of forged and fake documents in respect of motor vehicles. It was further clarified in December 2004 that the above service fee would be in addition to the fee leviable under the Rules. Further, the data from the package VAHAN was being transmitted to the vendor for issuance of registration certificate in Smart Card (Form 23A).

We noticed during test check of the Registration Register for the period 2010-11 and 2011-12 of District Transport Offices, Jamtara and Pakur between June 2012 and August 2012 that 8,928 certificate of registrations were not issued in smart card even though *Vahan* package was installed in the offices. It was further observed that as per the terms of agreement, in Pakur district installation of hardware and software for issuance of Smart Card was to be completed in 16 weeks from the date of agreement (September 2004). The Government did not enter into any agreement for Jamtara district. In the absence of issuance of Smart Card

based certificate of registration, possibility of use of forged and fake documents in respect of Motor Vehicles cannot be ruled out. Delay on the part of Government in implementation of scheme led to non-achievement of the core objective of the scheme.

After we pointed out the cases (between June 2012 and August 2012), the Government stated (July 2013) that matter for issue of registration certificates in Smart Card was under process. Further reply has not been received (December 2013).

4.15 Short levy of tax due to incorrect determination of seating capacity

Under the provisions of Section 7(3) of Jharkhand Motor Vehicles Taxation (Amendment) Act, 2011, taxes shall be paid by the owner of a transport vehicle on seating capacity determined on the criteria of wheelbase. The provision came into effect from 23 May 2011. Further, Section 5 of the Act provides that every owner of a transport vehicle is required to pay road tax and additional motor vehicles tax at the rates specified therein.

We noticed from test check of the Registration/Taxation Register along with verification of the computerised data in District Transport Offices, Deoghar and Hazaribag in February 2013 that out of 247 transport vehicles test checked, 99 vehicles paid taxes for the period from May 2011 to 2012-13 adopting seating capacity

lower than the seating capacity as per their wheelbase. This indicated that the DTO did not enforce the new provision of the Act during realization of tax from transport vehicles which resulted in short levy of taxes amounting to ₹ 5.87 lakh.

After we pointed out the cases (February 2013), the Government stated (July 2013) that instructions had been issued to the concerned DTOs for realisation of amount involved. Further reply has not been received (December 2013).

CHAPTER-V

LAND REVENUE

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present illustrative cases of ₹ 4.45 crore selected from observations noticed during our test check of records relating to <i>Khas Mahal</i> land and transfer of Government land in the office of the DCLR, <i>Khas Mahal</i> and <i>Anchal</i> offices, where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Trend of receipts	In 2012-13, the collection of taxes from Land Revenue increased by 82.06 <i>per cent</i> over the previous year but the Department did not assign any reason thereof.
Internal Audit	No Internal Audit Wing has been set up in the Department. The Internal Audit is conducted by the Finance Department from time to time. However, information regarding conduct of audit during 2012-13 by the Finance Department was not furnished.
Impact of audit conducted by us in 2012-13	In 2012-13 we test checked the records of 32 units relating to Land Revenue and noticed non/short levy of cesses and/or interest on arrears of cess, non/short fixation of <i>salami</i> and commercial rent, non-settlement of vested lands, etc. of ₹ 587.79 crore in 159 cases. The Department accepted non-realisation/short computation of <i>salami</i>, rent etc. amounting to ₹ 4.52 crore in 37 cases pointed out by us during 2012-13.
Our conclusion	The Revenue and Land Reforms Department needs to improve the internal control system including instituting an Internal Audit Wing so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

CHAPTER – V: LAND REVENUE

5.1 Tax administration

The laws¹ governing Land revenue in Jharkhand are administered by the Secretary/Commissioner of the Revenue and Land Reforms Department. All important cases of settlement, framing of policies and sanction of alienation of Government land are decided at the Government level. The State is divided into five divisions² each headed by a Divisional Commissioner and 24 districts³ each headed by a Deputy Commissioner. At the district level the Deputy Commissioner is assisted by the Additional Collector/Additional Deputy Commissioner (AC/ADC). Each district is divided into sub-divisions headed by a Sub-Divisional Officer (SDO) who is assisted by a Deputy Collector Land Reforms (DCLR). The sub-divisions are divided into circles each headed by a Circle Officer (CO).

The various receipts under ‘Land Revenue’ are Land rent, *Sairat*⁴, *Salami*⁵, commercial/residential rent, cess⁶ etc.

5.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years’ receipts.

The revised estimates (REs) and actual receipts from Land Revenue during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table:

¹ 1. Bihar Tenancy Act, 1885, 2. Chotanagpur Tenancy Act, 1908, 3. Santhal Pargana Act, 1949, 4. Bihar Land Reforms Act, 1950, 5. Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, 6. Bihar Bhoodan Act, 1954, 7. Bihar Government Estate (*Khas Mahal*) Manual, 1953 8. Bihar Public Land Encroachment Act, 1956, 9. Bengal Cess Act, 1880 and 10. Executive orders issued by the Revenue and Land Reforms Department, Government of Jharkhand from time to time.

² South Chotanagpur (Ranchi), North Chotanagpur (Hazaribag), Santhal Parganas (Dumka), Palamu (Medininagar) and Kolhan (Chaibasa).

³ Bokaro, Chatra, Dhanbad, Dumka, Deoghar, East Singhbhum, Garhwa, Godda, Giridih, Gumla, Hazaribag, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahebganj, Saraikela-Kharsawan, Simdega and West Singhbhum.

⁴ *Sairat*: The right and interest in respect of revenue earning *hat, bazaar, mela*, trees, ferries etc.

⁵ *Salami* is the market value of the land.

⁶ Education cess: 50 per cent, Health cess: 50 per cent, Agriculture Development cess: 20 per cent and Road cess: 25 per cent of the rent (Total 145 per cent).

(₹ in crore)

Year	Revised estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual Land Revenue receipts vis-à-vis total tax receipts
2008-09	52.75	53.33	(+) 0.58	(+) 1.10	3,753.21	1.42
2009-10	60.00	41.28	(-) 18.72	(-) 31.20	4,500.12	0.92
2010-11	66.00	130.65	(+) 64.65	(+) 97.95	5,716.63	2.29
2011-12	83.49	52.94	(-) 30.55	(-) 36.59	6,953.89	0.76
2012-13	82.00	96.38	(+) 14.38	(+) 17.54	8,223.67	1.17

Source: Finance Accounts and revised estimates as per the Statement of Revenue and Receipts 2013-14 of the Government of Jharkhand.

In 2012-13, the collection of taxes from Land Revenue increased by 82.06 *per cent* over the previous year but the Department did not assign any reason thereof.

The Department did not assign any specific reason for variation between the BEs and the actual receipts but stated that the budget had been fixed by the Finance Department. This indicates that the BEs were not prepared on a realistic basis as per provisions of the Budget Manual.

We recommend that the Government may issue suitable instructions to the Department for preparing the BEs on a realistic and scientific basis to ensure that these are close to the actual receipts.

5.3 Working of Internal Audit Wing

There is no Internal Audit Wing in the Revenue and Land Reforms Department. The internal audit is conducted by the Finance Department from time to time. Information regarding conduct of audit by the Finance Department during 2012-13 was not furnished (December 2013).

5.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 were ₹ 10.98 crore. The year-wise position of arrears of revenue during the period 2008-09 to 2011-12 is depicted below:

(₹ in crore)

Year	Target fixed	Opening balance	Addition ⁷	Clearance	Closing balance
2008-09	1.85	1.85	0.12	0.99	0.98
2009-10	0.98	0.98	9.76	1.74	9.00
2010-11	9.00	9.00	2.21	0.69	10.52
2011-12	10.52	10.52	2.92	2.46	10.98
2012-13	The Department did not furnish the position of arrears.				

Source: Revenue and Land Reforms Department, Government of Jharkhand.

The above table indicates that the Department could not achieve target of collection of arrears during any of the four years except during 2009-10. Further, the arrears of ₹ 1.85 crore as on 31 March 2008 increased to ₹ 10.98

⁷ Amounts of addition and clearance of arrears of revenue as furnished by the Department differ from those featured in the previous Audit Report on the basis of information furnished by the Department.

crore as on 31 March 2012. Thus, the arrears pending collections is on an increasing trend.

The Department has not furnished the stages of action at which arrears of revenue is pending and arrears outstanding for more than five years.

5.5 Impact of Audit

5.5.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we had pointed out non/short fixation of *salami*, non/short levy of rent and/or cesses, non-settlement of vested lands etc. involving ₹ 438.45 crore. Of which the Department/Government accepted our observation of ₹ 8.78 crore. However, the Government/Department had not reported recovery against our observations. The details are mentioned below:

(₹ in crore)				
Year	No. of paragraph	Amount objected	Amount accepted	Amount recover up to 2012-13 out of Col. 4
1	2	3	4	5
2007-08	2	200.13	0.29	0
2008-09	2	222.81	3.67	0
2009-10	1	0.52	0.11	0
2010-11	-	-	-	-
2011-12	2	14.99	4.71	0
Total	7	438.45	8.78	0

The above table shows that the Department/Government did not intimate recovery even in those cases where it has accepted our contention.

5.5.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we test checked 73 units relating to land revenue and pointed out cases of non-renewal of leases of *Khas Mahal*⁸ land, encroachment of public land, etc., with revenue implication of ₹ 1,776.48 crore in 5,712 cases. Of these, the Department/Government accepted audit observations in 773 cases involving ₹ 347.95 crore but recovery against the accepted amount had not been intimated by the Department/Government, as shown in the following table:

(₹ in crore)						
Year	No. of units audited	Amount objected		Amount accepted		Amount recovered upto 2012-13 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2007-08	12	3,231	588.50	694	5.17	0
2008-09	9	2,395	1,151.31	55	338.04	0
2009-10	22	18	0.03	18	0.03	0
2010-11 ⁹	-	-	-	-	-	-
2011-12	30	68	36.64	6	4.71	0
Total	73	5,712	1,776.48	773	347.95	0

⁸ *Khas Mahal*: Estates under the direct possession/management of the Government.

⁹ Audit was not conducted in 2010-11 as a performance audit on "Working of Revenue and Land Reforms Department" featured in the Audit Report 2009-10.

5.5.3 Status of compliance to Inspection Reports (2012-13)

During 2012-13 we test checked the records of 32 units (having revenue collection of ₹ 4.17 crore) out of 270 units relating to Land Revenue. The test checked units revealed non/short levy of cesses and/or interest on arrears of cess, non/short fixation of *salami*¹⁰ and commercial rent, non-settlement of vested lands etc. involving ₹ 587.79 crore in 159 cases which fall under the following categories:

Sl. No.	Categories	Number of cases	(₹ in crore) Amount
1.	Non/short levy of cesses/interest on arrears of cess	44	7.68
2.	Non/short fixation of <i>salami</i> ¹⁰ and commercial rent	3	7.63
3.	Non-settlement of vested lands	7	0.03
4.	Non-settlement of <i>sairats</i>	2	0.09
5.	Other cases	103	572.36
Total		159	587.79

During the course of the year, the Department accepted non-realisation/short computation of *salami*, rent etc. amounting to ₹ 4.52 crore in 37 cases pointed out by us during 2012-13.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 4.45 crore, of which the department accepted ₹ 3.94 crore. These are discussed in the following paragraphs.

¹⁰ *Salami* is the market value of the land.

5.6 Audit observations

Our scrutiny of records in the offices of the Revenue and Land Reforms Department relating to revenue received from land rent, sairat, salami etc. indicated cases of non-observation of the provisions of the Acts/Rules resulting in non/short levy of salami, rent, capitalised value of commercial rent and cess as mentioned in the succeeding paragraph in the chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out by us each year, but not only do the irregularities persist, they remain undetected till the date of audit.

5.7 Non-observance of the provisions of Acts/Rules

The Bihar Government Estates (Khas Mahal) Manual, 1953 and instructions issued from time to time, as adopted by the Government of Jharkhand, provide for:

- (i) *levy of salami on fresh leases equal to prevailing market value of land besides annual rent at the rate of two and five per cent for residential and commercial purposes respectively of such salami; and*
- (ii) *levy of salami and capitalised value of both commercial rent and cess for permanent settlement of Government land.*

The Revenue and Land Reforms Department did not observe diligently the provisions of the Acts/Rules resulting in non/short realisation of Government revenue as mentioned in the succeeding paragraphs:

5.8 Non-realisation/short computation of *salami* and capitalised value

By a resolution issued by the Government of Jharkhand in January 2011 under the provisions of the Bihar Government Estates (Khas Mahal) Manual, 1953 in case of permanent transfer of Government land (*Gair Mazarua Khas/Aam Land*) for commercial purposes, *salami* equal to prevailing market value of such land and capitalised value of both commercial rent and cess are realisable for transfer of such land. Further, Rajyadesh (ordinances) provides for realisation of demand before transfer of such land.

5.8.1 We noticed (between July 2012 and March 2013) during scrutiny of files related to permanent transfer of Government land in five circle offices¹¹ that in 28 cases 8.521 acres of *Gair Mazarua* (GM) *Khas/GM Aam*¹² land was sanctioned through eight *Rajyadesh* (ordinances) issued between May 2011 and March 2012 for permanent transfer to the National Highways Authority of India (NHAI)

¹¹ Sadar Anchal of Hazaribag and Bundu, Namkum, Ormanjhi and Tamar Anchals of Ranchi.

¹² *Gair Mazarua Khas* land means land retained by ex-intermediaries and not settled with *Raiyats* which subsequently vested in the State under the Bihar Land Reforms Act, 1950. *Gair Mazarua Aam* land means uncultivated land for public use as grazing ground, play ground, graveyards, religious place, village road etc.

for widening of NH-33 subject to payment of *salami* and capitalised value of commercial rent¹³ without making provision for payment of capitalised value of cess¹⁴ as stipulated in the resolution issued by the Government. Thus, a sum of ₹ 1.86 crore on account of capitalised value of cess remained outside the purview of the ordinance due to deviation from the provisions of the resolution.

Further, the NHAI reported (May 2013) that widening of NH-33 had already been taken up. However, out of total leviable demand of ₹ 4.18 crore¹⁵, only the circle office, Sadar (Hazaribag) had raised the demand of ₹ 44.94 lakh¹⁶ for *salami* and capitalised value of commercial rent only in three cases. The four circle offices did not raise the demand in the remaining 25 cases. Thus, non-prescribing provisions in the ordinances for levy of capitalised cess and non-realisation of the land revenue of ₹ 4.18 crore before transfer of land was violation of the rajyadesh and resolution issued by the Government.

After we pointed out the cases between July 2012 and March 2013, the CO, Sadar (Hazaribag) stated (July 2012) that demand of capitalised value of cess would be raised. Circle offices, Bundu, Tamar and Namkum stated (between January and March 2013) that demand would be raised, while circle office, Ormanjhi did not furnish any reply. However, the case was brought to the notice (April 2013) of the Deputy Collector Land Reforms, Ranchi and he stated that instruction would be given to circle officer, Ormanjhi to raise the demand.

We reported matter to the Government/Department in June 2013; their reply has not been received (December 2013).

By *Rajyadesh* (ordinance) issued by the Government of Jharkhand between September 2010 and January 2011 under the provisions of the Bihar Government Estates (Khas Mahal) Manual, 1953, in case of permanent transfer of Government land (*Gair Mazarua (GM) Khas/Aam Land*) for commercial purposes, *salami* equal to prevailing market value and 25 times of commercial rent as capitalised value are realisable.

5.8.2 We noticed (December 2012) during test check of files related to permanent transfer of Government land in the circle office, Katkamsandi (Hazaribag) for the year 2010-11 that in two cases 4.02 acres of *GM Khas* land was sanctioned (September 2010) for transfer to Ministry of Railways, Government of India (GOI) for construction of new railway track from Koderma to Giridih, subject to payment of *Salami* and capitalised value of commercial rent at the prevailing

value of land on the date of transfer vide ordinances issued in September 2010. We noticed that demand of ₹ 31.93 lakh had been raised by CO, Katkamsandi between June 2007 and May 2008 at the market value applicable for the year 2005 in course of preparing and forwarding the proposal to the Government

¹³ Capitalised value of commercial rent = 25 times of commercial rent.

¹⁴ Capitalised value of cess = 25 times of cess.

¹⁵ Salami = ₹ 1.03 crore, Capitalised value of commercial rent = ₹ 1.29 crore and Capitalised value of cess = ₹ 1.86 crore.

¹⁶ Salami = ₹ 19.97 lakh and Capitalised value of commercial rent = ₹ 24.97 lakh.

for permanent settlement of the land. However, *Salami* and capitalised value of commercial rent at the prevailing market value of land applicable in September 2010 amounting to ₹ 53.34 lakh was required to be levied which was not done. This resulted in short levy of *Salami* and capitalised value of commercial rent of ₹ 21.41 lakh.

After we pointed out the cases in December 2012, the CO stated (December 2012) that the demand would be raised. Further reply has not been received (December 2013).

We reported matter to the Government/Department in June 2013; their reply has not been received (December 2013).

5.8.3 Further, on test check of the records of the circle office, Churchu (Hazaribag) we noticed (November 2012) that in three cases 0.80 acres of land (*GM Khas* Land: 0.65 acres and *GM Aam* Land: 0.15 acres) was transferred to NHAI for widening of NH-33 vide ordinances issued between October 2010 and January 2011. The CO, Churchu had raised the demand of ₹ 6.04 lakh by applying rate for lower category of land (*Tand* land instead of land for road, as classified in ordinance). However, we worked out the actual demand of ₹ 17.79 lakh as per land categorised under the ordinances and observed that due to non-computation of *Salami* and capitalised value of commercial rent at the prevailing market rate of actual category of land resulted in short levy of ₹ 11.75 lakh.

After we pointed out the cases in November 2012, the CO stated (November 2012) that the demand would be raised after examination. Further reply has not been received (October 2013).

We reported the matter to the Government in June 2013; their reply has not been received (December 2013).

5.9 Short levy of salami and rent for lease hold property

Under the provisions of Rule 9 of the Bihar Government Estate (*Khas Mahal*) Manual, 1953 and orders issued thereunder, in case a lease holder changes the purpose of lease without approval of competent authority he is to be treated as a trespasser and shall have no claim for the renewal of lease on the past terms and condition of the lease agreement. Further, on fresh leases for residential and commercial purposes, *salami* equal to current market value of the land besides annual rent of two *per cent* and five *per cent* for residential and commercial purposes respectively of such *salami* is payable.

We noticed (December 2012) during test check of Lease Register and records¹⁷ of the Khas Mahal Office, Hazaribagh for the period 2003-04 to 2011-12 that a lessee applied (December 2007) for renewal of lease of 0.11 acre of Khas Mahal land for residential purpose. During an inspection conducted by the Department in December 2011, the lessee was found utilising 0.02 acre of the

above land for commercial purposes without approval of the competent authority in contravention of the terms and condition of the lease agreement

¹⁷ Register of Khas Mahal Land and files related to renewal of Khas Mahal Land.

and thus, was a trespasser. The lessee was liable to pay ₹ 43.34 lakh and ₹ 1.10 lakh for *salami* and rent respectively treating it as fresh lease. However, the Government had settled the land with the lessee in August 2012 levying *salami* and rent of ₹ 4.81 lakh and ₹ 19,779 respectively on renewal of the lease without treating it as fresh lease although the Government conceded (July 2013) that the lessee was a trespasser. Thus, non-compliance with provisions of the Manual resulted in short levy of *salami* and rent of ₹ 39.44 lakh¹⁸.

After we pointed out the case in December 2012, the Dy. Collector, Hazaribag stated (December 2012) that after verification action would be taken as per rules. Further reply has not been received (December 2013).

The matter was reported to the Government in June 2013; their reply has not been received (December 2013).

18

(Amount in ₹)								
Purpose Area (in acre)	Market value of the land per acre	Leviable		Levied		Short levied		Total
		Salami (1 x 2)	Rent (Residential 2% of salami Commercial- 5% of salami)	Salami	Rent	Salami (3 – 5)	Rent (4 – 6)	
1	2	3	4	5	6	7	8	9
Commercial 0.02	3,93,97,000	7,87,940	39,397	3,93,970	19,700	3,93,970	19,697	4,13,667
Residential 0.09	3,93,97,000	35,45,730	70,915	86,674	79	34,59,056	70,836	35,29,892
Total		43,33,670	1,10,312	4,80,644	19,779	38,53,026	90,533	39,43,559

CHAPTER-VI

OTHER TAX RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a paragraph on “Levy and collection of Stamp duty and Registration fees on lease agreements of immovable properties and Development Agreements” and a Review on “Levy and collection of Electricity Duty in Jharkhand” along with one illustrative case on Taxes and Duties on Electricity.
Trend of receipts	In 2012-13, the collection of Stamps and Registration Fees increased by 22.74 <i>per cent</i> over the previous year which was attributed by the Department to increase in the value of land and property. In 2012-13, the collection of Taxes and Duties on Electricity increased by 52.17 <i>per cent</i> over the previous year. However, revenue collection during 2012-13 was 22.03 <i>per cent</i> less than the revised estimate.
Internal audit	No Internal Audit Wing has been set up in Registration as well as in Commercial Taxes Departments (in respect of Electricity Duty). Internal audit is conducted by the Finance Department. However, no internal audit of assessment under Electricity Duty Act had been conducted by the Finance Department.
Impact of audits conducted by us in 2012-13	In 2012-13, we test checked the records of 15 units out of 41 units relating to Stamp Duty and Registration Fees where we found blocking up of Government revenue and other cases involving ₹ 5.19 crore in 4,021 cases, of which the Department accepted non-levy of Registration Fees and penalty of ₹ 4.24 crore in 2,191 cases pointed out by us during 2012-13. In 2012-13, we test checked the records relating to Electricity Duty where we found non/short levy of electricity duty, incorrect rate of surcharge etc. involving ₹ 249.95 crore in two cases, of which, the Department accepted observations of ₹ 247.72 crore.
Our conclusion	The Departments need to improve the internal control system including arranging for its own Internal Audit Wing so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

CHAPTER – VI: OTHER TAX RECEIPTS

A. STAMPS AND REGISTRATION FEES

6.1 Tax administration

The levy and collection of Stamp Duty and Registration Fees in the State of Jharkhand is governed by the Indian Stamp Act, 1899 and rules made thereunder and the Registration Act, 1908. On creation of the State of Jharkhand, with effect from 15 November 2000, the existing Acts, Rules and executive instructions of the State of Bihar were adopted by the State of Jharkhand.

6.2 Trend of receipts

The Revised Budget Estimates (REs) and actual receipts from Stamp Duty and Registration Fees during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table:

(₹ in crore)						
Year	Revised estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	372.61	192.16	(-) 180.45	(-) 48.43	3,753.21	5.12
2009-10	350.00	238.20	(-) 111.80	(-) 31.94	4,500.12	5.29
2010-11	302.50	328.35	(+) 25.85	(+) 8.55	5,716.63	5.74
2011-12	450.00	401.17	(-) 48.83	(-) 10.85	6,953.89	5.77
2012-13	490.00	492.40	(+) 2.40	(+) 0.49	8,223.67	5.99

Source: Finance Accounts and Revenue and Receipts of 2013-14 of the Government of Jharkhand.

In 2012-13, the collection of Stamps and Registration Fees increased by 22.74 *per cent* over the previous year which was attributed by the Department to increase in the value of land and property.

6.3 Cost of collection

The gross collection under Stamps and Registration Fees, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the period 2008-09 to 2012-13 along with all India average percentage for the preceding year are mentioned in the following table:

(₹ in crore)				
Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the preceding year
2008-09	192.16	9.91	5.16	2.09
2009-10	238.20	10.98	4.61	2.77
2010-11	328.35	15.39	4.69	2.47
2011-12	401.17	11.34	2.83	1.60
2012-13	492.40	11.24	2.28	1.89

Source: Finance Accounts of the Government of Jharkhand.

The above table indicates that during 2008-09 to 2012-13, the percentage of expenditure on collection in respect of Stamps and Registration Fees was higher than the all India average percentage for the previous years.

The Government needs to take appropriate measures to keep the percentage of expenditure on collection below the all India average percentage in the coming years.

6.4 Analysis of arrears of revenue

The year wise position of arrears of revenue during the period 2008-09 to 2011-12 is depicted below:

(₹ in crore)		
Year	Opening balance of arrears	Closing balance of arrears
2008-09	1.63	1.45
2009-10	1.45	1.53
2010-11	1.53	1.57
2011-12	1.57	1.57
2012-13	1.57	Not furnished

The Department did not furnish position of arrears of revenue during 2012-13 though called for between May and August 2013.

6.5 Impact of Audit

6.5.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we had pointed out cases of non/short levy of stamp duty and registration fees, misclassification of documents etc. with financial implication of ₹ 6.98 crore in four paragraphs of which the Department/Government accepted our observations of ₹ 2.96 crore and recovered ₹ 2.39 lakh upto 2012-13. The details are shown in the following table:

(₹ in crore)				
Year	No. of paragraph	Amount objected	Accepted recoverable amount	Amount recovered ¹ upto 2012-13 out of Col. 4
1	2	3	4	5
2007-08	1	0.06	NIL	0.02
2008-09	NIL	NIL	NIL	
2009-10	1	5.22	1.26	
2010-11	1	NIL	NIL	
2011-12	1	1.70	1.70	
Total	4	6.98	2.96	

6.5.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we test checked 66 units relating to Stamp Duty and Registration Fees and pointed out 8,494 cases of non/short levy of duty and registration fees, misclassification of documents etc. involving ₹ 3,416.75 crore, as shown in the following table:

¹ The Government reported recovery of ₹ 2,38,699 against objected amount of these Audit Reports without furnishing Report wise breakup.

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered upto 2012-13 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2007-08	13	335	2.51	NIL	NIL	0
2008-09	12	920	2.73	NIL	NIL	0
2009-10	10	1	0.24	NIL	NIL	0
2010-11	18	6,771	3,410.95	NIL	NIL	0
2011-12	13	467	0.32	NIL	NIL	0
Total	66	8,494	3,416.75	NIL	NIL	0

6.5.3 Status of compliance to Inspection Reports (2012-13)

Out of 41 units relating to Stamp Duty and Registration Fees our test check of the records of 15 units in 2012-13, having revenue collection of ₹ 219.38 crore, revealed blocking up of Government revenue and other cases involving ₹ 5.19 crore in 4,021 cases as detailed below:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	“Levy and collection of Stamp duty and Registration fees on lease agreements of immovable properties and Development Agreements”	1	2.46
2	Blocking up of Government revenue	1,805	1.84
3	Other cases	2,215	0.89
Total		4,021	5.19

During the course of the year, the Department accepted non-levy of Stamp Duty and Registration Fees and penalty of ₹ 4.24 crore in 2,191 cases pointed out by us during 2012-13.

In this part we present a paragraph on **“Levy and collection of Stamp duty and Registration fees on lease agreements of immovable properties and Development Agreements”** having financial implication of ₹ 2.46 crore. During 2012-13, the Department/Government accepted observations of ₹ 2.46 crore.

6.6 Non-observance of provisions of Acts/Rules

The Indian Stamp Act, 1899, the Registration Act, 1908 and Bihar Registration Rules, 1937, Bihar Registration Manual, 1946 and Bihar Stamp (Prevention of under valuation of instruments) Rules, 1995 (as adopted by the Government of Jharkhand) made thereunder provide for:

- (i) payment of Registration fees at the prescribed rate; and*
- (ii) payment of Stamp duty by the executants at the prescribed rate.*

We noticed that the Registration Department did not observe the provisions of the Act/Rules in cases mentioned below:

6.7 Levy and collection of Stamp duty and Registration fees on lease agreements of immovable properties and Development Agreements

6.7.1 Introduction

The Indian Stamp Act, 1899 (IS Act) as amended from time to time, by notifications issued by the State Government, provides for levy of Stamp duty on the instruments presented for registration at the rates specified in the Act. Such duties are paid by the executors of instruments using “impressed stamps papers” or affixing “stamps on bond papers” of proper denominations. The Bihar Registration Rules, 1937 lays down the detailed procedure for determination and collection of stamp duty.

The Indian Registration Act, 1908 and Bihar Registration Rules made thereunder by the State Government broadly outline the system of assessment and collection of revenue under Registration fees.

The Registration (Bihar Amendment) Act, 1991 (adopted by the Government of Jharkhand) provides a table of fees payable (as amended from time to time) for registration of documents.

On presentation of instruments for registration, the registering authority examines the same to verify that the instruments were presented within four months from the date of execution, properly stamped as required under the Indian Stamp (Bihar Amendment) Act and Registration fees collected according to the prescribed table of fees.

6.7.2 Internal control and monitoring

6.7.2.1 Internal Audit

Internal audit is a mechanism to assure that the prescribed systems were functioning reasonably well. The Finance Department (FD) ordered in May 1960 that internal audit of the Registration Department would be conducted by it. The internal audit parties are required to conduct *cent per cent* audit of all demands, collection of revenue and verification of deposit of amount into treasury with the treasury records and scrutiny of registers maintained by offices.

Information received (July 2013) from the IGR office regarding audit conducted by the FD during 2007-08 to 2011-12 in nine selected DSR offices revealed that as of June 2013, the FD had conducted audit for 11 out of 45 financial years² for different periods between 2007-08 and 2011-12. The details are given below:

Sl. No.	Name of the DSR office	Period due for audit by the Finance Deptt.	No. of years	Period audited by the Finance Deptt.	No. of years audited	No. of years for which audit was not conducted by the Finance Deptt. (col. 4 – col. 6)
1	2	3	4	5	6	7
1	Bokaro	2007-08 to 2011-12	5	2008-09 to 2010-11	3	2
2	Chaibasa	2007-08 to 2011-12	5	2009	1	4
3	Dhanbad	2007-08 to 2011-12	5	2007-08 to 2011-12	5	0
4	Gumla	2007-08 to 2011-12	5	Nil	0	5
5	Godda	2007-08 to 2011-12	5	Nil	0	5
6	Hazaribag	2007-08 to 2011-12	5	2007-08	1	4
7	Jamshedpur	2007-08 to 2011-12	5	2011-12	1	4
8	Lohardaga	2007-08 to 2011-12	5	Nil	0	5
9	Ranchi	2007-08 to 2011-12	5	Nil	0	5
Total			45		11	34

Although the internal audit parties of the Finance Department are required to conduct *cent per cent* audit in all the offices, it is seen from above table that in many years the internal audit parties had not visited the DSR offices. In Gumla, Godda, Lohardaga and Ranchi, no internal audit had been conducted in any of the years in the DSR offices. Shortfall in conduct of internal audit was indicative of the Department remaining unaware of the areas of malfunctioning in the system and therefore, not being able to take remedial action. The Department did not furnish the details of internal audit conducted during 2012-13 despite request (October 2013).

After we reported the matter in June 2013, the Government stated (August 2013) that the Department had requested (July 2013) the Finance Department for conduct of audit of registry offices.

6.7.2.2 Inspections

Bihar Registration Manual, 1946 as adopted by the Government of Jharkhand provides for inspection of the registering offices by IGR, DSRs and Inspector of Registration. The Inspector is expected to be on tour for at least nine months in a year and is required to inspect all offices in his jurisdiction once a year. The IGR is also required to inspect all district offices once in two years including as many rural offices as he can conveniently inspect. The DSRs will inspect each sub registry office in the district twice a year and his own office once a year.

² Total nine units for five years, i.e., 9 x 5 worked out to 45.

Information received (July 2013) from the IGR office in respect of nine test checked DSR and four SR offices revealed that four inspections were conducted during 2009-10 to 2011-12 against the target of 111 inspections. The number of inspection conducted in these districts was minimal as mentioned in the following table:

Year	Inspector of registration		District Sub Registrar		Inspector General of Registration	
	Target	No. of inspection conducted	Target	No. of inspection conducted	Target	No. of inspection conducted
2009-10	13	Nil	17	1	7	Nil
2010-11	13	Nil	17	1	7	Nil
2011-12	13	2	17	Nil	7	Nil

Source: Information furnished by Registration Department, Government of Jharkhand.

It would be seen from the above that as the Department had not achieved the targets of inspections in any of the three years. This indicated lack of internal control which helps in monitoring and proper functioning of the Department.

After we reported the matter in June 2013, the Government stated (August 2013) that Principal Secretary-cum IG Registration had directed all concerned for inspection of all the registry offices located in the State.

6.7.3 Non-levy of Stamp duty and Registration fees due to non-renewal/non-registration of leases

6.7.3.1 Non-renewal of mining lease

Under Section 17(1) of the Registration Act, leases of immovable property for any term exceeding one year is to be compulsorily registered if the value of the property exceeded one hundred rupees. Stamp duty is chargeable as per Schedule I-A of the Indian Stamp Act and Registration fees is leviable as per table of fees determined by the Government. Where the lease purports to be for a term exceeding ten years but not exceeding twenty years the same Stamp duty as a conveyance (four *per cent*) for a consideration or market value equal to three times the amount or value of the average annual rent reserved is chargeable. Where the lease purports to be for a term exceeding twenty years but not exceeding thirty years same Stamp duty as a conveyance (four *per cent*) for a consideration or market value equal to five times of amount or value of the average annual rent reserved is chargeable. Registration fee is levied at the rate of three *per cent* on the value on which Stamp duty is charged. Further under the provisions of Rule 24 A (6) of Mineral Concession Rules, 1960, a lease shall be deemed to have been extended by a further period till the State Government passes order thereon.

We called for data/information from five district mining offices³ out of which District Mining Office, Gumla did not furnish the requisite data/information. We cross verified (May 2013) data/information obtained from four district mining offices⁴ with records of the concerned four District Sub Registrars which revealed that 82 numbers of mining leases although expired between December 1975 and January 2012 were not renewed upto March 2013. Of these, 54 lessees were extracting minerals and paying royalty on the extracted minerals. As these leases were granted for ten to thirty

years, their registration was compulsory for further extraction of minerals after expiry of lease period. Out of 82 mining leases, 55 leases were pending for renewal at the State Government level and 27 leases were pending at district level. Had these leases been renewed the Government would have fetched Stamp duty and Registration fees of ₹ 47.39 crore⁵ on registration of lease deeds.

³ Chaibasa, Godda, Gumla, Hazaribag and Lohardaga.

⁴ Chaibasa, Godda, Hazaribag and Lohardaga.

⁵

(₹ in lakh)						
Sl. No.	District	No. of cases	Consideration value	Stamp duty @ 4% of col. 4	Registration fees @ of 3% of col. 4	Total
1	2	3	4	5	6	7
1	Chaibasa	56	65,958.65	2,638.34	1,978.76	4,617.10
2	Godda	9	12.22	0.49	0.37	0.86
3	Hazaribag	3	10.85	0.43	0.33	0.76
4	Lohardaga	14	1,715.55	68.62	51.47	120.09
Total		82	67,697.27	2,707.88	2,030.93	4,738.81

After we reported the matter in June 2013, the Government stated (August 2013) that the Principal Secretary, Mines and Geology Department had been requested for ensuring compulsory documentation, execution and presentation of lease documents for registration. Further reply has not been received (December 2013).

Similar issue was pointed out in Paragraph Number 6.3.11.2 of Audit Report (Revenue Receipts) for the year ended 31 March 2010 wherein we had recommended for framing a provision in the IS Act and Registration Act for registration of mining leases that have been deemed renewed. The Government has not intimated us action taken thereon and the issue still persists.

6.7.3.2 Non-levy of stamp duty and registration fees due to non-registration of leases

Under Section 73 of the Indian Stamp Act every public officer, having in its custody any register, books, records, documents, the inspection whereof tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall permit any person authorised in writing by the Collector to inspect for such purpose the documents/records and to take such notes and extracts as he may deem necessary. Further, under Section 17(1) of the Registration Act, leases of immovable property from year to year or for any term exceeding one year is to be compulsorily registered if the value of the property exceeded one hundred rupees. Stamp duty⁶ is chargeable as per Schedule I-A of the IS Act depending on the periodicity of lease and Registration fees is leviable at the rate of three *per cent* on the value on which stamp duty is charged.

We cross verified (between July 2012 and May 2013) the data/information obtained from 14 offices⁷ with records of the concerned DSRs. It revealed that 2,961 shops/bus stands/ATMs/bank premises were leased out from 1975 to 2011-12 on year to year basis and for one to thirty years out of which 2,441 lease agreements were not registered as on March 2013. As these leases were granted for one to thirty years, their registration was compulsory. Thus, due to absence of a mechanism for inter-departmental exchange of data/information, these lease deeds remained unregistered. This resulted in non-levy of Stamp duty and

6

Lease period	Rate of stamp duty
Where the lease purports to be for a term of not less than one year but not more than five years.	The same duty as a bond for the amount of value of the average annual rent reserved.
	Rate of stamp duty for bond
	For every ₹ 500 or part thereof where it exceeds ₹ 1,000 and does not exceed ₹ 5,000. ₹ 12.00
	Where it exceeds ₹ 5,000 but does not exceed ₹ 50,000 2.5 <i>per cent</i> of the value of instrument
	Where it exceeds ₹ 50,000 3 <i>per cent</i> of the value of instrument
Where the lease purports to be for a term exceeding five years but not exceeding ten years.	The same duty as conveyance (4 <i>per cent</i>) for a consideration or market value equal to one and a half times of the average annual rent reserved.
Where the lease purports to be for a term exceeding ten years but not exceeding twenty years.	The same duty as conveyance (4 <i>per cent</i>) for a consideration or market value equal to three times of the average annual rent reserved.
Where the lease purports to be for a term exceeding twenty years but not exceeding thirty years.	The same duty as conveyance (4 <i>per cent</i>) for a consideration or market value equal to five times of the average annual rent reserved.

⁷ Agriculture Product Marketing Committees, Bokaro, Dhanbad, Lohardaga and Ranchi, Anchal Adhikaris, Dhanbad, Godda and Jamshedpur, Nagar Parishads, Chaibasa, Gumla and Hazaribag, Municipality, Jugsalai, Jamshedpur, Nagar Nigams, Dhanbad and Ranchi and State Bank of India, Network-2, Local Head office, Patna.

Registration fees of ₹ 74.56 lakh⁸ including Registration fees of ₹ 31.37 lakh on consideration value of ₹ 16.10 crore⁹.

After we reported the matter in June 2013, the Government stated (October 2013) that all the Deputy Commissioners cum District Registrars have been requested to take action under Section 73 of the IS Act and also to furnish reports on action taken thereon. Further reply has not been received (December 2013).

We recommend that the Government may consider instituting a proper mechanism for strengthening the imposition of the provisions under Section 73 of IS Act for ensuring presentation of documents which require compulsory registration to avoid leakage of revenue.

6.7.3.3 Non-execution/non-registration of lease deeds of residential quarters leased out by the public sector undertaking

Under section 17(1) of the Registration Act, leases of immovable property for any term exceeding one year is to be compulsorily registered if the value of the property exceeded one hundred rupees. Stamp duty is chargeable as per Schedule I-A of the IS Act and Registration fees is leviable as per table of fees determined by the Government. Where the lease purports to be for a term exceeding twenty years but not exceeding thirty years same Stamp duty as a conveyance (four *per cent*) for a consideration or market value equal to five time of amount or value of the average annual rent is chargeable. Registration fees is leviable at the rate of three *per cent* on the value on which stamp duty is charged.

We obtained information (May 2013) from Heavy Engineering Corporation (HEC), Ranchi and cross verified with records of District Sub Registrar, Ranchi which revealed that 6,764 residential quarters were transferred on lease for 30 years on settlement amount of ₹ 21.52 crore between 1995 and 2006. We further observed that out of these 6,764 quarters, 4,050 quarters were transferred in favour of the allottees after execution of lease

agreements and 2,714 quarters were allotted on receipt of settlement amount without execution of lease agreements. These leases remained unregistered upto May 2013 due to absence of a mechanism for inter-departmental exchange of information. Thus, non-execution/non-registration of lease

8

						(₹ in lakh)
Sl. No.	Name of the office	No. of cases	Consideration value	Stamp duty	Registration fees	Total
1	Agriculture Product Marketing Committees	856	240.22	6.25	6.09	12.34
2	Anchal Adhikaris	45	133.64	3.99	3.64	7.63
3	Municipality, Jugsalai	3	74.00	0.03	0.02	0.05
4	Nagar Parishads	257	54.89	1.98	1.40	3.38
5	Nagar Nigams	1,139	875.05	24.00	13.25	37.25
6	State Bank of India	141	232.02	6.94	6.97	13.91
Total		2,441	1,609.81	43.19	31.37	74.56

⁹ Consideration value was worked out on the basis of average annual rent paid by the lessee under Article 35 of Schedule I-A of the IS Act.

agreements resulted in non-levy of Stamp duty and Registration fees of ₹ 1.51 crore¹⁰ including Registration fees of ₹ 64.58 lakh.

After we reported the matter in June 2013, the Government accepted our observation and stated (August 2013) that the Managing Director, HEC, Ranchi had been requested (July 2013) for suitable action for ensuring execution and registration of lease documents. Further reply has not been received (December 2013).

6.7.3.4 Non-registration of lease deeds of land leased for commercial purpose by public sector undertaking

We obtained information (May 2013) from Heavy Engineering Corporation, Ranchi and cross verified with records of DSR, Ranchi which revealed that 295.88 acres land was leased out to 26 lessees¹¹ between 1966 and 2008 of which 15 leases¹² had expired and one lease agreement pertaining to Jharkhand State Cricket Association (Stadium) was registered in the office of the DSR, Ranchi. The remaining 10 lessees¹³ involving 77.48 acres land was leased out on settlement amount of ₹ 61.17 lakh between 1986 and 2004. These leases were not registered as on May 2013. Thus, due to non-registration of lease deeds resulted in non-levy of Stamp duty and Registration fees of ₹ 4.28 lakh¹⁴ including Registration fees of ₹ 1.83 lakh.

¹⁰

Name of the public sector undertaking	No. of cases	Consideration value	Stamp duty @ 4% on consideration value	Registration fees @ 3 % on consideration value	(₹ in lakh)
					Total
Heavy Engineering Corporation, Ranchi	6,764	2,152.41	86.09	64.58	150.67

¹¹ Airtel, Sector III, All India Women Conf., Sector II, Arya Samaj, Dhurwa, Bangiya Sanskritik Parishad School, Sector II, Bharat Petrol Corporation Limited Petrol Pump, Sector II, Bharat Petrol Corporation Limited Petrol Pump, Sector III, HEC Employees Millat Samiti, Sector III, Indian Oil Corporation Petrol Pump, Sector II, Indian Oil Corporation Petrol Pump, Bypass road, Jharkhand State Cricket Association (Stadium), Dhurwa, Malyali Association, Sector II, Marthama Church, Sector III, Maharana Pratap Shikshan Sansthan, Sector 9, MDEP, Sector III, Nehru Smriti Sansthan, Sector 9, NIFFT, Hatia, Parish Priest Catholic Mission, Sector II, Ramkrishna Sewa Sangh, Sector II, R&D Sail, Bhusur, Reliance Ind., Sector II, Reliance infocomm, Sector III, Sardar Patel Club, Sector II, Shishu Vikas Mandir Samity, Sector 9, Swami Sahjanand Saraswati Samiti, Sector II, YMCA, Sector II and Yogada Sakha Math and Ashram, Jagannathpur.

¹² All India Women Conf., Sector II, Arya Samaj, Dhurwa, Bangiya Sanskritik Parishad School, Sector II, HEC Employees Millat Samiti, Sector III, Maharana Pratap Shikshan Sansthan, Sector 9, NIFFT, Hatia, Sardar Patel Club, Sector II, Shishu Vikas Mandir Samity, Sector 9, Swami Sahjanand Saraswati Samiti, Sector II, YMCA, Sector II and Yogada Sakha Math and Ashram, Jagannathpur.

¹³ Airtel, Sector III, Bharat Petrol Corporation Limited Petrol Pump, Sector II, Bharat Petrol Corporation Limited Petrol Pump, Sector III, Indian Oil Corporation Petrol Pump, Sector II, Indian Oil Corporation Petrol Pump, Bypass road, Malyali Association, Sector II, Marthama Church, Sector III, Reliance Ind Petrol Pump, Sector II, Reliance Infocomm, Sector III and R & D SAIL, Bhusur.

¹⁴

Name of the public sector undertaking	No. of lessees	Total area leased out	Consideration value	Stamp duty @ 4%	Registration fees @ 3%	(₹ in lakh)
						Total
Heavy Engineering Corporation, Ranchi	10	77.48	61.17	2.45	1.83	4.28

After we reported the matter in June 2013, the Government accepted our observation and stated (August 2013) that the Managing Director, HEC, Ranchi had been requested (July 2013) for suitable action for ensuring execution and registration of lease documents. Further reply has not been received (December 2013).

6.7.4 Short levy of Stamp duty and Registration fees in respect of Development Agreements

Under the provisions of Article 5 (C) of IS Act, agreements are registered on Stamp duty of ₹ 1.60 and Registration fee is levied according to the table of fees. Section 2 (10) of the IS Act, provides that ‘conveyance’ includes conveyance on sale and every instrument by which property whether movable/immovable is transferred *inter vivos* and which is not otherwise specifically provided for by schedule I-A of the Act. Section 54 of the Transfer of Property Act, 1882 defines “sale” as transfer of ownership in exchange for a price paid or promised or part paid or part promised. The classification of an instrument depends upon the nature of the transaction recorded therein. Under the provisions of the IS Act and the Registration Act, read with rules contained in the Bihar Stamp (Prevention of undervaluation of instruments) Rules, an instrument of deed of conveyance is chargeable to duty and fees on the consideration money expressed in the instrument or value arrived at according to rates approved in the minimum estimated value of respective district, whichever is higher. Further, under the provisions of Rule 12 (4) (a) (iv) of Bihar Stamp (Prevention of undervaluation of instruments) Rules, 1995 while arriving at the final market value of the land, the use of land for domestic, commercial, industrial, agriculture purposes shall be considered.

The Department intimated in February 2013 that there is no separate provision for levy of Stamp duty and Registration fees on Development Agreements in Jharkhand. We test checked (May 2013) Book-I, Fee Books, Valuation Registers and computerised data of five¹⁵ DSR offices selected for the purpose of development agreements and found that 21 development agreements were registered in these offices during the period from 2007-08 to 2011-12. Of which Stamp duty and Registration fees was levied at the rates applicable for conveyance deeds in 20 cases and Stamp duty of ₹ 50 was levied in one case classifying it as simple agreement. We found that Stamp Duty

and Registration Fee was correctly levied in 17 cases. Scrutiny of remaining four documents revealed that owners of land authorised the developers to take possession of the land with right to construct, develop and deal with the land in accordance with the terms and conditions of the agreements. In exchange of the consideration to be received, the owners of land were entitled to a part of the developed land. The developers were entitled to dispose off their shares of developed land in such a manner as they deemed fit without requiring any consent from the owners. Thus, in absence of specific provision for levy of

¹⁵ Bokaro, Dhanbad, Jamshedpur, Hazaribag and Ranchi.

Stamp duty and Registration fees on development agreements these documents were required to be registered as conveyance deeds at a consideration arrived at by applying the market value of the land for residential purpose in accordance with the Bihar Stamp (Prevention of undervaluation of instruments) Rules, 1995.

However, we found that three documents were registered on incorrect consideration value, i.e., on advance payments made by developers to the owners of land while remaining one document was misclassified as a simple agreement instead of a conveyance deed. The department levied Stamp duty and Registration fee of ₹ 12,535 on advances of simple agreements of ₹ 2.48 lakh instead of ₹ 17.09 lakh on consideration value of ₹ 3.42 crore. This resulted in short levy of Stamp duty and Registration fee of ₹ 16.96 lakh¹⁶ including Registration fees of ₹ 3.39 lakh.

After we reported the matter in June 2013, the Government stated (August 2013) that proposal for amendment in Schedule I A of the IS Act for inclusion of provisions for Development Agreement was under process. Further reply has not been received (December 2013).

We recommend that the Government may consider formulating provisions for Development Agreements to prevent misclassification of documents and ensure uniformity in levy of Stamp duty and Registration fees to stop leakage of revenue.

16

District	No. of cases	Consideration value charged by office (₹)	Consideration value on which duty and fees was to be charged (₹)	Stamp Duty leviable @ 4% (₹)	Registration Fees leviable @ 3% (₹)	Stamp Duty levied (₹)	Registration Fees levied (₹)	Short Levy		
								Stamp Duty (₹)	Registration Fees (₹)	Total (₹)
Bokaro	1	0	14,55,773	58,231	14,558	50	0	58,181	14,558	72,739
Dhanbad	3	2,48,000	3,27,21,980	13,08,879	3,27,220	10,005	2,480	12,98,874	3,24,740	16,23,614
Total	4	2,48,000	3,41,77,753	13,67,110	3,41,778	10,055	2,480	13,57,055	3,39,298	16,96,353

B. TAXES AND DUTIES ON ELECTRICITY

6.8 Tax administration

The Commercial Taxes Department is responsible for levy and collection of Electricity Duty under the provisions of the Bihar Electricity Duty Act, 1948 (BED Act.) and Rules framed thereunder (adopted by the Government of Jharkhand). The Secretary-cum-Commissioner of Commercial Taxes, assisted by an Additional Commissioner, three Joint Commissioners of Commercial Taxes (JCCT) three Deputy Commissioners of Commercial Taxes (DCCT) and two Assistant Commissioners of Commercial Taxes (ACCT), is responsible for administration of the Act and Rules in the Department. The State is divided into five Commercial Taxes Divisions¹⁷ each under the charge of a JCCT (Admn.) and 28 circles, each under the charge of a DCCT/ACCT of the circle. The DCCT/ACCT assisted by Commercial Taxes Officers, is responsible for levy and collection of Electricity Duty.

6.9 Impact of Audit

6.9.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we had pointed out cases of non/short levy of electricity duty and/or surcharge with revenue implication of ₹ 10.56 crore in seven paragraphs. Of which the Department/Government accepted our observation of ₹ 2.04 crore. However, the Department/Government did not intimate recovery against these paragraphs. Details are mentioned below:

(₹ in crore)				
Year	No. of paragraph	Amount objected	Accepted recoverable amount	Amount recovered upto 2012-13 out of Col. 4
1	2	3	4	5
2007-08	1	1.67	NIL	NIL
2008-09	2	6.20	NIL	NIL
2009-10	1	0.22	NIL	NIL
2010-11	1	0.48	0.48	NIL
2011-12	2	1.99	1.56	NIL
Total	7	10.56	2.04	NIL

From the above it could be seen that the Department has not effected any recovery during the period between 2008-09 to 2011-12.

We recommend that the Government may instruct the Department to initiate action to recover non-realisation, under-charge of duty, etc. as pointed out by us, more so in those cases where it has accepted our contention.

6.9.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we pointed out cases of non/short levy of electricity duty and/or surcharge etc., with revenue implication of ₹ 16.83 crore in 27 cases. Of which the Department/Government accepted audit observations in five cases involving ₹ 2.47 crore but the recovery was not

¹⁷ Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Pargana.

intimated by the Department/Government. The details are shown in the following table:

(₹ in crore)

Year	Amount objected		Amount accepted		Amount recovered during 2012-13 out of Col. 5
	No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6
2007-08	1	1.67	NIL	NIL	NIL
2008-09	8	6.23	NIL	NIL	NIL
2009-10	4	1.58	NIL	NIL	NIL
2010-11	4	0.63	1	0.48	NIL
2011-12	10	6.72	4	1.99	NIL
Total	27	16.83	5	2.47	NIL

6.9.3 Status of compliance to Inspection Reports (2012-13)

Our test check of the records relating to Electricity Duty in 2012-13 revealed non/short levy of duty/tax and computation mistake involving ₹ 249.95 crore in two cases as mentioned below:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	“Levy and collection of Electricity Duty in Jharkhand” – A review	1	249.88
2	Mistake in computation	1	0.07
Total		2	249.95

The Department accepted our observation worth ₹ 247.72 crore.

In this chapter, we present a review of **“Levy and collection of Electricity Duty in Jharkhand”** and a paragraph having recoverable financial implication of ₹ 249.95 crore. These are discussed in the following paragraphs.

6.10 Levy and Collection of Electricity Duty in Jharkhand

Highlights

- There is no system in place for internal audit and cross-verification of transaction of electrical energy.

(Paragraph 6.10.9)

- Inspection fee amounting to ₹ 3.42 crore was not realised by the Chief Electrical Inspector from 924 industries/units pertaining to the periods between 2008-09 and 2012-13.

(Paragraph 6.10.10.1)

- There was short levy of electricity duty amounting to ₹ 15.80 crore including penalty of ₹ 13.10 crore during the period between 1996-97 and 2008-09 from 16 assesseees in four Commercial Taxes Circles due to application of incorrect rates.

(Paragraph 6.10.12)

- Allowance of incorrect exemption to an assessee during the period between 2003-04 and 2012-13 resulting in underassessment of electricity duty of ₹ 55.43 crore including mandatory penalty of ₹ 43.33 crore.

(Paragraphs 6.10.15.1 & 6.10.15.2)

- Cross-verification of data of the Jharkhand State Energy Regulatory Commission pertaining to the period 2007-08 with the returns furnished by the Jharkhand State Electricity Board led to detection of suppression of 912.46 million units of electrical energy which resulted in non-levy of electricity duty and surcharge of ₹ 8.01 crore besides mandatory penalty of ₹ 22.62 crore.

(Paragraph 6.10.16.1)

- Cross-verification of data of fitness certificate issued to diesel generating sets by the Chief Electrical Inspector to industries and other business establishments led to detection of 804 unregistered assesseees of which 48 found registered after due date and consequent non-levy of penalty of ₹ 6.60 crore.

(Paragraph 6.10.18)

6.10.1 Introduction

The levy and collection of Electricity Duty in Jharkhand is governed by the Bihar Electricity Duty Act, 1948 (Bihar Act 36 of 1948) and Bihar Electricity Duty (BED) Rules, 1949, as adopted by the Government of Jharkhand (15 November 2000). According to the provision of the Act/Rules the Commercial Taxes Department of the Government of Jharkhand has been assigned (October 1948) with the enforcement of the Act and collection of electricity duty (ED) from the seller and consumers on the units of the energy consumed or sold, excluding losses of energy in transmission and transformation, at rate(s) specified in the Schedule of the Act.

The Act provided for all the licensees, including Jharkhand State Electricity Board (JSEB), to collect ED from the consumers comprising industrial units, mines and other commercial consumers in the State. Subsequent to the amendment in Section 4 of the Act of 1948, by JED (Amendment) Act 2011 (October 2011), the industrial units, mines and other commercial consumers were liable to pay the duty directly to the Commercial Taxes Department by getting themselves registered in the concerned Commercial Taxes Circles. However, the said amendment was declared *ultra vires*¹⁸ by Hon'ble Jharkhand High Court in April 2012. Hence, the status of licensees to collect ED from consumers remained unchanged.

In June 2012, the BED Rules 1949 were also amended by Jharkhand Electricity Duty (Amendment) Rules 2012 (JED Rules) incorporating new rules regarding submission of returns, payment of duty, assessment and self assessment besides defining Bulk Supply of energy, High Tension Voltage Supply Services and e-payment of duty.

Duty is also leviable on generation of electricity and its consumption through Captive Power Plants and diesel/petrol/kerosene generating (DG) sets by industrial units and by a person or association of persons or any co-operative society for own use and for its members. The Chief Electrical Inspector (CEI), Energy Department, Jharkhand is responsible, under the Indian Electricity Act, 1956 and rules made thereunder, for granting annual fitness certificate to the electrical installations/DG sets on payment of prescribed annual fees for the purpose.

6.10.2 Scope of audit

The review of "Levy and Collection of Electricity Duty in Jharkhand" covering the period from 2008-09 to 2012-13 was conducted between January and June 2013. Thirteen circles¹⁹, out of 28 circles, were selected by the method of random sampling on the basis of revenue generated by each circle categorising them into high, medium and low risk²⁰. Further, on the request of the Commercial Taxes Department, one more circle (Adityapur) was also included in the sample selection. Besides, we also collected data/information

¹⁸ In the case of M/s Anjani Ferro Alloys Vrs. State of Jharkhand and others (WP (T) No. 2890 of 2011).

¹⁹ Bokaro, Dhanbad, Deoghar, Giridih, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Ramgarh, Ranchi South, Ranchi West and Tenughat.

²⁰ High risk- Annual revenue above ₹ 15 crore, Medium risk- Annual revenue between ₹ 2 crore and ₹ 15 crore and Low risk- Annual revenue below ₹ 2 crore.

from the office of the Chief Electrical Inspector (CEI), Ranchi regarding fitness certificates issued for electrical installations especially in respect of captive power generation/DG sets and Damodar Valley Corporation (DVC), Kolkata regarding electrical energy sold to the bulk purchaser/consumers in the State during the period from 2004-05 to 2012-13 and we cross-verified the data with the records of respective Commercial Taxes Circles.

6.10.3 Organisational Set-up

The Secretary-cum-Commissioner of Commercial Taxes (CCT) is responsible for administration of the BED Act and collection of electricity duty. He is assisted by Additional Commissioner and Joint Commissioners of Commercial Taxes, Joint Commissioners of Commercial Taxes (JCCT) of Bureau of Investigation (IB), Vigilance and Monitoring, along with other Deputy/Assistant Commissioners of Commercial Taxes (DCCT/ACCT). The DCCT (Hqrs.) is the co-ordinator for the computerisation of the Commercial Taxes Department (CTD).

The State is divided into five Commercial Taxes Divisions²¹, each under the charge of a Joint Commissioner (Administration) and 28 circles²² each under the charge of a DCCT/ACCT of the circle, responsible for levy and collection of ED due to the Government. DCCTs/ACCTs are assisted by Commercial Taxes Officers (CTOs). A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of Headquarters in each division.

The Secretary, Department of Energy is responsible for administration of the Electrical Inspectorate who is responsible for granting annual fitness certificate to the electrical installations/DG sets on payment of prescribed annual fees for the purpose. The Electrical Inspectorate is headed by the Chief Electrical Inspector who is assisted by a Senior Electrical Inspector, one Electrical Inspector, three Assistant Electrical Inspectors and three Junior Electrical Inspectors.

6.10.4 Audit objectives

The objectives of the review were to assess whether:

- the system of levy and collection of electricity duty in the State was effective and efficient;
- the criteria prescribed for grant of exemption from payment of electricity duty is strictly adhered to; and
- an adequate internal control mechanism existed to ensure proper realisation of electricity duty.

²¹ Dhanbad, Dumka, Jamshedpur, Hazaribag and Ranchi.

²² Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia (Sindri), Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahebganj, Singhbhum and Tenughat.

6.10.5 Audit Criteria

The review was conducted with reference to the provisions made under the following Acts/Rules:

- Bihar Electricity Duty Act, 1948 (BED Act) and Bihar Electricity Duty Rules, 1949 (BED Rules) as adopted by the Government of Jharkhand;
- Jharkhand Electricity Duty Amendment Rules, 2012;
- The Electricity Act, 2003;
- Indian Electricity Rules, 1956 and 2005; and
- Executive and departmental orders issued from time to time.

6.10.6 Acknowledgement

We acknowledge the co-operation of the Commercial Taxes Department in providing necessary information and records to us. We held an entry conference on 8 March 2013 with the Secretary-cum-Commissioner, Commercial Taxes Department, Government of Jharkhand in which the audit objective, scope of audit and its methodology was discussed in detail. The draft review was forwarded to the Department/Government in July 2013. The exit conference was held on 16 September 2013 with the Additional Commissioner of Commercial Taxes and Chief Electrical Inspector, Department of Energy, Government of Jharkhand in which the findings, conclusion and recommendations of the review were discussed. Views of the Government/Departments have been suitably incorporated in the Report.

6.10.7 Trend of revenue

The revised budget estimates (RE) and actual receipts from Taxes and Duties on Electricity along with the total tax receipts during the period 2008-09 to 2012-13 are exhibited in the following table and chart:

(₹ in crore)						
Year	Revised estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	74.00	43.47	(-) 30.53	(-) 41.26	3,753.21	1.16
2009-10	52.49	46.87	(-) 5.62	(-) 10.71	4,500.12	1.04
2010-11	53.56	53.50	(-) 0.06	(-) 0.11	5,716.63	0.94
2011-12	100.00	72.76	(-) 27.24	(-) 27.24	6,953.89	1.05
2012-13	142.00	110.72	(-) 31.28	(-) 22.03	8,223.67	1.35

Source: Finance Accounts and revised estimates as per Statement of Revenue & Receipts and Finance Accounts of the Government of Jharkhand.

From the above it could be seen that though the actual receipts increased from ₹ 43.47 crore in 2008-09 to ₹ 110.72 in 2012-13 i.e. it increased by 155 *per cent*, but the percentage of actual receipts *vis-à-vis* total tax receipts remained almost static i.e. it ranged between 0.94 and 1.35 *per cent* only.

In 2012-13, the collection of Taxes and Duties on Electricity increased by 52.17 *per cent* over the previous year. However, revenue collection during 2012-13 was 22.03 *per cent* less than the revised estimate.

6.10.8 Arrears of revenue

The position of arrears of revenue for the periods between 2008-09 and 2012-13 was not furnished by the test checked circles and the Commercial Taxes Department though called for (between February and June 2013).

We reported the matter to the Department/Government in July 2013. The Department/Government stated (September 2013) in the exit conference that arrears of revenue is maintained circle-wise and not head-wise (revenue). Further, it was stated that instructions are being issued to the circles to compile and furnish assessee-wise arrears of revenue for ED. Further reply has not been received (December 2013).

Audit findings

System Deficiencies

6.10.9 Internal Control Mechanism

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They help in prevention of frauds and other irregularities. Internal controls also help in the creation of reliable financial and management information systems for prompt and efficient service and adequate safeguards against evasion of Government revenue.

We scrutinised the internal control mechanism of the Commercial Taxes Department regarding levy and collection of electricity duty and noticed the following:

6.10.9.1 Internal Audit Wing

Internal audit is defined as the control of all controls as it is a means to ensure that the prescribed systems were functioning reasonably well. We observed (June 2013) that no internal audit wing existed in the Department for the purpose of ED. However, Finance Department acts as internal auditor of the Commercial Taxes Department.

It was noticed that no internal audit of assessments under the BED Act had been conducted in the Commercial Taxes Circles during the period between 2008-09 and 2012-13. Reasons though called for (June 2013), were not furnished to us.

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference (September 2013) confirmed that no internal audit was conducted in respect of ED assessments by the Finance Department.

We recommend that the Government may consider ensuring periodical audit either by the internal audit wing (Finance Department) or by the Value Added Tax (VAT) Audit Wing of the Commercial Taxes Department.

6.10.9.2 Bureau of Investigation (IB)

We noticed (June 2013) that no provision existed in the BED Act, 1948 for creation of IB for the purpose of ED. The Department neither created separate IB wing for the purpose of levy and collection of ED nor assigned any work relating to ED to the existing IB wing.

We called (May 2013) for the information regarding assignment of work/work done by the IB and reports and returns furnished by them to CCT during the period 2008-09 to 2012-13, but no information was furnished to us. However, in order to ascertain any leakage of revenue under the Act, we conducted cross-verification of data collected from the offices of Damodar Valley Corporation (DVC) Headquarters, Kolkata and CEI, Jharkhand, Ranchi with the records of the Commercial Taxes Department (CTD). Irregularities/deficiencies noticed therein have been discussed in paragraph number 6.10.17 of this report.

We reported the matter to the Department/Government in July 2013. The Department/Government stated (September 2013) in the exit conference that though IB has not been instructed to undertake works related to ED yet they have not been restricted either. The reply was not in order as we had called for (May 2013) the information regarding role and work done by IB with respect to ED but no information has been furnished to us till December 2013.

We recommend that the Government may consider assigning role to IB, specifically for the purpose of levy and collection of electricity duty in the State and creation of a database for cross-verification of transactions of electrical energy with other department(s).

6.10.9.3 Non-monitoring of reports and returns

No provision existed in the BED Rules 1949 and JED (Amendment) Rules 2012 for submission of reports and returns to the higher authorities. The Department also did not prepare any Manual prescribing submission of report and returns for proper monitoring of the administration of the Act.

We called for (between May and June 2013) the data/information from the office of the CCT regarding number of registered assessee alongwith date of liability, position of assessments finalised, inspections/survey carried out by the circles, for

the period between 2008-09 and 2012-13, but no information has been provided to us as of June 2013.

In the absence of any prescribed system for submission of reports and returns to the higher authorities, there was no monitoring at the apex level with regards to registration, assessment, inspections and surveys, affixation of seal to meters maintained for recording generation, distribution and sale of electrical energy etc.

We reported the matter to the Department/Government in July 2013. The Department/Government confirmed (September 2013) in the exit conference that no periodical report/returns are prescribed/and being furnished to the apex level. However, it was stated that the revenue collection from all the heads of revenue are analysed in the monthly meetings only.

The Government may consider prescribing periodic reports/returns from the circle level to the CCT containing information regarding levy and collection of ED to enable effective monitoring at the apex level.

6.10.9.4 Human resource management

Administration and collection of revenue largely depend on availability of adequate number of all categories of staff in the department and their efficient management.

The Commercial Taxes Department administers Value Added Tax, Central Sales Tax, Entertainment Tax, Entry Tax, Luxury Tax and Duties and Taxes on sale/consumption of

Electricity etc. However, no manpower is deployed separately for the administration of levy and collection of different taxes as mentioned above.

In order to analyse the human resource management, we called for (between May and July 2013) the circle-wise position of sanctioned strength and men in position *vis-à-vis* number of assessees/dealers registered under different heads of revenue for the period between 2008-09 and 2012-13. From the data furnished by the Department we noticed that:

- As on 31 March 2013, against the sanctioned strength of 207 officers²³, only 137 officers are posted in the 28 circles situated in the State. Thus, there was shortage of 70 officers. Data regarding other staff was not furnished to us though called for.
- The sanctioned strength and men-in-position in the test checked 14 circles as on March 2013 was as under:

Sl. No.	Name of the circle	Sanctioned strength		Men-in-position		Shortage	
		Officers	Others ²⁴	Officers	Others	Officers	Others
1	Ranchi West	11	20	7	20	4	0
2	Ranchi South	11	NF	7	NF	4	-
3	Jamshedpur Urban	10	NF	10	NF	0	-
4	Jamshedpur	11	39	8	21	3	18
5	Adityapur	9	31	6	19	3	12
6	Dhanbad	7	36	5	18	2	18
7	Bokaro	10	39	9	11	1	28
8	Katras	6	26	2	14	4	12
9	Jharia	6	40	3	21	3	19
10	Hazaribag	8	NF	6	NF	2	-
11	Ramgarh	8	NF	7	NF	1	-
12	Tenughat	6	23	3	10	3	13
13	Giridih	6	30	4	14	2	16
14	Deoghar	8	25	5	17	3	8
		117	309	82	165	35	144

Source: Information furnished by the concerned circles.

NF: Not furnished.

From the above it could be seen that there was significant shortage of officers (30 per cent) and other supporting staff (47 per cent) in the test checked circles.

²³ Deputy Commissioner of Commercial Taxes, Assistant Commissioner of Commercial Taxes and Commercial Taxes Officer.

²⁴ Others: Head Clerk, Statistician, Stenographer, Clerk, Driver and Peon.

Keeping in view the administration of VAT, CST and other heads by the Commercial Taxes Department, shortage of staff might have adversely affected the administration of ED in the State.

We reported the matter to the Department/Government in July 2013. The Department/Government accepted (September 2013) our observation of shortage of manpower against sanctioned strength and stated that limited human resources are being utilised to achieve target of collection. However, the Department remained silent on corrective measures being taken in this regard.

We recommend that the Government may consider deployment of manpower in accordance with the sanctioned strength for effective administration of the Act.

Compliance deficiencies

Department of Energy

According to the Rule 27 of the Indian Electricity Rules, 1956, no connection, for supply of electrical energy, shall be made until the consumer's installation has been inspected and tested by the licensee and found satisfactory. Further, the rules *ibid* provides for levy of fees for periodical testing and inspections and generally for the services of the Electrical Inspector(s) under the Act and the Rules, from the persons and in accordance with the scales specified in the schedule.

Further, according to Rule 46 (1) (a) and (2) (b) of the Indian Electricity Rules, 1956, where an installation is already connected to the supply system of the supplier, every such installation shall be periodically inspected and tested at intervals not exceeding five years either by the Inspector or by the supplier as may be directed by the State Government. However, in Jharkhand, the inspection fee is charged from the establishments annually. It is thus implied that inspections of electric installations should be carried out annually. Further, in the event of the failure of any consumer to pay the fees on or before the date specified in the fee-notice, supply to the installation of such consumer shall be liable to be disconnected under the direction of the Inspector. Such disconnections, however, shall not be made by the supplier without giving seven days notice in writing to the consumer of his intention to do so.

The year-wise number of units, liable for inspection and inspections carried out during the period from 2008-09 to 2012-13 was as under:

Year	Total number of units	Number of units inspected	Shortfall
2008-09	992	405	587
2009-10	1208	417	791
2010-11	1302	547	755
2011-12	1383	472	911
2012-13	1481	395	1086

Source: Information furnished by O/o the Chief Electrical Inspector, Jharkhand.

From the above it could be seen that there were significant shortfalls between the units liable for inspection to the units inspected during the above periods. The reason for shortfall was attributed to non-fixation of target for inspection.

6.10.10 Non-realisation of inspection fee

According to Rule 53 read with Rule 46 (2)(b) of the Indian Electricity Rules, 1956, the cost of first inspection and testing of a consumer's installation carried out in pursuance of the Rule 47 (guiding the testing of consumer's installation) shall be borne by the supplier and the cost of every subsequent inspection and testing shall be borne by the consumer. Further, in the event of the failure of any consumer to pay the fees on or before the date specified in the fee-notice, supply to the installation of such consumer shall be liable to be disconnected under the direction of the Inspector.

6.10.10.1 We noticed (June 2013) from the Demand, Collection and Balance (DCB) Register of the CEI that annual inspection fees of the industries/ consumers amounting to ₹ 3.42 crore, pertaining to the period between 2008-09 and 2012-13, was outstanding for collection from 924 industries/units. The district wise details are as under:

Sl. No.	District	Number of industry/units	Arrears as on 31 March 2013 (₹ in lakh)	Period to which the arrears relates (between)
1	Singhbhum	457	192.43	2008-09 and 2012-13
2	Ranchi	119	24.78	2009-10 and 2012-13
3	Giridih	53	20.91	2010-11 and 2012-13
4	Hazaribag	87	28.98	2009-10 and 2012-13
5	Bokaro	25	26.42	2009-10 and 2012-13
6	Koderma	14	4.42	2010-11 and 2012-13
7	Sahebganj	1	0.21	2012-13
8	Pakur	2	0.37	2011-12 and 2012-13
9	Latehar	5	1.51	2011-12 and 2012-13
10	Jamtara	5	1.32	2010-11 and 2012-13
11	Dumka	5	1.36	2011-12 and 2012-13
12	Deoghar	24	5.69	2010-11 and 2012-13
13	Dhanbad	127	33.13	2010-11 and 2012-13
Total		924	341.53	

We further noticed that the bills for inspection were raised but the amount remained unrealised as of June 2013.

We reported the matter to the Department/Government in July 2013. The Department/Government accepted (September 2013) our observation in the exit conference and stated that despite acute shortage of staff, action is being taken for realisation of the dues. It was further stated that till date recovery of ₹ 95.53 lakh pertaining to 158 units have been made and target has been fixed to realise the entire amount by March 2014. Further reply has not been received (December 2013).

6.10.10.2 Non-raising of demand of inspection fee

We also noticed from the DCB Register that in case of 74 industries/units, bills for the period between 2011-12 and 2012-13 were not prepared. Reasons

for non-raising of demand were not on record. In absence of the inspection reports the amount involved could not be quantified.

We reported the matter to the Department/Government in July 2013. The Department/Government stated (September 2013) in the exit conference that bills have not been raised due to 19 industries/units reportedly being closed or under the jurisdiction of Central Energy Authority (CEA)/ownership of the industry has changed. However, the Department did not furnish any details of these 19 industries/units. While in other 55 cases it was stated that bills have been raised between June and September 2013, but the Department was silent about the realisation against the bills raised. Further reply has not been received (December 2013).

Commercial Taxes Department

6.10.11 Incomplete assessments

The BED Act, 1948 and the BED Rules, 1949 did not provide for a time limit for finalisation of assessment. However, Rule 12 (as amended) of the Jharkhand Electricity Duty (Amendment) Rules 2012, put into force with effect from 18 June 2012 provides for finalisation of the assessment within 18 months of filing of the Annual Return to be furnished by the end of the month of September, after the expiry of the year.

We observed that while time frame for assessment was fixed in the amended Rules, no mention about steps to be taken in old un-assessed cases was made either in the amended rules or through any executive instruction of the department.

We called for (between January and May 2013) the data/information regarding circle-wise registered assessees, their date of liability and position of assessment as on 31 March 2013 from the 14 test checked circles. Of these, only eight circles²⁵ provided us the data and that too was incomplete. It was noticed from the data/information furnished by the eight Commercial Taxes Circles that out of 184 dealers registered in the circles, in the cases of 29 assessees, the date of liability/registration was not furnished to us. We observed that as on 31 May 2013, 670 cases were pending finalisation for assessments pertaining to the periods between 1995-96 and 2011-12.

Further, in Ramgarh and Tenughat Commercial Taxes Circles, in two cases, assessments for the periods 2002-03 and 2005-06 respectively, were not finalised but the assessments for later periods were finalised. Assessment records of the periods prior to 2002-03 of the assessee in Ramgarh Circle were not produced to us and the assessment of Jharkhand State Electricity Board, registered in Ranchi South Commercial Taxes Circle, remained unfinalised since 2004-05.

The age-wise analysis of pendency of unassessed cases was as mentioned in the following table:

²⁵ Bokaro, Deoghar, Giridih, Hazaribag, Jharia, Ramgarh, Ranchi South and Ranchi West.

Name of the Circle	Period				Total
	0-5 years	5-10 years	10-15 years	More than 15 years	
Deoghar	98	90	88	34	310
Ramgarh	67	5	0	0	72
Ranchi South	18	9	0	0	27
Ranchi West	58	9	0	0	67
Bokaro	52	10	5	0	67
Jharia	62	10	0	0	72
Hazaribag	28	0	0	0	28
Giridih	23	4	0	0	27
Total	406	137	93	34	670

We observed that there is no provision in the BED Act/Rules to maintain Demand, Collection and Balance Registers against individual assessee of electricity duty at the circle level. This resulted in irregular assessments of assesseees.

We observed that no separate target for collection of ED was set at the Circle(s) level by the Department during 2008-09 to 2012-13.

We reported the matter to the Department/Government in July 2013. The Department/Government accepted (September 2013) our observation in the exit conference. Further, it was stated that the circles have been instructed (September 2013) to complete all the assessments, upto the period of 2010-11, before 31 October 2013.

6.10.12 Non/short levy of electricity duty/penalty

Under the provisions of the Bihar Electricity Duty Act, 1948, the rate of electricity duty for mining purposes in all premises where the total load exceeded 100 British Horse Power is 15 *paise* per unit of energy sold or consumed. The duty on sale of electrical energy for industrial and domestic purposes is leviable at the rate of two *paise* and eight *paise* per unit respectively. It has judicially been held* that the process of mining comes to an end only when the ore extracted from the mines is washed, screened, dressed and then stacked at the mining site. Further, under the provisions of Section 5A (2) of Bihar Electricity Duty Act and rules made thereunder, every assessee shall pay electricity duty and surcharge due from him within two calendar months of the month to which the duty relates. In case of failure to pay duty and/or surcharge within the due date, the prescribed authority shall impose a penalty upto five *per cent* but not less than two and half *per cent* for each of the first three months or part thereof following the due date and upto 10 *per cent* but not less than five *per cent* for each subsequent month or part thereof.

- Chowgule & Co. Vrs Union of India (1981) 47 STC- 124 SC.

6.10.12.1 We noticed (between September 2012 and June 2013) from the assessment records in Hazaribag and Tenughat Commercial Taxes Circles that two assesseees had filed return and shown consumption of 18.64 crore units of electrical energy for washing of coal during the period between 2005-06 and 2008-09. The assessing authority also at the time of finalising the assessments (between March 2009 and February 2011) levied duty

at the rate of two *paise* per unit treating the consumption as for industrial use. However, as per the judicial pronouncement mentioned *ibid*, washing of coal comes under the category of mining activities and hence, duty was leviable at the rate of 15 *paise* per unit. This resulted in short levy of electricity duty of ₹ 2.42 crore (calculated at the differential rate of 13 *paise* per unit on 18.64 crore units). Besides minimum penalty of ₹ 3.37 crore for non-payment of duty was also leviable (**Annexure-I**).

Similar issue was pointed out in Paragraph Number 6.13 of the Report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended 31 March 2012. The Government/ Department while accepting the audit observation had raised additional demands in the cases pointed out by us. However, the irregularity still persisted.

6.10.12.2 We noticed (March 2013) in Hazaribag Commercial Taxes Circle that an assessee during 2006-07 had filed return and shown consumption of 4.53 crore units of electrical energy. Of which, consumption of 1.31 crore units were shown used for washing of coal and 3.22 crore units for domestic purposes. Thus, the ED leviable worked out to ₹ 45.48 lakh. However, the AA while finalising the assessment in March 2009 levied duty of ₹ 16.96 lakh by levying the duty at the rate of eight *paise* and two *paise* per unit in case of washing of coal and domestic purposes respectively. Incorrect application of rate of duty by the AA resulted in short levy of electricity duty of ₹ 28.52 lakh. Besides minimum penalty of ₹ 27.81 lakh was also leviable for non-payment of actual duty (**Annexure-II**).

6.10.12.3 We noticed from the assessment records and monthly returns furnished by five assesseees registered in Ramgarh Commercial Taxes Circle that the assesseees had not paid any surcharge during the period between 2003-04 and 2007-08. Though the AAs while finalising the assessments between August 2005 and June 2010 levied surcharge of ₹ 50.51 lakh (not recovered till the date of audit) but did not levy the mandatory penalty for non-payment of surcharge. Further, the AAs issued subsequent demand notices between January 2009 and August 2012 for payment of surcharge already levied but again did not levy the penalty for non-payment of surcharge. This resulted in non-levy of penalty of ₹ 1.41 crore (**Annexure –III**).

6.10.12.4 We noticed from the assessment records of two assesseees registered in Deoghar Commercial Taxes circle that the assesseees in their returns furnished for the period from 2004-05 to 2008-09 had shown consumption of 1.77 crore units of electrical energy on which ₹ 7.07 lakh²⁶ was payable as admitted duty and surcharge at the rate of 2 *paise* per unit. However, it was noticed that the admitted tax was paid with delays ranging between 14 days and 40 months & 17 days. The AA while finalising the assessments (March 2009 to August 2009) did not levy penalty for delayed payment of admitted tax resulting in non-levy of penalty of ₹ 6.06 lakh (**Annexure IV**).

6.10.12.5 We noticed from the assessment case records of an assessee registered in Ramgarh Commercial Taxes Circle that the assessee had filed returns for consumption of 66.27 crore of electrical energy during the period

²⁶ ED and surcharge at the rate of 2 *paise* per unit each.

between 2005-06 and 2010-11 and paid ED and surcharge of ₹ 4.42 crore. Though, the AA while finalising the assessments between August 2010 and March 2012 levied duty and surcharge of ₹ 10.29 crore correctly but did not levy penalty of ₹ 6.48 crore for non-payment of duty and surcharge (**Annexure-V**).

6.10.12.6 We noticed from the assessment records of five assesseees registered in Ramgarh Commercial Taxes Circle that the assessments for the period between 1996-97 and 2007-08 were finalised between January 2007 and February 2009. As the assesseees had not paid the surcharge during the periods, the assessing authority levied surcharge and penalty for non-payment of surcharge on due dates amounting to ₹ 86.39 lakh which was outstanding till May 2013. Though, the AAs issued reminders between August and September 2012 for payment of outstanding surcharge and penalty but did not levy penalty for non-payment of outstanding surcharge. However, we calculated the penalty for non-payment of surcharge amounting to ₹ 1.50 crore (calculated from the date of revised assessment to the date of issue of reminder for payment) (**Annexure-VI**).

We reported the matter to the Department/Government in July 2013. The Department/Government, in the exit conference held in September 2013, accepted our observation and stated that notices have been issued to the assesseees. Further reply has not been received (December 2013).

6.10.13 Non/short/delayed payment of electricity duty and surcharge

According to Rule 9 of the BED Rules 1949, every assessee shall submit returns within two calendar months from the expiry of the month to which the return relates. The returns shall be verified in the manner indicated therein. However, subsequent to the amendments made in the BED Rules, 1949 (Jharkhand Electricity Duty (Amendment) Rules, 2012), the above provisions stands deleted *w.e.f* June 2012. Further, under the provisions of the Section 5A (2) of Bihar Electricity Duty Act and rules made thereunder, every assessee shall pay electricity duty and surcharge due from him within two calendar months of the month to which the duty relates. In case of failure to pay duty and/or surcharge within the due date, the prescribed authority shall impose a penalty upto five *per cent* but not less than two and half *per cent* for each of the first three months or part thereof following the due date and upto 10 *per cent* but not less than five *per cent* for each subsequent month or part thereof.

In course of review we came across several cases of non-compliance of the provisions of scrutiny of returns resulting in non/ short/ delayed payment of duty and surcharge of ₹ 5.26 crore besides leviable penalty of ₹ 11 crore involved in 12 assesseees registered in three Commercial Taxes Circles as shown in the following table:

(₹ in crore)

Name of the circle Number of assesseees	Period	Leviable duty and surcharge Leviable Penalty	Duty and surcharge paid/levied penalty paid/levied	Balance ED & surcharge payable Penalty payable	Nature of irregularity
<u>Tcnughat</u> Two	2005-06 to 2011-12	<u>5.04</u> 8.98	<u>0.87</u> Nil	<u>4.17</u> 8.98	We noticed that two assesseees engaged in washing of coal had shown consumption of 25.85 crore units of electrical energy in their returns ²⁷ furnished during the period between 2005-06 and 2011-12 on which duty and surcharge of ₹ 5.04 crore was payable but the assesseees had paid ₹ 86.65 lakh only during the above period resulting in short payment of duty and surcharge of ₹ 4.17 crore. The assessing authority neither took any action for verifying the returns nor served any demand notice for short payment of duty and surcharge. This resulted in short payment of duty and surcharge of ₹ 13.15 crore including penalty of ₹ 8.98 crore.
<u>Jharia</u> One	2007-08 to 2010-11	<u>0.35</u> 0.44	<u>0.08</u> Nil	<u>0.27</u> 0.44	Though the assessee was engaged in mining activity (washing of coal) but paid ED at the rate of two paise per unit instead of correct/ payable rate of 15 paise per unit. Non scrutiny of returns by the AA resulted in short payment of duty. Besides penalty for non-payment of duty was also leviable.
<u>Tenughat</u> One	2008-09 to 2011-12	<u>0.60</u> 0.13	<u>0.53</u> Nil	<u>0.07</u> 0.13	We noticed that an assessee had shown consumption of 3.55 crore units of electrical energy in its returns ²⁸ furnished during the period between 2008-09 and 2011-12 and paid the ED accordingly but surcharge of ₹ 7.11 lakh though payable was not paid by the assessee. The prescribed authority neither took any action for verifying the returns nor served any demand notice for non-payment of surcharge. This resulted in non-realisation of surcharge of ₹ 7.11 lakh besides penalty of ₹ 13.23 lakh was also leviable for non-payment of surcharge.
<u>Ramgarh</u> Eight	2002-03 to 2011-12	<u>0.75</u> 1.45	<u>Nil</u> Nil	<u>0.75</u> 1.45	We noticed from the assessment records and monthly returns furnished by eight assesseees that the assesseees had not paid any surcharge during the period between 2002-03 and 2011-12. The assessments have not been finalised till June 2013. However, the AA on the basis of available returns ²⁹ in case of six assesseees and on the basis of complete returns in case of two assesseees levied surcharge of ₹ 74.57 lakh and issued demand notices between June 2010 and August 2012 but did not levy the mandatory penalty for non-payment of surcharge. This resulted in non-realisation of surcharge of ₹ 74.57 lakh. Besides penalty of ₹ 1.45 crore (calculated on the basis of available returns) was also leviable.
Total		<u>6.74</u> 11.00	<u>1.48</u> Nil	<u>5.26</u> 11.00	

27

Name of the dealer	Period for which returns not on record
CCL, Dugdha Colliery	2009-10- July 2009 and September 2009, 2010-11- May 2010, June 2010, February 2011 and 2011-12- December 2011.
CCL, Kathara Colliery	2009-10- July 2009

28

Name of the dealer	Period for which returns not on record
Bokaro Colliery	2008-09- May 2008, 2009-10- July 2009 and 2011-12- June 11 to March 12

29

Name of the dealer	Period for which returns not on record
CCL, Sirka	March 2009.
CCL, Central Saunda	July 2009 and February 2010.
CCL, Central Workshop, Barkakana	April 2010 and March 2011.
CCL, Saunda	June 2009, July 2009 and February 2010.
CCL, Rajrappa	December 2009, January 2010 and February 2010.
CCL, Bhurkunda	April 2006, August & September 2007, January & March 2008, May & June 2009, January, February, March & September 2010 and February 2011.

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that notices have been issued to the assesseees. Further reply has not been received (December 2013).

We further observed that when the provision for scrutiny existed, it was open to the Assessing Authorities (AAs) to scrutinise the return and levy deficient duty, surcharge, penalty etc. before assessment is finalised whereas under the amended provisions of the Act, the AAs has no such opportunity and has to wait till the assessment is finalised.

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that necessary steps will be taken to include the provisions in the JED Rules accordingly in the light of the existing provisions of Rule 18 of Jharkhand Value Added Tax Rules, 2006 related to scrutiny of returns.

We recommend that the Government may consider strengthening proper scrutiny of returns by introducing rules to ensure timely payment of duty by the assesseees and enforce the existing provisions of imposition of penalty in cases of defaulting assesseees.

6.10.14 Short levy of surcharge

Under the provision of Section 3A of the BED Act and rules made thereunder, every assessee shall pay, in addition to the duty due from him surcharge at the rate of two paisa per unit of energy consumed or sold.

We noticed (June 2013) in two Commercial Taxes Circles, Ramgarh and Ranchi South that two assesseees had filed return and shown use/consumption of 14.05 crore units of electrical energy between 2006-07 and

2008-09 and were liable to pay surcharge of ₹ 28.09 lakh. However, the assessing authorities while finalising the assessments between June 2010 and November 2011 incorrectly levied surcharge of ₹ 24.76 lakh only. This resulted in short levy of surcharge of ₹ 3.33 lakh. (**Annexure -VII**).

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that notices have been issued to the assesseees for further action. Further reply has not been received (December 2013).

6.10.15 Allowance/avilment of incorrect exemption

According to Section 4(1) & (2) of the BED Act, 1948, every licensee shall pay every month to the State Government proper duty on the units of energy consumed by him or sold by him to the consumer and every licensee may recover from the consumer the amount which falls to be paid by the licensee as duty in respect of energy sold to consumer. Further, according to Rule 9 of the BED Rules 1949, every assessee shall submit returns within two calendar months from the expiry of the month to which the return relates. The returns shall be verified in the manner indicated therein. Under the provisions of Rule 11 of the BED Rules, 1949, where there is a series of transfers of electrical energy the duty/ surcharge shall be payable only at the last point of such series of transfers. Furthermore, if the licensee fails to make payment of duty/surcharge due from him, penalty under the provisions of section 5(A)(2) of the BED Act, 1948 was also leviable. According to the schedule of rates, electricity duty for industrial purposes and domestic use are realisable at the rate of two and eight *paise* per unit respectively.

6.10.15.1 We noticed (February 2013) from the assessment records in Jamshedpur Urban Commercial Taxes Circle that a licensee/assessee during 2003-04 to 2007-08 had claimed exemption from payment of electricity duty on transfer of 289.57 crore units of electrical energy to 14 associated companies. However, cross-verification of records of the associated companies revealed that of the 14 companies, only eight companies were registered and six companies were not found registered under the BED Act. Further, the registered companies were not licensees under the BED Act and hence were not liable to pay the duty and surcharge. Thus, in the instant case, the licensee/ assessee transferring/selling the electrical energy to the consumers was liable to pay the duty and surcharge.

However, the assessing authority, while finalising the assessments between February 2009 and February 2012, incorrectly allowed exemption from levy of duty and surcharge under Rule 11 of the BED Rules, 1949. This resulted in non-levy/payment of electricity duty and surcharge amounting to ₹ 11.62 crore³⁰. Besides penalty for non-payment of duty and surcharge of ₹ 42.61 crore³¹ was also leviable (**Annexure –VIII**).

³⁰

	Units	Rate/ paise per unit	ED payable (₹)	Surcharge @ 2 paise per unit (₹)	Total (₹)
ED for industrial use	2,88,91,57,686	0.02	5,77,83,153.72	5,77,83,153.72	11,55,66,307.44
ED for domestic use	65,74,552	0.08	5,25,964.16	1,31,491.04	6,57,455.20
Total	2,89,57,32,238		5,83,09,117.88	5,79,14,644.76	11,62,23,762.64

³¹ Calculated at the rate of 2.5 *per cent* for first three months and 5 *per cent* thereafter for non-payment of duty and surcharge for the periods between 1 June 2004 and 17 December 2012 ranging between 54 and 90 months.

6.10.15.2 We further noticed (June 2013) from the returns furnished by the licensee/assessee for the period 2008-09 to 2011-12 that the licensee/assessee had claimed exemption from payment of electricity duty on transfer/sale of 13.89 crore units of electrical energy to an associated company. The assessments for the above periods were not finalised till May 2013. However, our cross-verification of records of the associated company revealed that the company registered in Jamshedpur Commercial Taxes Circle was not a licensee. Thus, the licensee/assessee, selling/transferring electrical energy to a consumer was liable to pay the duty and surcharge. This resulted in non-payment of electricity duty and surcharge amounting to ₹ 48.36 lakh³². Besides penalty of ₹ 72.32 lakh was also payable for non-payment of duty and surcharge during the above periods (**Annexure -IX**).

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that notices have been issued to the assesseees for further action. Further report has not been received (December 2013).

6.10.16 Jharkhand State Electricity Board as licensee and its assessments

The Jharkhand State Electricity Board (JSEB) being one of the largest electricity supplier, covering all the districts of Jharkhand, has been granted registration under the Bihar Electricity Duty Act (BED Act) as a licensee in the Ranchi South Commercial Taxes Circle.

We scrutinised the returns/assessments, annual financial statement(s) and energy bills raised by the JSEB during the scope of review and observed the following:

6.10.16.1 Suppression of sale of energy

Under the provisions of the BED Act, 1948 read with Rule 7 of the BED Rules, as adopted by the Government of Jharkhand, every licensee shall pay the duty on the units of energy consumed or sold, excluding losses of energy in the transmission and transformation. The duty is payable as per the schedule of rates under section 3 of the Act. Surcharge at the rate of two *paise* per unit of energy was also leviable. Further, if a licensee fails to make payment of duty/surcharge due from him, penalty under Section 5(A)(2) of the Act was also leviable.

We noticed (June 2013) from the assessment records of JSEB in Ranchi South Commercial Taxes Circle that the notice cum assessment, under Section 7A of the BED Act, 1948, for the periods from 2008-09 to 2010-11 were finalised (March 2012) on the basis of approved sales of energy as depicted in the tariff order (Table 10) passed by the Jharkhand State Energy Regulatory Commission

³² 2008-09 to 2011-12: 13.89 crore units- ED- ₹ 27.78 lakh (@ 2 *paise* per unit) + Surcharge- ₹ 20.58 lakh (@ 2 *paise* per unit).

(JSERC). However, the assessment for period 2007-08 was not finalised as of June 2013. We noticed from the annual return furnished by JSEB for the period 2007-08 that JSEB had shown sale of electrical energy for 2,729.84 million units³³ (excluding sale to Railways and for public lighting) only, whereas as per the tariff order passed by the JSERC, the approved sale of energy for the period 2007-08 was 3,642.30 million units³⁴ (excluding sale to Railways, inter-State sales and for public lighting). Thus, the JSEB had suppressed sale of 912.46 million units of electrical energy (excluding sale to Railways and public lighting) in its returns and was liable to pay duty and surcharge of ₹ 8.01 crore. Besides penalty of ₹ 22.62 crore was also leviable for non-payment of duty and surcharge (**Annexure X**).

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that notices have been issued to the assesseees for further action.

6.10.16.2 Non-levy of penalty on short payment of Electricity Duty

Under the provisions of Rule 6 of the BED Rules, 1949, every licensee shall deposit the duty/surcharge payable according to the return within two calendar months of the month to which the duty/surcharge relates. Further, if a licensee fails to make payment of duty/surcharge due from him, penalty under Section 5(A)(2) of the BED Act, 1948 was also leviable.

We noticed (June 2013) from the assessment records/returns that the JSEB had sold 1,349.94 crore units of electrical energy during 2008-09 and 2010-11 and had admitted electricity duty and surcharge of ₹ 92.01 crore against which payment of ₹ 51.38 crore was made till the date of assessment (March 2012). Thus, the assessee had made short payment of ₹ 40.63

crore as per annual returns filed. However, the AA while raising the demand under section 7A of the BED Act in March 2012 did not levy penalty for short payment of admitted electricity duty and surcharge resulting in non-levy of penalty of ₹ 30.30 crore. (**Annexure -XI**).

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that notices have been issued to the assesseees for further action.

6.10.16.3 Non-collection of electricity duty after amendment of BED Act resulting in blockage of Government revenue

According to Section 4 (1) & (2) of the BED Act, 1948 and corresponding Rules 6 and 11 of the BED Rules, 1949, every licensee shall pay every month to the State Government proper duty on the units of energy consumed or sold by him to the consumer after recovery from the consumer the amount which

³³ Total units: 2,729.84 MU- Domestic: 694.90 MU; Commercial: 183.90 MU; Public water works: 53.48 MU; Industrial (HT & LT): 1,797.56 MU.

³⁴ Total units: 3,642.23 MU - Domestic: 1,370.30 MU; Commercial: 214.40MU; Irrigation: 72.40 MU; Public water works: 70.20 MU and Industrial (HT & LT): 1,915.00 MU.

falls to be paid by the licensee. As such, the JSEB, being a licensee, was to collect ED from the consumers including industrial units, mines and other commercial consumers in the State. However, the Government in October 2011, following amendment (June 2011) in Section 4 of BED Act, 1948 by Section 5 of the Jharkhand Electricity Duty Act, 2011 (Jharkhand Act 10 of 2011), amended Rules 6 and 11 vide SO No. 177 dated 8 October 2011 in which the industrial units, mines and other commercial consumers were liable to pay the duty directly to the Commercial Taxes Department by getting them registered in the concerned Commercial Taxes Circles. Consequently, JSEB instructed its billing authorities to stop collection of ED from the industrial units, mines and other commercial consumers from November 2011.

The Jharkhand High Court in its judgment³⁵ (3 April 2012) declared Section 5 of the Amendment Act of 2011, amending Section 4 of the BED Act, 1948, as *ultra vires* and illegal. Thus, the status of the JSEB regarding collection of duty from industrial units, mines and other commercial consumers remained unchanged.

We called for data/information regarding sale of electrical energy by the JSEB to the high tension (HT)³⁶ consumers after October 2011. Of the 13 billing circles³⁷ of JSEB in Jharkhand, only nine circles³⁸ provided us the required data/information. However, our scrutiny of the data furnished by the nine billing circles revealed that the JSEB had not collected electricity duty on sale of 165.81 crore units of electrical energy from 1,421 HT consumers for the period between November 2011 and March 2013. No action was taken either by the Commercial Taxes Department or the JSEB for revival of collection of ED including collection of arrears from the consumers in the light of judgement made by the Jharkhand High Court even after a lapse of more than 16 months. As of September 2013, neither JSEB nor the CTD is collecting ED from the High Tension consumers. This resulted in Government revenue amounting to ₹ 8.29 crore not being collected between November 2011 and March 2013 (**Annexure XII**).

We reported the matter to the Department/Government in July 2013. The Department/Government, in the exit conference held in September 2013, accepted our observation and stated that notices have been issued to the assesseees for further action. Further reply has not been received (December 2013).

³⁵ M/s Anjani Ferro Alloys Limited *Vrs.* State of Jharkhand & Others (WP (T) No. 2890 of 2011).

³⁶ High Tension Consumers: Mines, Industry and Commercial Establishments.

³⁷ Chas, Chaibasa, Daltonganj, Deoghar, Dhanbad, Dumka, Garhwa, Gumla, Hazaribag, Jamshedpur, Pakur, Ranchi and Sahebganj.

³⁸ Chas, Chaibasa, Deoghar, Dhanbad, Dumka, Hazaribag, Jamshedpur, Ranchi and Sahebganj.

6.10.16.4 Non-payment of duty collected by JSEB

Under provisions of Section 4(1) of the BED Act, every licensee shall pay every month to the Government, at the time and in the manner prescribed, the proper duty payable on the units consumed or sold by him. Further, Section 4(2) empowers the licensee to recover duty from the consumers.

We noticed from the Annual Financial Statement of Accounts of the JSEB for the period 2008-09 to 2011-12 that the JSEB had not been depositing the actual duty collected by it. The details are shown as under:

(₹ in crore)

Year	Collection of ED	Current Liability shown in Balance Sheet	Payment to Government as per records at Commercial Taxes Department
2008-09	19.60	20.16	19.73
2009-10	22.10	32.72	15.00
2010-11	27.59	50.03	16.65
2011-12	53.83	79.51	28.00

From the above it could be seen that the liability increased from ₹ 20.16 crore in 2008-09 to ₹ 79.51 crore in 2011-12 which indicated non-payment of duty collected by the licensee to the Government.

6.10.17 Results of cross-verification

We noticed that the Commercial Taxes Department had no co-ordination with other Departments viz. JSEB, CEI (Energy Department) and DVC and had not taken any steps to widen the tax base by identifying the assessee liable to pay the ED. We collected data/information from JSEB, office of the CEI, Jharkhand and DVC, Kolkata in respect of sale of electrical energy to different consumers in Jharkhand and annual fitness certificate granted by the CEI for use of Diesel/Petrol/Kerosene Generator (DG) sets. We cross-verified the data with the records of the respective Circles of the Commercial Taxes Department. The data/information procured from other departments were handed over to the Commercial Taxes Department for further action at their end. In course of cross-verification, we came across several irregularities which consequently affected levy and collection of ED which are discussed in the succeeding paragraphs:

According to Section 4(4-a) of the BED Act, every person other than a licensee who obtains, for sale or partly for his own use and partly for sale, bulk supply of energy generated by a licensee or other person shall pay every month to the State Government at the time and in the manner prescribed, the duty payable under section 3 on the units of energy so obtained and sold or partly sold and partly consumed by him. Further, if a licensee fails to make payment of duty/surcharge due from him, penalty under Section 5(A)(2) of the BED Act, 1948 was also leviable.

6.10.17.1 We cross-verified (June 2013) the data received from JSEB with the registration records of Ranchi West Commercial Taxes Circle and observed that two assessee³⁹, under Central Coalfields Ltd. (CCL), engaged in mining of coal, under the jurisdiction of Ranchi West Commercial Taxes Circle, had purchased/consumed 3.98 crore units of electrical energy for the periods from 2007-08 to 2010-11(up to Nov 2010). We noticed that the assessee were not registered in the Ranchi West Commercial Taxes Circle and had not paid ED and surcharge during

the above period.

After we pointed out the matter, the Department stated (September 2013) that ED in case of one of the above assessee was being paid by the Piparwar Area registered in Hazaribag Commercial Taxes Circle bearing registration number HZ-ED-12. However, Central Coalfield Ltd. Ranchi stated (September 2013) that ED in respect of both the above mentioned collieries was being paid by the Piparwar Area in Hazaribag Commercial Taxes Circle. In order to confirm the facts, we further cross-verified (October 2013) the records of Hazaribag Commercial Taxes Circle and noticed that Piparwar Area had filed returns and paid ED for purchase of electrical energy from DVC only and no purchase/consumption was shown for electrical energy purchased from JSEB during the period from 2007-08 to 2010-11(upto November 2010). Non-detection of such transactions by the Commercial Taxes Department resulted in suppression of purchase and consumption of 3.98 crore units of electrical energy and consequent non-levy of ED and surcharge of ₹ 67.69 lakh. Besides, the assessee was liable to pay minimum penalty of ₹ 1.56 crore for non-payment of ED and surcharge (**Annexure -XIII**).

The up-to-date position has been reported to the Department/Government in October 2013. Further reply has not been received (December 2013).

6.10.17.2 We noticed (June 2013) in Hazaribag and Tenughat Commercial Taxes Circles that four units of Central Coalfield Limited (CCL)⁴⁰ had purchased 116.29 crore units of electrical energy from DVC during the periods between 2004-05 and 2010-11 but had accounted for 24.64 crore units only in their returns filed with the Commercial Taxes Circles. This resulted in suppression of 91.65 crore units and consequent short levy of

³⁹ KDH Project, Ranchi and Churi Colliery, Ranchi.

⁴⁰ Karo Special Project, Bokaro, Kargali and Giddi.

electricity duty and surcharge of ₹ 15.58 crore⁴¹. Besides penalty of ₹ 45.85 crore was also leviable (**Annexure –XIV**).

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that notices have been issued to the concerned assesseees for further action. Further reply has not been received (December 2013).

6.10.17.3 We noticed (June 2013) from the data collected from DVC that during 2007-08 to 2012-13 DVC had shown sale of 55.06 crore units of electrical energy to two licensees registered in Jharia and Jamshedpur Urban Commercial Taxes Circles. However, from the returns furnished by the licensees, in their respective Commercial Taxes Circles, it was seen that the licensees had not accounted for the purchases made from DVC. This resulted in suppression of purchase of 55.06 crore units of electrical energy for which the licensees were liable to pay ED and surcharge of ₹ 8.82 crore⁴². Besides penalty of ₹ 14.05 crore was also leviable (**Annexure -XV**).

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that notices have been issued to the assesseees for further action.

The BED Act does not provide for submission of documentation by the assessee in support of receipt of electrical energy from the licensee. Therefore, the assessee can suppress receipt of energy resulting in short levy of duty and surcharge.

We recommend that the Government may introduce suitable amendment in the BED Act incorporating submission of documentation supporting sale/purchase of electrical energy to contain leakage of revenue.

⁴¹ **ED-** ₹ 13.75 crore (at the rate of 15 *paise* per unit on 91.66 crore units) and **Surcharge-** ₹ 1.83 crore (at the rate of 2 *paise* per unit on 91.66 crore units).

⁴² **ED-** ₹ 7.97 crore (at the rate of 15 *paise* per unit on 49.30 crore units and at the rate of 10 *paise* per unit on 5.77 crore units) and **Surcharge-** ₹ 84.57 lakh (at the rate of 2 *paise* per unit on 42.29 crore units).

6.10.18 Non/delayed registration of assesseees

According to Rule 19 and 19 (A) read with Rule 16 of the BED Rules, 1949, every assessee shall install and maintain separate, suitable and correct meters or sub-meters to register the quantities of energy generated, distributed, sold or consumed by him. The Inspecting Officer (Commercial Taxes Department) may enter any premises which are used for generating or distributing energy or which contains any meter or other mechanical apparatus or any written record and call for information/records relevant to the generation/distribution and sale or consumption of energy. Further, the Inspecting Officer may affix one more seal or seals to any meter or sub-meter installed.

6.10.18.1 In course of the cross-verification we noticed in 16 Commercial Taxes Circles that 164 assesseees were registered in the circles and were using 258 DG sets for captive generation of electrical energy. We further noticed that the Department had not conducted any inspection of the business premises either to seal the meters or to ascertain quantity of energy generated through DG sets for his own use or for use of his employees

during the period between 2008-09 and 2012-13. As no data was available in the Circles regarding usage of electrical energy through DG/captive power plant sets either declared by the assesseees or ascertained by the Department, amount of non-levy of ED and resultant loss of revenue could not be quantified by us.

According to Section 4(4) of the BED Act, 1948, every person including any department of the State Government, other than a licensee, who generates energy for his own use or for the use of his employees, or partly for such use and partly for sale, shall pay every month at the time and in the manner prescribed the proper duty payable under Section 3, on the units of energy consumed by him or his employees or sold by him. Further, as per standing order (SO) issued by the Government in September 1987 and June 2012, payment of duty was exempted for the electrical energy generated by DG sets up to 5 KVA and 10 KVA capacities respectively. Further, if any licensee or other person who is liable to pay duty and surcharge under the BED Act fails to furnish returns within the prescribed time, he was liable to pay penalty under Section 5-A (1) of the BED Act.

6.10.18.2 We cross-verified the data collected from the office of the CEI, Jharkhand with the registration records of 16 Commercial Taxes Circles⁴³ and noticed that 756 persons/industries and other business establishments were granted permission and fitness for 1,103 DG sets, of capacity of more than 10 KVA, between July 1982 to February 2013 and thus, were liable to get themselves registered under the BED Act *w.e.f.* 10 September 1987 and to

⁴³ Adityapur, Bokaro, Chaibasa, Deoghar, Giridih, Hazaribag, Jamshedpur, Jamshedpur Urban, Koderma, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Singhbhum and Tenughat.

file returns for payment of duties.

We noticed that out of 756 persons/industries, 592 persons/industries, using 845 DG sets of capacity of more than 10 KVA were not registered in their respective Commercial Taxes Circles and were not filing any returns as of May 2013. The Department neither conducted surveys nor took any step to obtain details of DG sets certified by the CEI to identify the assesseees and bring them into the tax net. Non-detection of such cases by the Department resulted in non-assessment of quantum of electrical energy consumed/sold and consequently non-realisation of ED and surcharge, could not be quantified. However, the assesseees were liable to pay penalty of ₹ 6.17 crore⁴⁴ (calculated for the period between 10 September 1987 and 31 March 2013) for not getting themselves registered and filing returns under the Act (**Annexure XVI**).

6.10.18.3 We further noticed in 12 Commercial Taxes Circles⁴⁵ that 48 persons/industries using 56 DG sets were granted permission between August 1979 and June 2011 and were liable to get them registered under the BED Act, 1948 *w.e.f.* 10 September 1987. However, our scrutiny revealed that they were granted registration in the respective Commercial Taxes Circles between March 2008 and October 2012 after delays ranging between 129 and 8,440 days. The Department did not take any action to check the actual date of liability before granting registration to the persons/industries. Non-detection of such cases by the Department resulted in non-assessment of quantum of electrical energy consumed/sold and consequent non-levy of ED and surcharge for the period prior to the date of registration. The Department also did not levy penalty of ₹ 43.22 lakh⁴⁶ (calculated for the period between 10 September 1987 and 31 March 2013) for delayed registration/non-filing of returns from the date of actual liability (**Annexure XVII**).

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that notices have been issued to the assesseees for further action. However, in response to our observation that no co-ordination existed between the Energy Department and CTD for exchange of data resulting in non-registration of dealers using captive generating units and thereby loss of revenue, the Chief Electrical Inspector assured that in future the details of industries/units granted permission will be intimated to the CTD after getting one nodal officer deputed for this purpose from the CTD side. This was agreed by the CTD as well. Further reply has not been received (December 2013).

6.10.19 Conclusion

The review of '**Levy and Collection of Electricity Duty in Jharkhand**' revealed a number of deficiencies in administration of the Bihar Electricity Duty Act, 1948 and Rules made thereunder. The levy and collection of electricity duty and persistent non-compliance of rules and regulations coupled with a number of system deficiencies led to leakage of revenue. Lack of

⁴⁴ Calculated at the rate of ₹ 50 for each day of default.

⁴⁵ Adityapur, Bokaro, Chaibasa, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Singhbhum and Tenughat.

⁴⁶ Calculated at the rate of ₹ 50 for each day of default.

proper monitoring at the apex level of the Department and non-fixing of time frame for finalisation of assessment in the Act of 1948, till its amendment in 2011 resulted in non-assessment of substantial number of cases.

Non-inspections/surveys by the Department over the years also resulted in a large number of assessees not being brought to the tax net. No system existed in the Department for cross-verification of information with other departments/undertakings of the State/Central Government to check evasion of electricity duty.

The internal control framework was deficient in terms of inadequate internal audit, non-assignment of work to IB with respect of electricity duty and inadequate inspections by departmental officers. Consequently, there was substantial leakage of revenue due to non/short levy of duty and surcharge, application of incorrect rates, allowance of incorrect exemption, non-levy of penalty etc. In a nutshell, the Department did not take adequate action in either prescribing internal control procedures/measures or effectively enforcing existing control procedures in respect of Electricity Duty.

6.10.20 Summary of recommendations

The Government may consider:

- ensuring periodical audit either by the Internal Audit Wing (Finance Department) or by the VAT Audit Wing of the Commercial Taxes Department;
- assigning role to IB, specifically for the purpose of levy and collection of Electricity Duty in the State and creation of a database for cross-verification of transactions of electrical energy with other departments;
- prescribing periodic report/returns from the circle level to the CCT containing information regarding levy and collection of electricity duty to enable effective monitoring at the apex level;
- Deployment of manpower in accordance with the sanctioned strength for effective administration of the Act;
- strengthening proper scrutiny of returns by introducing Rules to ensure timely payment of duty by the assessees and enforce the existing provision of imposition of penalty in cases of defaulting assessee; and
- introducing suitable amendment in the BED Act incorporating submission of documentation supporting sale/purchase of electrical energy to contain leakage of revenue.

Other audit observation

6.11 Computation mistake

Under the provisions of the BED Act, the AA is to finalise the assessment with utmost care and efficiency. He should see that computation of duty and surcharge has been done accurately to the best of his knowledge and belief.

We noticed (June 2013) from the assessment records in Tenughat Commercial Taxes Circle that an assessee had returned receipt of 222.35 crore units of electrical energy during 2008-09. The assessing authority while finalising the assessment in December 2011 allowed exemption on the grounds

of transfer of 202.36 crore units to JSEB and 18.46 crore units being consumed in maintenance of plants and duty and surcharge on the balance 1.53 crore units was leviable. However, the AA levied duty and surcharge on 82.52 lakh units. This resulted in short levy of duty and surcharge on 70 lakh units amounting to ₹ 7 lakh⁴⁷.

We reported the matter to the Department/Government in July 2013. The Department/Government in the exit conference held in September 2013 accepted our observation and stated that notices have been issued to the concerned assesseees for further action.

⁴⁷ **ED:** Calculated at the rate of 8 *paise* per unit and **Surcharge:** Calculated at the rate of 2 *paise* per unit on 70 lakh units.

CHAPTER-VII

MINING RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter

In this Chapter we present illustrative cases of ₹ 35.57 crore selected from observations noticed during our test check of records during 2012-13 relating to Mineral concession, Fees and Royalty in the office of the Director of Mines, Dy. Director of Mines and District Mining Officers, where we found that the provisions of Act/Rules were not observed.

It is matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.

Trend of Receipts

In 2012-13, mining receipts increased by 18.01 *per cent* over the previous year.

Internal audit

The Department has no internal audit wing of its own. The Finance Department conducted audit of only one unit (DMO, Bokaro) during the period 2012-13.

Impact of audit conducted by us in 2012-13

In 2012-13 we test checked the records of 20 units relating to the Mines and Geology Department and found non/short levy of royalty, short levy of royalty due to downgrading of coal, non/short levy of dead rent, non-levy of penalty, non-levy of interest and other irregularities involving ₹ 68.78 crore in 1,254 cases. During the year 2012-13, the Department accepted underassessment and other deficiencies of ₹ 41.98 crore in 426 cases pointed out by us and recovered ₹ 4.28 crore.

Our conclusion

The Mines and Geology Department needs to improve the internal control system including setting up of Internal Audit Wing of its own so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

CHAPTER – VII: MINING RECEIPTS

7.1 Tax administration

The levy and collection of royalty in the State is governed by the Mines and Minerals (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Jharkhand Minor Mineral Concession Rules, 2004.

At the Government level, the Secretary, Mines and Geology Department and at the department level, the Director of Mines is responsible for administration of the Acts and Rules. The Director of Mines is assisted by an Additional Director of Mines (ADM) and Deputy Director of Mines (DDM) at the headquarters level. The State is divided into six circles¹, each under the charge of a DDM. The circles are further divided into 24 district mining offices², each under the charge of a District Mining Officer (DMO)/Assistant Mining Officer (AMO). The DMOs/AMOs are responsible for levy and collection of royalty and other mining dues. They are assisted by Mining Inspectors (MIs). DMOs and MIs are authorised to inspect the lease hold areas and review production and dispatch of minerals.

7.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

Actual receipts from Mining Receipts against budget estimates during 2008-09 to 2012-13 along with the total non-tax receipts during the same period is exhibited in the following table:

(₹ in crore)						
Year	Revised estimates	Actual receipts	Variation excise (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual receipts vis-a-vis total non-tax receipts of the State
2008-09	1,740.00	1,477.94	(-) 262.06	(-) 15	1,951.74	75.72
2009-10	2,126.47	1,733.15	(-) 393.32	(-) 18.50	2,254.15	76.89
2010-11	2,086.76	2,055.90	(-) 30.86	(-) 1.48	2,802.89	73.35
2011-12	2,759.75	2,662.79	(-) 96.96	(-) 3.51	3,038.22	87.64
2012-13	3,209.92	3,142.47	(-) 67.45	(-) 2.10	3,535.63	88.88

Source: Finance Account and revised estimates as per Statement of Revenue and Receipts Government of Jharkhand for 2013-14.

¹ Chaibasa, Daltonganj, Dhanbad, Dumka, Hazaribag and Ranchi.

² Bokaro, Chatra, Chaibasa, Daltonganj, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Ramgarh, Ranchi, Sahebganj, Saraikela-Kharsawan and Simdega.

In 2012-13, the receipts from Non-ferrous Mining and Metallurgical Industries increased by 18.01 *per cent* over the previous year. The Department stated that there increase was due to enhancement in rate of royalty on coal.

7.3 Working of Internal Audit Wing

As informed by the Department it has no Internal Audit Wing of its own. However, the Finance Department acts as an auditor. The Department has informed (September 2013) that the Finance Department has conducted audit of only one unit, DMO, Bokaro, during the period 2012-13 and raised 13 observations having financial implication of ₹ 12.82 crore. However, it did not intimate follow up action taken thereon (December 2013).

7.4 Analysis of arrears of revenue

The arrear of revenue as on 31 March 2013 were ₹ 763.17 crore, of which ₹ 158.42 crore were outstanding for more than five years as reported by the Department. The year-wise position of arrears of revenue during the period 2008-09 to 2012-13 is mentioned in the following table:

(₹ in crore)		
Year	Opening balance	Closing balance
2008-09	290.72	298.35
2009-10	298.35	285.58
2010-11	285.58	565.21
2011-12	565.21	567.45
2012-13	567.45	763.17

Source: Mines and Geology Department.

The arrears of revenue increased from ₹ 567.45 crore as on 31 March 2012 to ₹ 763.17 crore on 31 March 2013. The Department furnished the stages at which action on arrears of ₹ 933.34 crore³ was pending. Out of ₹ 933.34 crore, demand of ₹ 463.34 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 408.38 crore and ₹ 8.68 crore was stayed by Court and appellate authorities respectively. Demand of ₹ 28.65 lakh and ₹ 2.67 crore were held up due to rectification/review of application and dealer/party becoming insolvent respectively. Specific action taken in respect of the remaining arrears of ₹ 49.98 crore had not been intimated.

7.5 Impact of audit

7.5.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we had pointed out cases of non/short levy of royalty, rent and penalty with financial implication of ₹ 221.58 crore in 18 paragraphs. Of which the Department/Government accepted our observation of ₹ 195.51 crore and reported recovery of ₹ 259.30 crore upto 2012-13. The details are shown in the following table:

³ The Department furnished stages of recovery of arrears for an amount of ₹ 933.34 crore against the reported arrears of revenue of ₹ 763.17 crore as on 31 March 2013. This discrepancy needs to be reconciled by the Department.

(₹ in crore)

Year	No. of paragraph	Amount objected	Accepted recoverable amount	Amount recovered ⁴ upto 2012-13 out of Col. 4
1	2	3	4	5
2007-08	5	17.00	16.57	117.66
2008-09	3	22.75	13.33	124.44
2009-10	3	11.26	11.26	14.95
2010-11	6	24.26	14.65	1.89
2011-12	1	146.31	139.70	0.36
Total	18	221.58	195.51	259.30

Source: Information furnished by the Mines and Geology Department.

7.5.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we test checked 81 units relating to the Mines and Geology Department and pointed out through our Inspection Reports underassessment of royalty etc., with revenue implication of ₹ 795.80 crore in 15,390 cases. Of these, the Department/Government accepted audit observations in 12,646 cases involving an amount of ₹ 286.25 crore and recovered ₹ 44 lakh. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered upto 2012-13 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2007-08	14	10,908	407.80	10,114	203.12	0.10
2008-09	20	3,043	210.51	2,507	51.29	0
2009-10	11	249	126.65	23	11.26	0.32
2010-11	19	1,156	49.88	2	20.58	0.02
2011-12	17	34	0.96	0	0	0
Total	81	15,390	795.80	12,646	286.25	0.44

7.5.3 Status of compliance to Inspection Reports (2012-13)

Our test check during 2012-13 of the records of 20 units, having revenue collection of ₹ 2,292.78 crore, out of 33 units relating to the Mines and Geology Department. Test checked units revealed non/short levy of royalty, dead rent, penalty, interest and other irregularities involving ₹ 68.78 crore in 1,254 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of royalty	131	57.33
2	Short levy of royalty due to downgrading of coal	2	0.90
3	Non/short levy of dead rent	16	0.43
4	Non-levy of penalty	89	1.57
5	Non-levy of interest	22	0.32
6	Non-institution of certificate proceedings	89	4.89
7	Other cases	905	3.34
Total		1,254	68.78

⁴ Though the money value under Non-ferrous Mining and Metallurgical Industries was ₹ 17 crore, ₹ 22.75 crore and ₹ 11.26 crore for Audit Report 2007-08, 2008-09 and 2009-10 respectively the Government reported recovery of ₹ 117.66 crore, ₹ 124.44 crore and ₹ 14.95 crore.

During the course of the year, the Department accepted under-assessments and other deficiencies amounting to ₹ 41.98 crore in 426 cases pointed out by us during 2012-13 and recovered ₹ 4.28 crore in six cases.

In this chapter we present a few illustrative cases having recoverable financial implication of ₹ 35.57 crore. These have been discussed in succeeding paragraphs.

7.6 Non-observance of the provisions of Acts/Rules

The Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and the Minerals Concession (MC) Rules, 1960 provide for payment of royalty on the minerals removed and consumed from the leased area at the rates prescribed, within the due dates.

The Mines and Geology Department did not observe the provisions of the Acts/Rules with regard to application of correct rate of royalty, scrutiny and verification of monthly returns etc. in the cases mentioned in paragraphs 7.7 to 7.10 which resulted in non/short levy/realisation of ₹35.57 crore.

7.7 Short levy of royalty due to application of incorrect rate

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, Government of India (GOI) prescribed a formula for determination of rate of royalty on coal for various grades on the basis of basic pit head price of ROM⁵ coal. In case of iron ore, the rate of royalty is based on the iron content in the mineral under Rule 64 D of the MC Rules, 1960.

We scrutinised (between January and March 2013) the monthly returns furnished by 76 lessees out of 214 lessees in three Mining Offices⁶. Out of test checked 76 lessees we noticed that 28 lessees had dispatched 96.31 lakh MT of different minerals during 2011-12, on which royalty of ₹ 177.13 crore was levied instead of ₹ 209.35 crore leviable on the basis of basic pit head price of

ROM coal notified by the CIL and price of iron ore published by the IBM as prescribed under provisions of the Act. Thus, the DMOs did not enforce provisions of the Act for application of correct rates. This resulted in short levy of royalty of ₹ 32.22 crore as detailed in the table given below:

(₹ in lakh)

Sl. No	Name of the office Number of Leases	Name of the mineral Period	Quantity (in lakh MT)	Royalty leviable Royalty levied	Short levied	Remarks
1.	<u>Bokaro</u> 9	<u>Coal</u> 2011-12	9.73	<u>1,759.66</u> 1,588.76	170.90	Rate of royalty was not calculated on the basis of basic pit head price of ROM coal as notified by the Coal India Ltd.
2.	<u>Dhanbad</u> 17	<u>Coal</u> 2011-12	71.55	<u>11,464.55</u> 9,473.25	1,991.30	
3.	<u>Chaibasa</u> 2	<u>Iron Ore</u> 2011-12	15.03	<u>7,710.90</u> 6,650.94	1,059.96	Royalty was not calculated on the basis of iron content wise average monthly price published by the Indian Bureau of Mines.
Total	28		96.31	<u>20,935.11</u> 17,712.95	3,222.16	

⁵ Run of Mines.

⁶ Bokaro, Chaibasa and Dhanbad.

We reported the matter to the Department/Government in May 2013. The Government stated in September 2013 that demand for ₹ 32.08 crore had been raised in 28 cases pertaining to DMOs, Bokaro, Dhanbad and Chaibasa, of which ₹ 4.23 crore has been realised in three cases. In one case of Chaibasa it was stated that royalty was realised on the basis of all India average price of iron ore lump having iron content in excess of 65 *per cent*. The reply is not in order as our observation was based on calculation of royalty on the basis of monthly average price of iron ore lump having iron content ranging between 62 *per cent* and 65 *per cent* for Jharkhand. Further reply and reply on realisation in remaining cases is awaited (December 2013).

Similar issue featured in Paragraph No. 7.4.17.1 of Audit Report (Revenue Sector) for the year ended 31 March 2012, where the Government informed that demand had been raised for the entire amount of ₹ 13.53 crore. However, the nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

7.8 Short levy of royalty due to downgrading of coal

Section 9 of the MMDR Act, 1957 provides for payment of royalty by a lessee on the quantity of mineral removed or consumed from the leased area at the rate prescribed according to the grade⁷ of coal. Under the provisions of Rule 4(2) of the Colliery Control Rules, 2004, the owner of a colliery shall declare its grade and pay royalty at the rate specified.

We scrutinised (between November 2012 and March 2013) monthly returns and demand files of nine collieries out of 32 collieries in Mining Offices, Godda and Ramgarh. Out of test checked nine collieries, we noticed that two collieries, one each of Eastern Coalfields Ltd. (ECL) and Central Coalfields Ltd. (CCL), had paid royalty of ₹ 3.88

crore instead of ₹ 5.10 crore⁸ on dispatch of 3.88 lakh MT of coal in 2011-12 by downgrading the coal as grade-G and C-LF from grade F and B-LF respectively as declared by CCL and ECL in their grade notifications and reflected in their monthly returns submitted to the DMOs. The DMOs also did not scrutinise and verify the grades of dispatched coal as claimed by the collieries in their monthly returns with those notified by ECL and CCL for

⁷ Grade of coal is based on useful heat value, ash content and ash plus moisture contents.

Name of the colliery	Actual grade Down graded to	Period	Quantity dispatched (in MT)	Levied		Leviable		Short levy
				Rate (₹ per MT)	Amount	Rate (₹ per MT)	Amount	
Saunda-D	B-LF	April to Dec. 2011	26,622.39	187.50	49.92	329.50	87.72	46.35
	C-LF	Jan. to Mar. 2012	8,595.95	230.00	19.77	329.50	28.32	
Rajmahal OCP	G F	Between April and Dec. 2011	3,53,236.04	90.00	317.91	111.50	393.86	75.95
Total			3,88,457.38		387.60		509.90	122.30

levy of royalty at the correct rate. This resulted in short levy of royalty of ₹ 1.22 crore.

We reported the matter to the Government in May 2013. The Government accepted our observation in respect of Rajmahal OCP and stated (September 2013) that demand of ₹ 30.02 lakh had been raised by levying royalty at the rate of ₹ 98.50 per MT. However, we calculated the amount of royalty at the rate of ₹ 111.50 per MT on the basis of basic pit head price of ROM coal as notified by the Coal India Ltd. as per provision of the Act. Thus, the Department short raised the demand by ₹ 45.93 lakh. In case of Saunda-D colliery it was stated that reply furnished by the Project Officer, Saunda-D was being examined. Further reply has not been received (December 2013).

Similar issue featured in Paragraph No. 7.4.17.2 of Audit Report (Revenue Sector) for the year ended 31 March 2012 and the Government accepted those cases and raised demand for entire amount of ₹ 3.22 crore. The same irregularities are still persisting which shows weakness of the Internal Control System of the Department.

7.9 Short levy of royalty due to suppression of dispatch

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, as per order issued by the Department of Mines and Geology, Government of Bihar in June 1970, the DMO is required to check the monthly returns and compare with the DCB Register.

We scrutinised (November 2012) the monthly returns of Chitra colliery of Eastern Coalfields Ltd. out of nine collieries⁹ in District Mining Office, Deoghar. We noticed that in the month of February 2011 the closing stock of grade 'B' and 'D' coal was shown as 159.04 MT and 84,438.90 MT whereas in March 2011 the opening stock was depicted as 24 MT and 16,833 MT respectively. Thus, the lessee had suppressed dispatch of 135.04 MT of grade-B coal and 67,605.90 MT of grade-D coal.

Though, the DMO was required to scrutinise the monthly returns with the earlier month's returns vis-à-vis Demand Collection and Balance (DCB) Register, yet the same was not done. This resulted in the discrepancy remaining undetected with consequent short levy of royalty of ₹ 1.18 crore¹⁰.

⁹ Other collieries are non-functional.

¹⁰

Grade of coal	Closing Balance of February 2011	Opening balance of March 2011	Difference (in MT)	(₹ in lakh)	
				Rate of royalty (₹ per MT)	Short levy
B	159.04	24.00	135.04	329.50	0.44
D	84,438.90	16,833.00	67,605.90	174.50	117.97
Total			67,740.94		118.41

We reported the matter to the Government in May 2013. The Government stated (September 2013) that ₹ 1.85 lakh had been realised and certificate case had been instituted for ₹ 1 crore. However, action taken on remaining balance of ₹ 16.32 lakh had not been intimated. Further reply has not been received (December 2013).

Similar issue featured in first bullet of Paragraph No. 7.3.2.3 of Audit Report (Revenue Receipts) for the year ended 31 March 2009. However, nature of such lapses/irregularities are still persisting which shows ineffectiveness of internal control system to prevent recurring leakage of revenue.

7.10 Incorrect adjustment of royalty

Under the provisions of Section 9 of the MMDR Act, 1957, the holder of a mining lease is required to pay royalty on removal or consumption of the mineral from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. Further, the DMO is required to check the periodical monthly returns.

We scrutinised (November 2012) the monthly returns furnished by five sister collieries pertaining to one area¹¹ out of 22 collieries in District Mining Office, Ramgarh. Out of test checked five collieries we noticed that a colliery¹² had shown receipt of 28,682.26 MT of grade-B coal from its sister colliery¹³ during 2011-12 and adjusted a sum of ₹ 94.44 lakh treating it as royalty paid coal.

However, our cross-verification with the monthly returns of the sister colliery revealed that royalty had not been paid on the above. Thus, the colliery had availed of incorrect adjustment of royalty as the DMO did not cross-verify the returns submitted by the lessee with the returns of its sister colliery available in his office. This resulted in allowance of incorrect adjustment of royalty of ₹ 94.44 lakh.

We reported the matter to the Government in May 2013. The Government stated (September 2013) that demand of ₹ 1.14 crore had been raised against our observation of ₹ 94.44 lakh. However, report on realisation is awaited (December 2013).

¹¹ Barka Sayal Area.

¹² Bhurkunda colliery.

¹³ Saunda colliery.

Similar issue had also featured in Paragraph No. 7.4.17.3 of Audit Report (Revenue Sector) for the year ended 31 March 2012 wherein the Government accepted the cases and raised the demand for entire amount of ₹ 77.04 crore. However, nature of such lapses/irregularities are still persisting which shows ineffectiveness of internal control system to prevent recurring leakage of revenue.

Ranchi
The

(Mridula Sapru)
Principal Accountant General (Audit)
Jharkhand

Countersigned

New Delhi
The

(Shashi Kant Sharma)
Comptroller and Auditor General of India

APPENDICES

Annexure: I (Referred to in Para No. 6.10.12.1 of the Report)

Non/short levy of electricity duty/penalty

Sl No.	Name of the Circle	Name of the dealer/registration number	Period/date of assessment	Turn-over	Duty leviable	Duty levied	Short levy	Delay in months	Penalty @2.5% per month for 1st three months	Penalty @5% per month thereafter	Total penalty	Total duty and penalty	Remarks
				(in crore units)	(Rupees in crore)				(Rupees in crore)				
1	Tenughat	M/s Project officer, Kathara Colliery, Kathara/TG-ED-21	2006-07/23-02-2011	4.69	0.70	0.09	0.61	44	0.05	1.25	1.30	1.91	Washing of Coal, being a mining operation, has been incorrectly treated as industrial operation for levy of ED.
			2007-08/23-02-2011	5.26	0.79	0.11	0.68	32	0.05	0.99	1.04	1.73	
			2008-09/23-02-2011	4.68	0.70	0.09	0.61	20	0.05	0.52	0.56	1.17	
2	Hazaribag	CCL Giddi Washary Giddi/Hz-ED-08	2005-06/04-03-2009	1.00	0.15	0.02	0.13	33	0.01	0.20	0.20	0.33	
			2006-07/04-03-2009	1.50	0.23	0.03	0.20	21	0.01	0.18	0.19	0.39	
			2007-08/09-03-2010	1.51	0.23	0.03	0.20	9	0.01	0.06	0.07	0.27	
Total				18.64	2.80	0.37	2.42		0.18	3.19	3.37	5.79	

Annexure: II (Referred to in Para No. 6.10.12.2 of the Report)

Non/short levy of electricity duty/penalty

Name of the Circle	Name of the dealer	Period date of assessment	Turnover	Duty Leviable	Duty Levied	Short levy	Delay in months	Penalty @ 2.5% for three months	Penalty @ 5% thereafter	Total penalty	Total duty and penalty	Remarks
			(in lakh units)	(Rupees in lakh)				(Rupees in lakh)				
		Hazaribag	CCL Project Officer, Piparwar	<u>2006-07</u> 25-03-2009	131.48	19.72	10.52	9.20	21	0.69	8.28	
<u>2006-07</u> 25-03-2010	322.00			25.76	6.44	19.32	21	1.45	17.39	18.84	38.16	Duty was levied incorrectly @ 2 paise per unit applicable for industrial purposes instead of 8 paise per unit applicable for domestic purposes
Total			453.48	45.48	16.96	28.52		2.14	25.67	27.81	56.33	

Annexure-III (Referred to in Para no. 6.10.12.3 of the Report)
Non/short levy of electricity duty/penalty

(₹ in lakh)

Sl. No	Name of the circle	Name of the dealer/ Registration Nol	Period	Date of assessment	Date of demand/ reminder for surcharge	Surcharge levied/ leviable	Due date of payment (between)	Outstanding till	Extent of delay in months (between)	Penalty leviable for non- payment of surcharge	Total Surcharge + penalty	Remarks
1	Ramgarh	CCL,Sirka Colliery/ HZ-78	2007-08	2/6/2009	8/31/2012	5.35	1/6/2007 and 1/5/2008	8/31/2012	52 and 63 months	14.95	20.31	
			2006-07	2/4/2009	8/31/2012	4.95	6/1/2007	8/31/2012	63 months	15.21	20.16	
			2005-06	2/4/2009	8/31/2012	4.66	6/1/2006	8/31/2012	75 months	17.14	21.80	
			2004-05	2/4/2009	8/31/2012	4.67	6/1/2005	8/31/2012	87 months	19.95	24.61	
	Total					19.63				67.25	86.88	
2	Ramgarh	CCL, Central Saunda Colliery/ ED-13	2007-08	2/10/2009	8/31/2012	4.22	6/1/2008	8/31/2012	51 months	7.72	11.94	Penalty leviable Rs 10,45,592.58 less already levied Rs 2,74,045.95 = Rs 7,71,546.63
			2006-07	2/10/2009	8/31/2012	4.22	6/1/2007	8/31/2012	63 months	7.72	11.94	Penalty leviable Rs 12,98,112.98 less already levied Rs 5,26,184.22 = Rs 7,71,928.76
			2003-04	2/10/2009	8/31/2012	3.88	6/1/2004	8/31/2012	99 months	9.44	13.33	Penalty leviable Rs 18,92,685.70 less already levied Rs 948312.34 = Rs 9,44,373.36
	Total					12.33				24.88	37.21	

(₹ in lakh)

Sl. No	Name of the circle	Name of the dealer/ Registration Nol	Period	Date of assessment	Date of demand/ reminder for surcharge	Surcharge levied/ leviable	Due date of payment (between)	Outstanding till	Extent of delay in months (between)	Penalty leviable for non- payment of surcharge	Total Surcharge + penalty	Remarks
3	Ramgarh	CCL, Central Workshop Barkakana/ ED-77	2005-06	1/16/2007	8/31/2012	1.09	1/6/05 and 1/5/06	8/31/2012	76 and 87 months	4.37	5.46	
			2004-05	1/16/2007	8/31/2012	1.09	1/6/04 and 1/5/05	8/31/2012	88 and 99 months	5.02	6.11	
			2003-04	1/16/2007	8/31/2012	1.09	1/6/03 and 1/5/04	8/31/2012	100 and 111 months	5.68	6.77	
		Total				3.27				15.06	18.34	
4	Ramgarh	CCL, Saunda Colliery/ ED-15	2003-04	8/19/2005	1/20/2009	1.31	6/1/2004	1/20/2009	55 months	3.51	4.82	
		Total				1.31				3.51	4.82	
5	Ramgarh	CCL, Rajrappa Washery/ ED-10	2007-08	6/10/2010	8/31/2012	7.73	6/1/2008	8/31/2012	51 months	19.14	26.88	
			2006-07	6/10/2010		6.24	6/1/2007	6/10/2010	36 months	10.76	16.99	
		Total				13.97				29.90	43.87	
		Grand Total				50.51				140.60	191.11	

Annexure-IV (Referred to in paragraph no. 6.10.12.4 of the Report)

Non/short levy of Electricity Duty/Penalty

(Amount in ₹)

Period	Energy consumed (in lakh units)	Amount of admitted tax	Due date of payment (between)	Paid on (between)	Extent of delay (between)	Penalty @ 2.5% for Ist three months	Penalty @ 5% thereafter	Total penalty leviable
Name of the dealer: M/s La Opala RG Ltd.. Regn. No. DG/ ED-20								
2004-05	8.60	34,416.20	1-07-2004 and 1-06-2005	17-08-2004 and 25-06-2005	16 days and 7 months 24 days	1,607.98	1,784.77	3,392.75
2005-06	14.33	57,327.00	1-07-2005 and 1-06-2006	1-07-2005 and 31-07-2006	14 days and 2 months	1,151.07	273.50	1,424.57
2006-07	39.95	159,817.88	1-06-2006 and 1-06-2007	11/18/2009	29 months 17 days and 40 months 17 days	11,986.34	253,095.91	265,082.25
2007-08	39.32	157,278.80	1-06-2007 and 1-06-2008	11/18/2009	17 months 17 days and 28 months 17 days	11,795.91	154,873.94	166,669.85
2008-09	37.96	151,830.36	1-07-2008 and 1-06-2009	8/25/2009	2 months 24 days and 13 months 24 days	11,324.36	38,802.02	50,126.38
Total	140.17	560,670.24				37,865.66	448,830.14	486,695.80
Name of the dealer: M/s La Opala RG Ltd.. Regn. No. DG/ ED-19								
2004-05	4.58	18,303.28	1-07-2004 and 1-06-2005	6/25/2005	24 days and 11 months 24 days	1,269.06	3,446.84	4,715.90
2005-06	5.16	20,624.00	1-07-2005 and 1-06-2006	22-06-2005 and 31-07-2006	14 days and 2 months	395.15	86.67	481.82
2006-07	8.75	34,986.36	1-07-2006 and 1-06-2007	11/18/2009	29 months 17 days and 40 months 17 days	2,623.98	56,579.44	59,203.42
2007-08	9.88	39,515.68	1-07-2007 and 1-06-2008	11/18/2009	17 months 17 days and 28 months 17 days	2,963.68	38,699.97	41,663.65
2008-09	8.33	33,315.36	1-07-2008 and 1-06-2009	8/25/2009	2 months 24 days and 13 months 24 days	2,495.60	10,418.24	12,913.84
Total	36.69	146,744.68				9,747.47	109,231.16	118,978.63
G. Total	176.85	707,414.92				47,613.13	558,061.30	605,674.43

Annexure: V (Referred to in Para No. 6.10.12.5 of the Report)
Non/short levy of Electricity Duty/Penalty
Tata Steel Ltd. HZ/ ED - 41

(₹ in lakh)

Sl. No.	Year/Date of order	Total Units Consumed (in lakh units)	ED (15 paise per unit) + Surcharge (2 paise per unit) Payable	ED (2 paise per unit) + Surcharge (2 paise per unit) Paid	Short payment	Delay in months	Penalty @ 2.5% for 1st three months	Penalty @ 5% there after	Total Penalty	Remarks
1	2005-06/ 02.08.2010	1,042	161.26	75.83	85.44	50	6.41	200.77	207.18	The dealer made payment of ED @ 2 paise per unit by treating washing of coal as industrial operation though it is mining operation and ED is payable @ 15 paise per unit of electrical energy consumed.
2	2006-07/ 05.08.2010	1,087	169.92	74.13	95.79	38	7.18	167.64	174.82	
3	2007-08/ 05.08.2010	1,103	173.12	74.63	98.49	26	7.39	113.27	120.65	
4	2008-09/ 18.12.2010	1,122	174.43	74.24	100.19	18	7.51	75.14	82.66	
5	2009-10/ 18.12.2010	1,126	173.72	72.39	101.32	6	7.60	15.20	22.80	
6	2010-11/ 01.03.2012	1,148	176.19	70.36	105.83	9	7.94	31.75	39.69	
Total		6,627	1,028.64	441.57	587.07		44.03	603.77	647.80	

Annexure-VI- (Referred to in Para No. 6.10.12.6 of the Report)
Non/short levy of Electricity Duty/Penalty

(₹ in lakh)

Sl. No	Name of the circle	Name of the dealer	Regn No.	Period	Date of assessment	Surcharge assessed	Surcharge paid	Balance payable	Penalty levied up to	Date of reminder demand	Period for which penalty leviable	Extent of delay		Penalty leviable
												Months	Days	
1	Ramgarh	CCL, Saunda Colliery	ED/15	2004-05	1/16/2007	1.72	0.00	1.72	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	2.91
				2005-06	1/16/2007	1.57	0.00	1.57	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	2.65
Total						3.29	0.00	3.29						5.56
2	Ramgarh	CCL, Rajrappa Project	ED/11	2006-07	2/10/2009	3.88	0.00	3.88	2/10/2009	9/28/2012	11/2/09 to 28/9/12	43	17	8.45
				2007-08	2/10/2009	3.61	0.00	3.61	2/10/2009	9/28/2012	11/2/09 to 28/9/12	43	17	7.86
Total						7.49	0.00	7.49						16.32
3	Ramgarh	CCL, Central Saunda	ED/13	2004-05	1/16/2007	3.81	0.00	3.81	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	6.44
				2005-06	1/16/2007	4.00	0.00	4.00	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	6.76
Total						7.81	0.00	7.81						13.20
4	Ramgarh	CCL, Bhurkunda	ED/14	2003-04	1/16/2007	5.28	0.00	5.28	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	8.92
				2004-05	1/16/2007	4.85	0.00	4.85	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	8.20
				2005-06	1/16/2007	4.98	0.00	4.98	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	8.42
Total						15.11	0.00	15.11						25.54

₹ in lakh

Sl. No	Name of the circle	Name of the dealer	Regn No.	Period	Date of assessment	Surcharge assessed	Surcharge paid	Balance payable	Penalty levied up to	Date of reminder demand	Period for which penalty leviable	Extent of delay		Penalty leviable
												Months	Days	
5	Ramgarh	CCL, Sayal D	ED/16	1996-97	2/28/2007	4.63	0.00	4.63	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	7.82
				1997-98	2/28/2007	6.21	0.00	6.21	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	10.49
				1998-99	2/28/2007	5.08	0.00	5.08	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	8.59
				1999-00	2/28/2007	4.54	0.00	4.54	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	7.67
				2000-01	2/28/2007	4.92	0.00	4.92	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	8.31
				2001-02	2/28/2007	5.65	0.00	5.65	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	9.55
				2002-03	2/28/2007	5.01	0.00	5.01	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	8.47
				2003-04	2/28/2007	5.41	0.00	5.41	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	9.14
				2004-05	2/28/2007	5.54	0.00	5.54	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	9.36
				2005-06	2/28/2007	5.70	0.00	5.70	11/6/2009	8/31/2012	7/11/09 to 31/8/12	33	24	9.63
Total					52.69	0.00	52.69						89.05	
Grand Total					86.39	0.00	86.39						149.66	

Annexure-VII (Referred to in Paragraph No. 6.10.14 of the Report)
Short levy of surcharge

(₹ in lakh)

Sl. No	Name of the circle	Name of the dealer	Regn No.	Period	Date of assessment	Units of electrical energy consumed (in lakh units)	Surcharge levied	Surcharge leviable	Short levy
1	Ramgarh	CCL, Rajrappa Washery	ED/10	2006-07	6/10/2010	311.82	3.18	6.24	3.06
2	Ranchi South	Hindalco Industries	ED/26	2008-09	11/23/2011	1,092.72	21.58	21.85	0.27
Total						1,404.54	24.76	28.09	3.33

Annexure-VIII (Referred to in paragraph no. 6.10.15.1)

Allowance/availment of incorrect exemption

Sl. No.	Name of the dealer (M/s)	Regn.No.	Electrical energy in units received from M/s Tisco (in lakh units)				
			2003-04	2004-05	2005-06	2006-07	2007-08
1	Tata Cummins	JRED 08	Details not on record	250.25	255.28	287.93	54.64
2	Tata Timken Ltd.	JRED 05		189.04	188.85	188.02	34.65
3	Tinplate Co. Ltd.	JRED 16		774.74	816.58	847.61	143.21
4	ISWP Ltd	JRED 23		344.27	376.77	416.31	168.25
5	Telco Ltd.	JRED 21		2,280.00	2,276.61	2,590.58	421.67
6	BOC India Ltd.	JRED 22		2,370.01	2,433.14	2,343.28	313.43
7	TRF Ltd.	JRED 49		24.26	24.86	25.95	4.56
8	Telco Sewage	Unregistered		0.51	0.67	0.46	0.09
9	Telco Colony	Unregistered		16.41	13.00	11.73	0.38
10	TRF Colony	Unregistered		6.72	6.99	7.42	1.37
11	Tata Rayerson	Unregistered		33.04	32.30	34.98	6.25
12	Tata Pigment Ltd.	Unregistered		14.73	14.11	18.08	3.28
13	Indian Cable	Unregistered		14.30	20.37	14.41	2.48
14	Praxair	JUED 11		0.00	663.82	1,504.06	262.18
Total			5,808.44	6,318.27	7,123.36	8,290.83	1,416.43
Grand total							28,957.32

	Units (in lakh)	Rate/ paise per unit	ED payable (Rupees in lakh)	Surcharge @ 2 paise per unit	Total (Rupees in lakh)
ED for industrial use	28,891.58	0.02	577.83	577.83	1,155.66
ED for domestic use	65.75	0.08	5.26	1.31	6.57
Total	28,957.32		583.09	579.15	1,162.24

Period	Units for ind. Use	Units for dom. Use	ED	Surcharge	Total	Due date of payment	Date of assessment	Extent of delay (months)	Penalty @ 2.5% for 3 months	Penalty @ 5% thereafter	Total penalty leviable
	(in lakh units)		(Rupees in lakh)						(Rupees in lakh)		
2003-04	5,808.44	0.00	116.17	116.17	232.34	6/1/2004	6/11/2010	72	17.43	801.56	818.99
2004-05	6,294.63	23.64	127.78	126.37	254.15	6/1/2005	12/17/2012	90	19.06	1,105.55	1,124.61
2005-06	7,102.70	20.65	143.71	142.47	286.17	6/1/2006	12/17/2012	78	21.46	1,073.15	1,094.61
2006-07	8,271.22	19.61	166.99	165.82	332.81	6/1/2007	12/17/2012	66	24.96	1,048.35	1,073.31
2007-08	1,414.59	1.84	28.44	28.33	56.77	6/1/2008	12/17/2012	54	4.26	144.76	149.01
Total	28,891.58	65.75	583.09	579.15	1,162.24				87.17	4,173.37	4,260.54

Annexure -IX (Referred to in para no. 6.10.15.2 of the Report)
Allowance/availment of incorrect exemption

(Amount in ₹)

Period	Electrical Energy on which exemption claimed (in units Kwh)	ED	S/C	Total	Due date of payment	Not paid up to	No. of completed months	2.5% pm for 1st three months	5% pm thereafter	Total penalty	Total ED+SC+Penalty
2008-09	30,804,800.00	616,096.00	616,096.00	1,232,192.00	Jun-09	5/31/2013	48	92,414.40	2,772,432.00	2,864,846.40	4,097,038.40
2009-10	31,063,900.00	621,278.00	621,278.00	1,242,556.00	Jun-10	5/31/2013	36	93,191.70	2,050,217.40	2,143,409.10	3,385,965.10
2010-11	41,029,500.00	820,590.00	820,590.00	1,641,180.00	Jun-11	5/31/2013	24	123,088.50	1,723,239.00	1,846,327.50	3,487,507.50
2011-12	35,971,300.00	719,426.00	0	719,426.00	Jun-12	5/31/2013	12	53,956.95	323,741.70	377,698.65	1,097,124.65
Total	138,869,500.00	2,777,390.00	2,057,964.00	4,835,354.00				362,651.55	6,869,630.10	7,232,281.65	12,067,635.65

Annexure-X (Referred to in para no. 6.10.16.1 of the report)

Suppression of sales of energy

Sl. No.	Purpose of Usage (categories)	Total Unit sold	Units shown as sale through returns	Suppressed units	Rate per unit (In Paise)	ED Payable	Surcharge Payable	ED + Surcharge Payable	Penalty @ 2.5%	Penalty @5%	Total (ED+SC+Penalty)	Remarks
		(in lakh units)				(Rupees in lakh)						
1	Domestic	13,703.00	6,949.03	6,753.97	8	540.32	135.08	675.40	50.65	1,857.34	2,583.39	The dealer had suppressed sales turnover through returns, so ED/ Surcharge had short paid for 58 months.
2	Commercial	2,144.00	1,839.07	304.93	12	36.59	6.10	42.69	3.20	117.40	163.29	
3	Irrigation	724.00	0.00	724.00	2	14.48	14.48	28.96	2.17	79.64	110.77	
4	Public water works	702.00	534.79	167.21	2	3.34	3.34	6.69	0.50	18.39	25.58	
5	Industrial (HT+LT)	19,150.00	17,975.57	1,174.43	2	23.49	23.49	46.98	3.52	129.19	179.69	
Total		36,423.00	27,298.45	9,124.55		618.22	182.49	800.71	60.05	2,201.96	3,062.73	
6	Railways and public lighting	6,031.00	5,828.01	202.99	0	0.00	0.00	0.00	0.00	0.00	0.00	Exempted from levy of duty and surcharge
	Total	42,454.00	33,126.46	9,327.54		618.22	182.49	800.71	60.05	2,201.96	3,062.73	

Annexure: XI (Referred to in para no. 6.10.16.2 of the report)
Non-levy of penalty on short payment of Electricity Duty

(₹ in lakh)

Sl. No.	Year/Date of order	Total Units sold	ED + Surcharge Payable	ED + Surcharge Paid	Short payment	Period of delay in months	Penalty @ 2.5%	Penalty @ 5%	Total	Remarks
1	2008-09/10.03.2012	36,152.04	2,478.22	1,972.82	505.40	33	37.90	758.10	796.00	The dealer had made short payment of electricity duty/surcharge as per annual return filed by them.the assessing authority while making assessment did not levy penalty U/s 5A(2) of BED, Act, 1948.
2	2009-10/10.03.2012	38,609.26	3,000.02	1,500.00	1,500.02	21	112.50	1,350.01	1,462.52	
3	2010 -11/10.03.2012	60,232.19	3,722.85	1,665.00	2,057.85	9	154.34	617.36	771.69	
Total		134,993.50	9,201.08	5,137.82	4,063.27		304.75	2,725.47	3,030.22	

Annexure XII (Referred to in para no. 6.10.16.3 of the Report)

Non-collection of electricity duty after amendment of BED Act resulting in blockade of Government revenue

Sl. No.	Name of the Circle	No. of Consumer	Period	Units Sold	Duty leviable at the rate of 5 paise per unit (in Rupees)
1	Dhanbad	352	April 12 to March 13	318,191,992	15,909,600.00
2	Chaibasa	11	Nov-11 to Jan-13	2,378,812	118,940.58
3	Bokaro	60	July-12 to Mar-13	51,078,484	2,553,924.20
4	Dumka	18	Nov-11 to May-13	3,747,749	187,387.45
5	Deoghar	50	Jan-12 to Jan-13	137,189,248	6,859,462.40
6	Ranchi	380	April-12 to March-13	302,093,533	15,104,676.65
7	Jamshedpur	364	Jan12 to Dec.12	596,110,173.19	29,805,508.66
8	Sahebganj	11	Nov.2011 to March 2013	2,378,811.56	118,940.58
9	Hazaribag	175	Jan-12 to Jan-13	244,881,529.00	12,244,076.45
	Total	1421		1,658,050,331	82,902,516.97

Annexure-XIII (Referred to in Para No. 6.10.17.1 of the Report)
Results of cross-verification

(Amount in ₹)

Period	Unit consumed by KDH Project	Units consumed by Churi Colliery	Electricity Duty leviable/ Payable	Surcharge Leviable/ Payable	Total	ED/ Surcharge Paid	Non payment of ED/ Surcharge	Penalty @2.5% p.m	Penalty @5% p.m	Total	Delay in months
2007-08	8,066,880.00	2,792,340.00	1,628,883.00	217,184.40	1,846,067.40	0.00	1,846,067.40	138,455.06	5,584,353.89	7,568,876.34	69-58
2008-09	8,066,880.00	2,792,340.00	1,628,883.00	217,184.40	1,846,067.40	0.00	1,846,067.40	138,455.06	4,476,713.45	6,461,235.90	57-46
2009-10	8,066,880.00	2,792,340.00	1,628,883.00	217,184.40	1,846,067.40	0.00	1,846,067.40	138,455.06	3,369,073.01	5,353,595.46	45-34
2010-11	5,377,920.00	1,861,560.00	1,085,922.00	144,789.60	1,230,711.60	0.00	1,230,711.60	92,303.37	1,630,692.87	2,953,707.84	33-26
Total	29,578,560.00	10,238,580.00	5,972,571.00	796,342.80	6,768,913.80	0.00	6,768,913.80	507,668.54	15,060,833.21	22,337,415.54	
Grand Total							15,568,501.74				

Annexure- XIV (Referred to in Para No. 6.10.17.2 of the Report)

Results of cross-verification

(Amount in ₹)

Sl. No.	Name of the circle	Name of the dealer	Period	Energy Supplied by DVC in units	Total purchase shown	Suppressed Units	Electricity Duty Payable @ 15 Paise per Units	Surcharge Payable	Extent of delay in months	Penalty @2.5%	Penalty @5% p.m.	Total
1	Tenughat	M/s CCL Kargali	2005-06	111238800	54023899.00	57214901.00	8582235.15	1144298.02	82	729489.9878	38419806.02	48875829.18
			2006-07	102863935	49473053.00	53390882.00	8008632.30	1067817.64	70	680733.7455	30406107.3	40163290.98
			Total	214102735	103496952	110605783	16590867.45	2212115.66		1410223.733	68825913.32	89039120.16
2	Tenughat	M/s CCL Karo Special Project - ED -1	2004-05	9128500	6577041.00	2551459.00	382718.85	51029.18	94	32531.10225	2016928.34	2483207.47
			2005-06	12765764	8356702.00	4409062.00	661359.30	88181.24	82	56215.5405	3035639.187	3841395.27
			Total	21894264	14933743.00	6960521.00	1044078.15	139210.42		88746.64275	5052567.527	6324602.74
3	Tenughat	M/s CCL Bokaro Colliery ED - 39	2005-06	73704652	16036414	57668238.00	8650235.70	1153364.76	82	735270.0345	38724221.82	49263092.31
			2008-09	83323274	11892347	71430927.00	10714639.05	1428618.54	46	910744.3193	26108003.82	39162005.73
			2009-10	83886712	11675877	72210835.00	10831625.25	1444216.7	34	920688.1463	19027555.02	32224085.12
			2010-11	86147146	13268012	72879134.00	10931870.10	1457582.68	22	929208.9585	11769980.14	25088641.88
			Total	327061784	52872650.00	274189134.00	41128370.10	5483782.68		3495911.459	95629760.8	145737825.04
			G.T.	563058783	171303345	391755438	58763315.7	7835108.76		4994881.835	169508241.6	241101547.9
4	Hazaribag	M/s Giddi Colliery	2004-05	92406600	6111576	86295024.00	12944253.60	1725900.48	94	1100261.556	66749201.06	82519616.70
			2005-06	100375168	9135061	91240107.00	13686016.05	1824802.14	82	1163311.364	61267731.85	77941861.40
			2006-07	104242700	10926112	93316588.00	13997488.20	1866331.76	70	1189786.497	53143796.87	70197403.32
			2007-08	115905621	18089635	97815986.00	14672397.90	1956319.72	58	1247153.822	45728973.46	63604844.90
			2008-09	104791970	13993815	90798155.00	13619723.25	1815963.1	46	1157676.476	33186725.65	49780088.48
			2009-10	82168190	16799443	65368747.00	9805312.05	1307374.94	34	833451.5243	17224664.83	29170803.35
			Total	599890249	75055642	524834607	78725191.05	10496692.14		6691641.239	277301093.7	373214618.15
			F.G.T.	1162949032	246358987	916590045	137488506.8	18331800.9		11686523.07	446809335.4	614316166.09
							155820307.65			458495858.4		614316166.09

Annexure: XV (Referred to in Para No. 6.10.17.3 of the Report)

Results of cross-verification

Sl. No.	Name of the Circle	Name of the dealer (M/s)	Period	Energy Supplied by DVC	Total purchase shown	Suppression	Electricity Duty Payable	Surcharge Payable	Extent of delay in months	Penalty @ 2.5% p.m for three months	Penalty @ 5% p.m. thereafter	Total
				(in Units)			(in Rupees)			(in Rupees)		
1	Jharia	Tata Steel Ltd	2007-08	105,629,634	0.00	105,629,634	15,844,445.10	2,112,592.68	58	1,346,777.83	49,381,853.90	68,685,669.51
			2008-09	103,823,488	0.00	103,823,488	15,573,523.20	2,076,469.76	46	1,323,749.47	37,947,484.86	56,921,227.30
			2009-10	106,827,772	0.00	106,827,772	16,024,165.80	2,136,555.44	34	1,362,054.09	28,149,117.92	47,671,893.26
			2010-11	103,206,964	0.00	103,206,964	15,481,044.60	2,064,139.28	22	1,315,888.79	16,667,924.69	35,528,997.36
			Total	419,487,858	0.00	419,487,858	62,923,178.70	8,389,757.16		5,348,470.19	132,146,381.37	208,807,787.42
2	Jamshedpur Urban	JUSCO	2010-11	3,385,000	0.00	3,385,000	338,500.00	67,700.00	22	30,465.00	385,890.00	822,555.00
			2011-12	54,289,025	0.00	54,289,025	5,428,902.50	0.00	10	407,167.69	1,900,115.88	7,736,186.06
			2012-13	73,462,600	0.00	73,462,600	11,019,390.00	0.00	1	275,484.75	0.00	11,294,874.75
			Total	131,136,625	0.00	131,136,625	16,786,792.50	67,700.00		713,117.44	2,286,005.88	19,853,615.81
		Grand Total	550,624,483	0.00	550,624,483	79,709,971.20	8,457,457.16		6,061,587.63	134,432,387.24	228,661,403.23	
							88,167,428.36			140,493,974.87		

Annexure-XVI (Referred to paragraph no. 6.10.18.2 of the Report)

Unregistered assesseees

District	Number of assesseees	Number of DG Sets	Permission granted between		Delay in days between		Penalty (Amount in Rupees)
Ranchi	150	246	9/10/1987	1/7/2013	24	9275	14,003,250.00
Bokaro	12	14	2/22/1999	4/30/2012	276	5092	1,107,950.00
Hazaribag	43	55	6/15/1993	12/28/2012	34	7170	4,137,750.00
Jamtara	3	3	7/27/2005	2/9/2010	1087	2745	277,400.00
Chaibasa	5	5	2/22/2011	3/12/2012	325	709	100,450.00
Singhbhum	338	452	9/10/1987	1/7/2013	24	9275	38,356,700.00
Giridih	17	19	2/10/1998	9/25/2012	128	5469	1,486,650.00
Deoghar	17	44	11/25/1991	10/10/2012	113	7738	1,910,350.00
Koderma	7	7	5/3/2007	2/13/2013	0	2100	366,400.00
Total	592	845					61,746,900.00

ANNEXURE-XVII (Referred to paragraph no. 6.10.18.3 of the Report)

Name of the district	Registered		Registered but with a later date								
	Number of assessees	Number of DG sets	Number of assessee	Number of DG sets	Permission to use DG Set granted between		Date of registration between		Delay in days between		Penalty (In rupees)
Ranchi	21	34	4	5	8/21/1989	6/20/2011	1/5/2012	10/30/2012	140	8440	713,350.00
Bokaro	9	32	8	9	9/1/1999	3/15/2011	12/15/2011	2/17/2012	242	4477	732,100.00
Hazaribag	7	10	9	11	9/10/1987	2/24/2010	3/31/2008	3/31/2012	641	8179	930,350.00
Jamtara	0	0	0	0	0	0	0	0	0	0	0.00
Chaibasa	0	0	0	0	0	0	0	0	0	0	0.00
Singhbhum	61	98	27	31	3/18/1998	7/6/2010	1/10/2011	1/10/2011	129	4622	1,946,400.00
Giridih	10	12	0	0	0	0	0	0	0	0	0.00
Deoghar	6	13	0	0	0	0	0	0	0	0	0.00
Koderma	2	3	0	0	0	0	0	0	0	0	0.00
Total	116	202	48	56							4,322,200.00