

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

**FOR THE YEAR ENDED
31 MARCH 2000**

(REVENUE RECEIPTS)

GOVERNMENT OF BIHAR AND JHARKHAND

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PREFATORY REMARKS

This Report for the year ended 31 March 2000 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising taxes on sales, trade etc., state excise, taxes on vehicles, land revenue, other tax receipts, mineral concession, fees and royalties and other non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1999-2000 and early part of 2000-2001 as well as those which came to notice in earlier years but could not be covered in previous Reports.

The auditee units pertaining to newly formed Jharkhand State have been shown in this Report in italics.

OVERVIEW

This Report contains 45 paragraphs including 2 reviews relating to non-levy, short levy of tax, penalty, interest, etc., involving Rs. 531.12 crore, which is 12.50 per cent of the revenue receipts of 1999-2000. The Government has accepted audit observations involving Rs. 35.39 crore upto January 2001. Some of the major findings are mentioned below: -

1. General

The total receipts of the Government of Bihar for the year 1999-2000 were Rs.10659.53 crore against Rs.9296.19 crore during 1998-99. The revenue raised by the State Government amounted to Rs.4250.65 crore comprising tax revenue of Rs 3084.79 crore and non-tax revenue of Rs.1165.86 crore. The receipts from Government of India were Rs.6408.88 crore (State's share of divisible Union taxes Rs.4962.59 crore and grants-in-aid Rs.1446.29 crore). Thus, the State Government could raise only 40 per cent of total revenue. Taxes on Sales, Trade etc. (Rs. 2067.79 crore) and Non-ferrous Mining and Metallurgical Industries (Rs.707.56 crore) were the major source of tax and non-tax revenues respectively during the year 1999-2000.

[Paragraph 1.01(i) and (ii)]

The actual receipts of revenue indicated wide variation from Budget estimates. Test check of records of Finance Department in respect of revenue receipts under the major heads State Excise and Taxes on Vehicles revealed that the estimates were based on adhoc assumptions and the enhancements had the effect of merely lowering the gap of revenue deficit during budget proposals.

[Paragraph 1.02(b)]

The arrears of revenues pertaining to Taxes on Sales, Trade etc., Non-ferrous Mining and Metallurgical Industries, Taxes on Vehicles, Taxes and Duties on Electricity, Water rates and State Excise amounted to Rs.1377.74, 390.13, 197.09, 92.84, 84.27 and 52.77 crore respectively at the end of March 2000.

[Paragraph 1.07]

Test check of the records of Commercial Taxes, Excise and Prohibition, Transport, Land Revenue, Mines and Geology and other departmental offices conducted during 1999-2000 revealed under assessment/short levy of revenue amounting to Rs. 854.88 crore in 22195 cases. The concerned departments accepted audit observations on under assessment etc. of Rs.23.85 crore involved in 2384 cases of which 768 cases involving Rs.12.87 crore had been pointed out in audit during 1999-2000 and the rest in earlier years.

[Paragraph 1.09]

The number of inspection reports and audit observations issued upto December 1999 but not settled by June 2000 stood at 10324 and 43704 respectively involving Rs.3492.50 crore. In respect of 3260 inspection reports, even the first replies have not been received although these were required to be furnished within one month of their receipts.

[Paragraph 1.10]

2. Topics of special importance

Suppression of goods received by 110 manufacturing dealers in 18 Commercial Taxes Circles resulted in non/short accounting of goods valued at Rs. 10888.08 lakh and evasion of tax amounting to Rs. 2353.47 lakh.

[Paragraph 2.01(A)(a)]

Non/short accounting of goods valued at Rs.2407.09 lakh received from outside state by 27 dealers in 20 Commercial Taxes Circles resulted in evasion of tax of Rs. 994.12 lakh.

[Paragraph 2.01(B)(a)]

3. Taxes on Sales, Trade etc.

In 22 Commercial Taxes Circles, 54 dealers suppressed turnover of Rs. 5439.50 lakh resulting in under assessment of tax of Rs. 924.34 lakh.

[Paragraph 3.02]

In 2 cases of 2 circles, surcharge amounting to Rs. 521.11 lakh was short levied.

[Paragraph 3.03]

In 6 cases of 4 circles, due to sales not supported by prescribed declaration forms under Central Sales Tax Act, tax amounting to Rs. 374.96 lakh was short levied.

[Paragraph 3.06(A)]

In 2 cases of 2 circles, tax of Rs. 56.85 lakh was short levied due to misclassification of goods.

[Paragraph 3.09]

In one case of a circle, assessment was completed after closing down of business resulting in loss of revenue of Rs. 1056.86 lakh.

[Paragraph 3.13]

4. State Excise

In 18 Excise districts, 777 retail vendors were permitted to lift 346523.87 LPL of country spirit in excess of 30 per cent above the approved MGQ without receiving the additional amount resulting in non-realisation of revenue of Rs. 47.86 lakh.

[Paragraph 4.03]

5. Taxes on vehicles

A review on "Recovery of dues treated as arrears of land revenue" revealed as under: -

- Non-furnishing of details by District Transport Officers to District Certificate Officers resulted in blockade of revenue of Rs. 3866.98 lakh.

[Paragraph 5.02.07(ii)(b)]

- In 3 districts, there was loss of revenue of Rs. 1144.78 lakh due to dropping of 1763 cases.

[Paragraph 5.02.08(a)]

- Withholding of 253 certificate cases resulted in non-realisation of arrears of Rs. 408.11 lakh.

[Paragraph 5.02.08(c)]

- There was delay ranging from 3 to 84 months in execution of 6203 certificate cases of Rs. 5230.17 lakh.

[Paragraph 5.02.09(a)(ii)]

In 10 districts, in respect of 86 transport vehicles there was short realisation of tax amounting to Rs. 55.53 lakh.

[Paragraph 5.05]

In 5 districts, tax of Rs. 92.48 lakh was not realised from 52 dealers/manufacturers in respect of 114728 vehicles.

[Paragraph 5.09]

6. Land Revenue

In 3 revenue districts, there was loss of revenue of Rs. 14095.78 lakh in shape of *salami*, penal rent and interest due to non-renewal / violation of terms and conditions of lease hold property.

[Paragraph 6.02(A)]

In 42 revenue anchals in 13 districts, 1323 *raiyats* converted 264.76 acres of agricultural land for commercial uses viz. setting up of different business establishments which resulted in non-realisation of revenue amounting to Rs. 416.41 lakh.

[Paragraph 6.03]

In 2 revenue anchals, 11500.56 acres of waste land was distributed among 12 persons much in excess of the limit prescribed for Sarvodaya Co-operative Society. Incorrect distribution of *Bhoodan* land resulted in loss of revenue amounting to Rs. 134.52 lakh in shape of rent and cesses.

[Paragraph 6.04]

7. Other Tax Receipts

In 15 districts, under valuation of property in 1499 cases resulted in short levy of Stamp duty and Registration fees of Rs. 439.44 lakh.

[Paragraph 7.02]

8. Mineral Concession, Fees and Royalties

A review on " Levy and collection of royalty and other mining dues in respect of major minerals" revealed as under: -

- In 4 districts, demands for royalty and price of minerals amounting to Rs 7270.76 lakh for illegal and unauthorised mining of 16.52 lakh tonnes of coal, lime stone, etc. during the period between May 1994 and March 1999 were not raised.

[Paragraph 8.02.06]

- In 5 districts, 12.73 lakh tonnes of coal, 0.87 lakh tonnes of lime stone, 196.58 lakh tonnes of iron ore, 0.22 lakh tonnes of graphite and 0.06 lakh tonnes of dolomite remained undisposed of for periods ranging between 1 and 9 years on which royalty payable amounting to Rs. 3019.59 lakh remained unpaid.

[Paragraph 8.02.07]

- In *Hazaribagh* district, a private sector coal company did not pay royalty of Rs. 102.01 lakh for consumption/sale of 2.04 lakh tonnes of coal during the period March 1998 and February 1999.

[*Paragraph 8.02.08*]

- In 7 districts, surface rent was not fixed at the commercial rate resulting in non/short levy of surface rent of Rs. 2238.02 lakh.

[*Paragraph 8.02.09*]

9. Other non-tax receipts

In one forest division, non-disposal of perishable forest produces resulted in loss of revenue of Rs. 10.47 lakh.

[*Paragraph 9.02*]

In 5 forest divisions, demand of Rs. 626.37 lakh at revised rates was not raised for diversion of forest land for non-forest purposes.

[*Paragraph 9.03*]

CHAPTER 1: General

1.01 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Bihar during the year 1999-2000, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding 2 years are given below: -

(Rupees in crore)

		1997-98	1998-99	1999-2000
I.	Revenue raised by the State Government	3624.33	3827.64	4250.65
	(a) Tax revenue	2399.82	2681.35	3084.79
	(b) Non-tax revenue	1224.51	1146.29	1165.86
II.	Receipts from the Government of India	5854.59	5468.55	6408.88
	(a) State's share of divisible Union taxes	4074.30	4441.23	4962.59
	(b) Grants-in-aid	1780.29	1027.32	1446.29
III.	Total receipts of the State Government* (I&II)	9478.92	9296.19	10659.53
IV.	Percentage of I to III	38	41	40

The above table indicates that during the year 1999-2000, the State Government could raise only 40 per cent of the total revenue receipts (Rs.10659.53 crore) and 60 per cent of receipts were from Government of India. The contribution of revenue raised by the State Government to total revenue receipts remained almost stagnant during the period from 1997-98 to 1999-2000.

* For details, please see Statement No.11-Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government for the year 1999-2000. Figures under the Major head "0021-Taxes on Income other than Corporation Tax – Share of net proceeds assigned to States" booked in the Finance Accounts under 'A – Tax Revenue' have been excluded from 'Revenue raised by the State' and included in 'State's share of divisible Union taxes' in this statement.

(i) The details of the tax revenue raised during the year 1999-2000, alongwith the figures for the preceding 2 years, are given below: -

(Rupees in crore)

Sl. No.	Head of Revenue	1997-98	1998-99	1999-2000	Percentage of Increase (+) / decrease (-) in 1999-2000 over 1998-1999
1.	Taxes on Sales, Trade etc.	1567.64	1821.85	2067.79	(+) 13
2.	State Excise	226.36	239.51	277.80	(+) 16
3.	Stamps and Registration Fees	253.13	279.34	325.77	(+) 17
4.	Taxes on Vehicles	174.07	164.96	178.47	(+) 8
5.	Taxes and Duties on Electricity	42.32	67.04	85.25	(+) 27
6.	Land Revenue	23.48	24.60	28.67	(+) 17
7.	Other Taxes and Duties on Commodities and Services	25.92	24.26	27.10	(+) 12
8.	Taxes on Goods and Passengers- Tax on entry of goods into Local Areas	86.89	59.78	93.92	(+) 57
9.	Taxes on Agricultural Income	0.01	0.01	0.02	(+) 100
	Total	2399.82	2681.35	3084.79	(+) 15

The reasons for significant variation in receipts from that of previous year, though called for (April 2000) from the concerned departments, have not been received (January 2001).

(ii) The details of non-tax revenue raised during the year 1999-2000 alongwith figures for the preceding 2 years are given below: -

(Rupees in crore)

Sl. No.	Head of Revenue	1997-98	1998-99	1999-2000	Percentage of increase (+) or decrease (-) in 1999-2000 over 1998-99
1.	Non-ferrous Mining and Metallurgical Industries	808.55	740.92	707.56	(-) 5
2.	Forestry and Wild Life	14.52	18.48	28.03	(+) 52
3.	Interest Receipts	92.39	135.99	135.75	-
4.	Social Security and Welfare	14.29	24.47	28.04	(+) 15
5.	Others	255.69	226.43	266.48	(+) 18
	Total	1185.44	1146.29	1165.86	(+) 2

The reasons for substantial variations in receipts from that of previous year, though called for (April 2000) from the concerned departments, have not been received (January 2001).

1.02 Variations between the Budget estimates and actuals

(a) The variations between Budget estimates of revenue for the year 1999-2000 and the actual receipts under the principal heads of revenue are given below: -

(Rupees in crore)

Sl. No.	Head of Revenue	Budget estimates	Actual receipts	Variations increase (+) shortfall (-)	Percentage
A Tax Revenue					
1.	Taxes on Sales, Trade etc.	2280.00	2067.79	(-) 212.21	(-) 9
2.	State Excise	450.00	277.80	(-) 172.20	(-) 38
3.	Stamps and Registration fees	372.50	325.77	(-) 46.73	(-) 13
4.	Taxes on Vehicles	257.99	178.47	(-) 79.52	(-) 31
5.	Taxes and Duties on Electricity	85.00	85.25	(+) 0.25	-
6.	Land Revenue	50.00	28.67	(-) 21.33	(-) 43
7.	Other Taxes and Duties on Commodities and Services	62.03	27.10	(-) 34.93	(-) 56
8.	Taxes on Goods and Passengers – Tax on entry of goods into Local Areas	80.00	93.92	(+) 13.92	(+) 17
B Non-Tax Revenue					
1.	Non-ferrous Mining and Metallurgical Industries	1050.00	707.56	(-) 342.44	(-) 33
2.	Forestry and Wild Life	31.77	28.03	(-) 3.74	(-) 12
3.	Interest Receipts	328.54	135.75	(-) 192.79	(-) 59
4.	Social Security and Welfare	20.00	28.04	(+) 8.04	(+) 40

The reasons for variation between the Budget estimates and actual receipts, though called for (April 2000) from concerned departments, have not been received (January 2001).

(b) The percentage variations between Budget estimates of revenue and the actual receipts for the year 1999-2000 and the corresponding figures for the preceding 2 years under the revenue heads 0039-State Excise and 0041-Taxes on Vehicles are given below: -

Sl.No.	Head of Revenue	Variation between Budget estimates and actuals in per cent		
		1997-98	1998-99	1999-2000
1.	State Excise	(-) 14	(-) 34	(-) 38
2.	Taxes on Vehicles	(-) 10	(-) 25	(-) 31

The above table indicates that tax raised by the Government in the above 2 heads of revenue fell short of Budget estimates. The percentage of shortfall varied between 14 and 38 in State Excise and 10 and 31 in Taxes on Vehicles. Scrutiny of records of Finance department revealed that Budget estimates of both receipt heads had been prepared by Finance department by effecting an increase over the proposal of administrative departments on *ad hoc* basis in absence of sufficient back up data / statistics for such enhancement. The Finance department could not provide the figures of additional resources mobilisation for the year under scrutiny as well as the tax bases (for determining the taxable capacity of the State). Thus, substantial variations between Budget estimates and actual receipts indicate that the estimates were based on *ad hoc* assumptions and the enhancements had the effect of merely lowering the gap of revenue deficit during budget proposals.

On this being pointed out (May 2000), the Finance department stated (June 2000) that if the target is kept at a higher level, more extensive effort would be undertaken by the department to achieve the target. The reply of the Finance department is not tenable, as it had neither tax base/ statistics for additional resource mobilisation nor back up data for enhancement over departmental estimates.

The case was reported to the Government (November 2000); their reply has not been received (January 2001).

1.03 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1997-98, 1998-99 and 1999-2000 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 1998-99 are given below: -

(Rupees in crore)

Sl. No.	Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1998-99
1.	Taxes on Sales, Trade etc.	1997-98	1567.64	19.76	1.26	1.40
		1998-99	1821.85	22.24	1.22	
		1999-2000	2067.79	32.99	1.60	
2.	State Excise	1997-98	226.36	14.85	6.56	3.25
		1998-99	239.51	15.72	6.56	
		1999-2000	277.80	20.34	7.32	
3.	Stamps and Registration fees	1997-98	253.13	14.47	5.71	5.45
		1998-99	279.34	18.10	6.48	
		1999-2000	325.77	19.11	5.87	
4.	Taxes on Vehicles	1997-98	174.07	3.39	1.94	3.22
		1998-99	164.96	4.00	2.42	
		1999-2000	178.47	6.52	3.65	

The above table indicates that the percentage of expenditure on collection in respect of all the four major heads of receipts was more than that of all India average percentage for the year 1998-99.

1.04 Arrears in assessment of sales tax

The details of sales tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases decided during the year and number of cases pending finalisation at the end of each year during 1995-96 to 1999-2000 as furnished by the department are given below: -

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the end of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
1995-96	106364	83871	190235	85441	104794	45
1996-97	104794	93027	197821	114762	83059	58
1997-98	83059	96017	179076	83488	95588	47
1998-99	95588	103094	198682	127830	70852	64
1999-2000	70852	100654	171506	79938	91568	47

The efforts made in 1998-99 to contain the arrears need to be sustained and stepped up to facilitate further reduction of arrears.

1.05 Frauds and evasions

The details of cases of frauds and evasion of taxes and duties pending at the beginning of the year, number of cases detected by the departmental authorities, number of cases in which assessments/investigations were completed and additional demand (including penalties etc.) of taxes/duties raised against the dealers during the year and the number of cases pending finalisation at the end of March 2000, as furnished by the concerned departments are given below: -

(Rupees in lakh)

Sl. No.	Department	Cases pending as on 31 March 1999	Cases detected during 1999-2000	Number of cases in which assessment/ investigation completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31 March 2000
				No. of cases	Amount of demand	
1.	Finance (Commercial Taxes)	381	656	688	525.35	349
2.	Transport	275*	Nil	Nil	Nil	275
3.	Excise and Prohibition	13**	Nil	Nil	Nil	13

Information from other departments, though called for (April 2000), have not been received (January 2001) despite several reminders to departmental heads and personal meetings.

1.06 Analysis of collections

The break-up of the total collections (at pre-assessment stage and after regular assessment) of Taxes on Sales, Trade etc. during the year 1999-2000 and the corresponding figures for preceding two years, as furnished by the Finance (Commercial Taxes) Department are given below: -

* Differs by 606 from the closing balance 881 given earlier by the department and shown in the Audit Report for the year 1998-99.

** Differs by 8 from the closing balance of 5 given earlier by the department and shown in the Audit Report for the year 1998-99.

(Rupees in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment		Total collection of taxes	Total collected as per Finance Account	Percentage of pre-assessment collection to total collection (Col 2 to 5)
		Additional demand	Penalty for delay in payment of Taxes and Duties			
1	2	3	4	5	6	7
1997-98	1504.30	31.96	0.72	1536.98	1567.64	98
1998-99	1743.34	50.63	0.75	1794.72	1821.85	97
1999-2000	1995.22	58.03	1.04	2054.29	2067.79	97

Thus the tax including penalties collected after regular assessment constituted a rather low proportion (2 to 3 per cent) of the total collection.

1.07 Arrears of revenue

As on 31 March 2000, arrears of revenue under principal heads of revenue, as reported by the departments, were as under: -

(Rupees in crore)

Sl. No.	Head of revenue	Total arrears	Arrears more than five years old	Remarks
1	2	3	4	5
1.	Taxes on Sales, Trade etc.	1377.74	664.20	Out of Rs. 1377.74 crore, demands for Rs. 158.54 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 647.04 crore had been stayed by the courts. Specific action taken in respect of the remaining arrears of Rs. 572.16 crore, though called for (April 2000), has not been intimated (January 2001).
2.	Non-ferrous Mining and Metallurgical Industries	390.13	97.94	Out of Rs. 390.13 crore, demands for Rs. 368.74 crore had been certified for recovery as arrears of Land revenue. Out of Rs. 368.74 crore, recovery amounting to Rs. 269.69 crore and Rs. 16.71 crore had been stayed by the courts and the Government respectively. Recovery of Rs. 10.57 crore and Rs. 0.50 crore was held up due to rectification/review and dealer / party becoming insolvent respectively.

1	2	3	4	5
				Amount of Rs. 0.17 crore was liable to be written off. Specific action taken in respect of the remaining certified arrears of Rs. 71.10 crore and the uncertified arrears of Rs. 21.39 crore, though called for (April 2000), has not been intimated (January 2001).
3.	Taxes on Vehicles	197.09	N.A.	Out of Rs. 197.09 crore, demands for Rs. 185.39 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 0.10 crore and Rs. 0.08 crore had been stayed by High Court and Government. Recovery of Rs. 2.80 crore was held up due to rectification/review of applications and Rs. 0.13 crore due to parties becoming insolvent. Specific action taken in respect of the remaining arrears of Rs. 8.59 crore, though called for (April 2000), has not been intimated (January 2001).
4.	Taxes and Duties on Electricity	92.84	38.14	Out of Rs. 92.84 crore, demands for Rs. 11.21 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 21.06 crore had been stayed by the courts. Specific action taken in respect of the remaining arrears of Rs. 60.57 crore, though called for (April 2000), has not been intimated (January 2001).
5.	Water Rates	84.27	56.43	Out of Rs. 84.27 crore, demands for Rs. 1.08 crore had been certified for recovery as arrears of Land revenue. Recovery amounting to Rs 6.29 crore and Rs. 0.06 crore had been stayed by the courts and the Government respectively. Recovery of Rs. 1.43 crore was held up due to rectification / review of applications. Amount of Rs. 0.35 crore was liable to be written off. Specific action taken in respect of the remaining arrears of Rs. 75.06 crore though called for (April 2000) has not been intimated (January 2001).

1	2	3	4	5
6.	State Excise	52.77	45.21	Out of Rs. 52.77 crore, demands for Rs. 7.34 crore had been certified for recovery as arrears of Land revenue. Recovery amounting to Rs 34.00 crore and Rs.0.69 crore had been stayed by the courts and the Government respectively. Recovery of Rs. 0.38 crore and Rs. 0.10 crore was held up due to rectification / review and dealer/ party becoming insolvent respectively. Amount of Rs. 0.17 crore was liable to be written off. Specific action taken in respect of the remaining arrears of Rs. 10.09 crore though called for (April 2000) has not been intimated (January 2001).
7.	Entertainments Tax	12.72	3.49	Out of Rs. 12.72 crore, demands for Rs. 2.54 crore had been certified for recovery as arrears of Land revenue. Recovery amounting to Rs. 0.67 crore had been stayed by the courts. Specific action taken in respect of the remaining arrears of Rs. 9.51 crore, though called for (April 2000) has not been intimated (January 2001).
8.	Entry Tax	3.05	0.67	Out of Rs. 3.05 crore, demand for Rs. 0.02 crore had been certified for recovery as arrears of Land revenue. Specific action taken in respect of arrears of Rs. 3.03 crore, though called for (April 2000), has not been intimated (January 2001).

The position of arrears of revenue pending collection at the end of 1999-2000 in respect of other departments though called for (April 2000) has not been furnished by the Government (January 2001).

1.08 Pending appeals

As per the information furnished (December 2000) by the Commercial Taxes Department, number of appeals filed under Taxes on Sales, Trade etc. and other Taxation Acts administered, number of appeals finalised and number of cases pending with the appellate authorities, at the end of each year during the period from 1995-96 to 1999-2000 were as under: -

Year	Opening balance	Number of appeals filed during the year	Total	Number of appeals finalised during the year	Balance at the end of the year	Percentage of cases disposed to total number of cases
1995-96	12078	3794	15872	4691	11181	30
1996-97	11181	3666	14841	5233	9614	35
1997-98	9614	2498	12112	3406	8706	28
1998-99	8706	2641	11347	4356	6991	38
1999-2000	6991	5390	12381	3406	8975	28

According to instructions issued in August 1989 by the Commissioner of Commercial Taxes, a minimum number of 60 cases are required to be disposed of per month by each Joint Commissioner (Appeals). However, the instructions were not followed as a result of which against 8640 appeals to be disposed of by all the 12 Joint Commissioners (Appeals) in a year, the actual number of appeals disposed of fell short of the target.

1.09 Results of audit

Test check of the records of Commercial Taxes, State Excise, Taxes on Vehicles, Land Revenue, Non-ferrous Mining and Metallurgical Industries and other departmental offices conducted during the year 1999-2000 revealed under assessment/short levy/loss of revenue amounting to Rs.854.88 crore in 22195 cases. During the course of the year 1999-2000, the concerned departments accepted under assessments etc. of Rs.23.85 crore involved in 2384 cases of which 768 cases involving Rs.12.87 crore had been pointed out in audit during 1999-2000 and the rest in earlier years.

This Report contains 45 paragraphs including 2 reviews bringing out deficiencies in different aspects of tax administration and involving a tax/revenue effect of Rs.531.12 crore. These cases represent the important cases out of the cases of under assessment and other irregularities pointed out by Audit. Of these, the department/ Government have accepted audit observations involving Rs.35.39 crore upto January 2001. Audit observations with a total revenue effect of Rs.16.06 crore have not been accepted by the Government. However, as the grounds attributed were at variance with the facts or legal provisions, these have not been accepted by Audit for reasons indicated in the relevant paragraphs/ reviews. Final reply has not been received in other cases (January 2001).

1.10 Outstanding Inspection reports and audit observations

(a) Audit observations on financial irregularities and defects in initial records, noticed during local audit and not settled on the spot, are

communicated to the heads of offices and to the higher departmental authorities through audit inspection reports for prompt action. The more important irregularities are reported to the heads of the departments and to Government for initiating immediate corrective action. Besides, half yearly reports of such observations outstanding for more than 6 months are forwarded to Government to expedite their settlement.

The number of inspection reports and audit observations issued upto December 1999 which were pending settlement by the department as on 30 June 2000 alongwith corresponding figures of the preceding 2 years, are given below: -

	As at the end of June		
	1998	1999	2000
1. Number of outstanding inspection reports	9696	9537	10324
2. Number of outstanding audit observations	39912	41562	43704
3. Revenue involved (Rupees in crore)	2497.80	3127.80	3492.50

(b) Outstanding audit observations relating to the following departments were notably large: -

(Rupees in crore)

Sl. No.	Department	Revenue Head	Number of outstanding		Year to which earliest pending report relates	Amount involved
			Inspection Reports	Audit Observation		
1.	Revenue	Land Revenue	5231	16314	1980-81	627.35
2.	Finance (Commercial Taxes)	Taxes on Sales, Trade etc.	1202	9800	1982-83	657.59
3.	Excise and Prohibition	State Excise	763	4821	1973-74	620.32
4.	Transport	Taxes on Vehicles	521	4425	1979-80	398.11
5.	Mines and Geology	Non-ferrous Mining and Metallurgical Industries	618	4114	1980-81	291.62
6.	Water Resources	Water Rates	563	1699	1980-81	617.63
7.	Cane	Taxes on Sugarcane	170	431	1981-82	81.55
8.	Forest and Environment	Forest receipts	222	536	1981-82	169.33

(c) Although Government have instructed that first replies to the inspection reports should be furnished by the departmental officers within one month of the receipt of the inspection reports, in respect of 3260 inspection reports issued upto December 1999, even the first replies had not been received from the following departments till June 2000.

Sl. No.	Department	Revenue Head	Number of inspection reports to which even first reply has not been received	Year to which earliest pending report relates
1.	Revenue	Land Revenue	2573	1980-81
2.	Excise and Prohibition	State Excise	71	1980-81
3.	Transport	Taxes on Vehicles	148	1980-81
4.	Finance (Commercial Taxes)	(i) Taxes on Sales, Trade etc.	60	1998-99
		(ii) Electricity Duty (iii) Taxes on Goods and Passengers (iv) Entertainments Tax	55	1997-98
5.	Revenue (Registration Department)	Stamps and Registration Fees	122	1980-81
6.	Mines and Geology	Non-ferrous Mining And Metallurgical Industries	63	1980-81
7.	Cane	Taxes on Sugarcane	55	1981-82
8.	Water Resources	Water Rates	14	1998-99
9.	Forest and Environment	Forest Receipts	99	1981-82
Total			3260	

The above position was brought to the notice of the Chief Secretary to the Government (July and August 2000) but no reply has been received (January 2001). Unsatisfactory compliance by the departments in settlement of audit observations resulted in increasing trend of outstanding audit observations and inspection reports.

CHAPTER 2 : Topics of Special Importance

2.01 Receipt of goods against declaration forms

(A) State Declaration Forms

Under the provisions of the Bihar Finance Act, 1981, read with Bihar Sales Tax Rules, 1983, as amended from time to time and notifications issued thereunder, any dealer who claims that he is not liable to pay tax/ or is liable to pay tax at concessional rate in respect of any goods on the ground that he had sold such goods, in pursuance of Government notifications / Act, to small scale industries / manufacturers, shall substantiate his claim by producing declarations in certificate "GAA" (Form[#] C / D) and in Form IX^{##} issued by the purchasing dealer, as the case may be. The purchasing dealer shall retain the counterfoil of such forms and furnish detailed account of receipt of goods against them to his circle.

A test check of records relating to receipt of goods on exemption/ concessional rate of tax and exemption allowed against the declaration forms for the period from 1993-94 to 1995-96 of 7 selling dealers in 5 circles and 121 purchasing dealers of 18 circles revealed as under: -

(a) Suppression of turnover

Under provisions of the Bihar Finance Act, 1981, every registered dealer shall furnish a true and complete return in respect of all his transactions, failing which, and if the prescribed authority is satisfied that reasonable grounds exist to believe that any turnover of a dealer has escaped assessment, the latter may, within eight years from the date of order of the assessment or re-assessment, assess or re-assess the amount of tax due from the dealer in respect of such turnover. The dealer shall also be liable to pay, by way of penalty, a sum not exceeding three times but not less than an amount equivalent to the amount of tax assessed on the turnover, which escaped taxation.

Cross verification of details of purchases on exemption / concessional rate of tax by 110 manufacturing dealers of 18 Commercial Taxes Circles* for the period from 1993-94 to 1995-96 (assessed between February 1995 and March 2000) as furnished by them in their consumption statements of Form "GAA" and Form "IX" to sales tax authority with the declaration issued by them to the selling dealers against such purchases revealed non/short accounting of goods

[#] Form of declaration given by owners of industries for purpose of purchase of raw materials free of sales tax or purchase tax.

^{##} Submitted by owners of manufacturing unit against purchase of raw materials at concessional rate of tax to the dealer from whom the material was purchased.

* Adityapur, Begusarai, Bokaro, Deoghar, Dhanbad, Dhanbad (Urban), Hazaribagh, Jamsheedpur, Jharia, Muzaffarpur, Palamau, Patna City (East), Patna City (West), Ranchi (East), Ranchi (West), Sindri, Teghra and Tenughat.

valued at Rs. 10888.08 lakh. This resulted in under assessment of tax of Rs. 2353.47 lakh including penalty of Rs. 1740.25 lakh as detailed below: -

(Rupees in lakh)

Sl. No	Commodity	Name / No. of circles	No. of dealers	Value of goods purchased	Value of goods accounted for	Value of goods non/short accounted	Rate of Tax leviable/levied (per cent)	Assessment year Month/ year of assessment	Tax Penalty	Total
1.	Lubricant	11*	12	3883.05	65.49	3817.56	9/3	1993-94 to 1995-96 between 1/96 and 9/99	<u>254.44</u> 697.27	951.71
2.	Iron & steel	8**	47	7427.45	1979.38	5448.07	4/ Nil	1993-94 to 1995-96 between 9/95 and 3/2000	<u>217.92</u> 653.77	871.69
3.	Slack wax	8***	46	1050.97	81.84	969.13	9/Nil	1993-94 to 1995-96 between 2/95 and 3/99	<u>106.64</u> 290.85	397.49
4.	Coal	Hazaribagh	2	697.66	232.97	464.69	4/ Nil	1993-94 to 1995-96 between 8/96 and 3/98	<u>18.59</u> 55.76	74.35
5.	Hardware	Hazaribagh	2	91.76	Nil	91.76	8/ Nil	1995-96 March 2000	<u>9.17</u> 24.99	34.16
6.	L.S.H.S.	Sindri	1	484.75	387.88	96.87	9/3	1993-94 and 1994-95 between 1/98 and 12/98	<u>6.46</u> 17.61	24.07
	Total		110	13635.64	2747.56	10888.08			<u>613.22</u> 1740.25	2353.47

(b) Non-levy of tax at first stage of sale

(i) In order to promote industrial growth in the State, the Government, by notifications issued from time to time, allowed small scale industries (SSIs) to purchase raw materials free of tax for manufacturing purposes against issue of Form "GAA" but sale of finished goods out of such raw materials are not tax free unless exempted specifically by a notification.

In Dhanbad commercial taxes circle, 6 SSIs purchased iron and steel goods valued at Rs. 1249.68 lakh without payment of tax against declaration "GAA" and sold (during the year 1994-95 and 1995-96) these goods in the same form without utilising the same as raw material. The assessing authorities while finalising (between October 1995 and November 1998) the assessments, however, allowed exemption from levy of tax on sale of these goods on the ground that the goods though leviable to tax at the first point of sale was purchased tax free and therefore, tax cannot be levied on any other point of

* Adityapur, Begusarai, Bokaro, Dhanbad (Urban), Hazaribagh, Jamshedpur, Jharia, Ranchi (East), Ranchi (West), Sindri and Tenughat.

** Bokaro, Deoghar, Dhanbad, Hazaribagh, Patna city (East), Patna city (West), Ranchi (West) and Tenughat.

*** Adityapur, Begusarai, Deoghar, Dhanbad (Urban), Muzaffarpur, Palamau, Ranchi (East) and Teghra.

sale in the State. As these units were manufacturers who had enjoyed the benefit of tax free purchase and had sold the goods for the first time in the State, these were liable to be assessed for such sales. Thus incorrect allowance of exemption resulted in under assessment of tax of Rs. 49.99 lakh.

(ii) Under the provisions of the Bihar Finance Act, 1981 and notification issued thereunder, an S.S.I. Unit may avail of the facility of tax free purchase of raw materials on grant of a certificate to that effect issued by the prescribed authority.

In *Hazaribagh* circle, a manufacturer of smokeless coal was granted certificate for tax free purchase of raw materials i.e., coal that was cancelled (May 1992) with effect from the date of issue. But the sale of smokeless coal valued at Rs. 265.10 lakh by the purchaser was exempted from levy of tax during the years 1993-94 to 1995-96 (assessed between August 1995 and March 1998) on the basis of claim of purchase of tax free goods. As the dealer was not holding certificate of tax free purchase of goods and had not paid tax at the first point of sale, tax was leviable on such sale. This incorrect allowance of exemption resulted in escapement of tax of Rs. 10.60 lakh.

(c) Incorrect allowance of tax free purchase

By a notification issued in April 1994, the Government exempted specified commodities from levy of sales tax, used as a direct raw material for manufacturing of iron and steel (as defined in section 14 of the Central Sales Tax Act, 1956).

In Patna City West circle, on sale of profiles, agriculture implements, pickled sheets and plates valued at Rs. 882.19 lakh by 2 manufacturers during 1994-95 and 1995-96, exemption from levy of tax was allowed (between November 1996 and May 1997) on the basis of the claim that the goods were manufactured from raw materials purchased tax free. As the goods sold did not fall under the category of 'iron and steel', allowance of exemption from levy of tax was not in order and resulted in under assessment of Rs. 35.29 lakh.

(d) Incorrect allowance of concessional rate of tax

A dealer of Central circle, Calcutta was allowed concessional rate of tax on the sale of raw materials (non-ferrous metal) valued at Rs. 659.45 lakh during the years 1994-95 and 1995-96 (assessed in November 1998) on the strength of prescribed declarations (Form 'IX') which were issued by the purchasing dealers before the date of actual transactions. These declarations were liable to be rejected but concessional rate of tax was allowed against some of the declarations. These transactions were liable to tax at the full rate of 8 per cent. Thus incorrect allowances of concessional rate of tax resulted in short levy of tax of Rs.43.96 lakh (including additional tax and surcharge).

(B) Central Declaration Forms

Under provisions of the Central Sales Tax Act, 1956, read with the Bihar Finance Act, 1981, the goods are received by the dealers of Bihar from outside the State either (i) on purchase after payment of tax at the rate of 4 per cent by issuing declaration in Form 'C' or (ii) on stock transfer from any place of his business or his agent or principal or otherwise, without payment of tax by issuing the declaration in Form 'F'. However, on sale of such goods, the tax is leviable in Bihar at the rate specified under the State law, unless the goods were exempted specifically from levy of tax.

A test check of records relating to receipt of goods from outside the State on declaration forms pertaining to 33 dealers in 21 circles* of Bihar in respect of coal, timber, battery, edible oil, paper, auto parts, steel springs, skimmed milk products, rivets, medicine, cadbury products and paints with the records of 21 manufacturers/dealers of Delhi, Gujarat, Punjab, Uttar Pradesh, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal for the period from 1990-91 to 1997-98 revealed as under: -

(a) Non/short accounting of receipts of goods

Cross verification of assessment records of 27 dealers in 20 Commercial Taxes circles of Bihar with the records of 13 manufacturers of Delhi, Gujarat, Maharashtra, Madhya Pradesh, Punjab, Tamil Nadu, Uttar Pradesh and West Bengal revealed non/short accounting of goods valued at Rs.2407.09 lakh relating to the period from 1990-91 to 1997-98 (assessed between 1994-95 and 1999-2000) received on purchase against declaration in Form 'C' or by stock transfer against declarations in Form 'F' and invoices. This resulted in under-assessment of tax of Rs.994.12 lakh including penalty of Rs.727.63 lakh as detailed below: -

(Rupees in lakh)

Sl No	Name of commodities	Name. of circles(s)	No. of dealer(s)	Value of goods purchased	Value of goods accounted for	Value of goods non/short accounted	Rate of tax leviable (per cent)	Period of assessment Year of assessment	Tax	Total
	Name of State of selling dealer								Penalty	
1	2	3	4	5	6	7	8	9	10	11
1	Tyre, Tubes and Flaps	Jamshedpur	1	1892.87	62.33	1830.54	9	1994-95	203.17	757.28
	Karnataka							1998-99	554.11	

* Adityapur, Begusarai, Bhagalpur, Chirkunda, Dhanbad, Gaya, Giridih, Hajipur, Jamshedpur, Jharia, Patliputra, Patna (North), Patna (South), Patna (Special), Ranchi (Special), Samastipur, Sasaram, Shahabad, Singhbhum, Tenughat and West Champaran.

1	2	3	4	5	6	7	8	9	10	11
2	Auto Parts and Steel Springs	Jamshedpur	1	256.58	39.16	217.42	10	1993-94 & 1995-96	26.55	98.95
	Tamil Nadu & Maharashtra							1997-98 & 1999-2000	72.40	
3	Vanaspati	Dhanbad & Jharia	3	196.41	3.15	193.26	9	Between 1990-91 & 1993-94	21.45	79.95
	West Bengal and Uttar Pradesh							Between 1995-96 and 1998-99	58.50	
4	Detergent Powder/Cake	12*	14	41.78	19.70	22.08	8 10	Between 1991-92 & 1997-98	7.50	28.37
	New Delhi			50.20	5.61	44.59		Between 1994-95 & 1999-2000	20.87	
5	Paints	Pataliputra and Patna (Special)	2	222.56	204.52	18.04	12	1995-96 & 1996-97	2.60	9.70
	Uttar Pradesh							1998-99 & 1999-2000	7.10	
6	Paper	Tenughat	1	24.32	Nil	24.32	6	1993-94	1.89	7.04
	West Bengal							1995-96	5.15	
7	Coal	Chirkunda	2	43.46	7.01	36.45	4	1994-95	1.46	5.83
	West Bengal							1998-99	4.37	
8	Medicine	Patna North and Patna Special	2	14.05	1.29	12.76	7	1993-94 & 1994-95	0.98	3.66
	Gujarat							1994-95	2.68	
9	Skimmed milk products	Adityapur	1	36.00	30.00	6.00	10	1995-96	0.73	2.73
	Punjab							1997-98	2.00	
10	Rivets	Adityapur	1	1.63	Nil	1.63	8	1995-96	0.16	0.61
	Madhya Pradesh							1998-99	0.45	
Total			27	2779.86	372.77	2407.09			266.49 727.63	994.12

(b) Loss of revenue due to use of unauthorised declaration forms

The declaration Form 'C' & 'F' are issued to the dealer by assessing officer for use in inter-State sales or stock transfer. Use of any declarations form which is either stolen or not issued to the dealer is illegal and the receipt of goods against such declarations will, in addition to tax, attract penalty to the extent of three times but not less than an amount equal to the amount of tax leviable on such suppressed turnover.

* Begusarai, Bhagalpur, Gaya, Hajipur, Jharia, Patna (South), Ranchi (Special), Samastipur, Sasaram, Shahabad, Singhbhum and West Champaran.

In 9 circles*, 12 dealers received timber, battery, cadbury products, edible oil, paper, detergent powder / cake and paints, etc. valued at Rs. 719.20 lakh during the period between 1992-93 and 1996-97 (assessed between November 1995 and October 1999) from 8 manufacturers/ dealers of West Bengal, Madhya Pradesh, Delhi and Uttar Pradesh against declarations in Form 'C' and 'F' which were not issued to the dealer. The dealers were liable for levy of tax amounting to Rs. 296.17 lakh including penalty of Rs. 216.86 lakh but no tax/penalty was levied.

The above findings were pointed out to the department between November 1999 and July 2000. The department agreed to review the cases. Further reply has not been received (January 2001).

The cases were reported to the Government (between June and August 2000); their reply has not been received (January 2001).

* *Adityapur, Begusarai, Gaya, Giridih, Jamshedpur, Patna (Special), Sasaram, Singhbhum and Tenughat.*

CHAPTER 3 : Taxes on Sales, Trade etc.

3.01 Results of Audit

Test check of the records relating to assessments and refund of Sales Tax in various commercial taxes circles, conducted in audit during the year 1999-2000, revealed under assessment of tax of Rs.12595.09 lakh in 878 cases which broadly fall under the following categories: -

(Rupees in lakh)

Sl. No	Category	No. of cases	Amount
1.	Non-levy of penalty for excess collection of tax	44	106.23
2.	Incorrect allowance of exemption from tax	265	1668.76
3.	Incorrect allowance of concessional rates of tax	75	258.15
4.	Short levy of tax due to incorrect determination of gross turnover	99	865.65
5.	Non-levy of penalty	149	1113.83
6.	Non/short levy of additional tax and surcharge	105	2424.67
7.	Application of incorrect rate of tax	40	1312.52
8.	Other irregularities	101	4845.28
Total		878	12595.09

During the year 1999-2000, the concerned department accepted under assessment, etc. of Rs.152.39 lakh involved in 93 cases pointed out in earlier years. A few illustrative cases involving tax effect of Rs. 3548.74 lakh are given in the following paragraphs: -

3.02 Suppression of sales turnover

Under the Bihar Finance Act, 1981, read with the Central Sales Tax (CST) Act, 1956, if the prescribed authority has reason to believe that the dealer has concealed, omitted or failed to disclose willfully the particulars of turnover or has furnished incorrect particulars of such turnover and thereby returned figure below the real amount, the said authority shall assess or re-assess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

During the course of audit (between February 1999 and March 2000), it was noticed from the assessment records (assessed between May 1995 and March 1999) and utilisation certificate of declaration forms* that 54 dealers of 22

* C/F (Central), Road Permits, Form C (State) and IX C.

Commercial Taxes Circles* suppressed sales turnover of Rs.5439.50 lakh bought/sold on declaration forms during the years between 1993-94 and 1997-98, which remained undetected by the department. The failure of the department to check the concealment of purchases/sales resulted in under assessment of tax amounting to Rs.924.34 lakh (including additional tax, surcharge and minimum leviable penalty). 7 illustrative cases involving tax effect above Rs.25 lakh in each case are given below: -

(Rupees in lakh)

Sl. No	Name of Circle/ No. of Dealers	Period of assessment Month /Year of assessment	Commodity	Mode of purchase/ sale	Actual purchase/ sale	Amount concealed	Amount of tax/ penalty	Total
					Purchase / Sale accounted for	Rate applicable (per cent)		
1.	<u>Patna South</u> 1	<u>1995-96</u> 12/98	Medicines, Horlicks	Form IX C	<u>5735.60</u> 4765.71	<u>969.89</u> 7,8 & 10	<u>184.57</u> 135.11	319.68
2.	<u>Katras</u> 1	<u>1995-96</u> 12/98	Coal	Trading A/c	<u>5039.30</u> 2801.95	<u>2237.35</u> 4	<u>89.50</u> 89.49	178.99
3.	<u>Adityapur</u> 4	<u>1994-95 to 97-98</u> 1/97 to 2/99	Motor Parts, Auto Parts	Trading A/c	<u>429.54</u> Nil	<u>429.54</u> 10	<u>52.45</u> 47.68	100.13
4.	<u>Ranchi (East)</u> 1	<u>1996-97</u> 01/99	Medicines	Form 'C' and 'F'	<u>2536.32</u> 2239.58	<u>296.74</u> 7	<u>22.85</u> 20.77	43.62
5.	<u>Ranchi (West)</u> 1	<u>1996-97</u> 11/98	Cement and Scrap	Form IX C	<u>516.64</u> 356.10	<u>160.54</u> 8 & 11	<u>21.36</u> 19.42	40.78
6.	<u>Adityapur</u> 1	<u>1995-96</u> 12/98	Cement	Trading A/c	<u>387.51</u> 241.10	<u>146.41</u> 11	<u>19.50</u> 17.73	37.23
7.	<u>Bokaro</u> 1	<u>1994-95</u> 3/99	S.M.P./ Polyfilm	Form 'C', Road Permit	<u>213.53</u> 73.91	<u>139.62</u> 8 & 7	<u>13.84</u> 12.59	26.43
	Total				<u>14858.44</u> 10478.35	4380.09	<u>404.07</u> 342.79	746.86

On these being pointed out (between February 1999 and March 2000), the department raised (between February and April 2000) additional demand of Rs.7.50 lakh in four cases and in other cases stated (between July 1999 and March 2000) that the cases would be reviewed. Further reply has not been received (January 2001).

The cases were reported to the Government (between December 1999 and June 2000); their reply has not been received (January 2001).

* Adityapur, Bhagalpur, Bokaro, Buxar, Central Circle, Calcutta, Dhanbad, Dhanbad (Urban), Giridih, Gumla, Hajipur, Katras, Muzaffarpur, Palamau, Patna (North), Patna (South), Patna (West), Patna (Special), Ranchi (East), Ranchi (Special), Ranchi (West), Sitamarhi and Siwan.

3.03 Short levy of surcharge

Under provisions of the Bihar Finance Act, 1981, with effect from 11 August 1989, every dealer whose gross turnover during a year exceeds rupees 10 lakh shall pay a surcharge at the rate of 10 per cent of tax (including additional tax) payable by him.

In 2 Commercial Taxes Circles (Samastipur and Central Circle, Calcutta), the assessing authorities while finalising the assessment in March 1997, 1998 and April 1999 of 2 dealers engaged in the sale of jute bags and petroleum products for the years 1992-93, 1993-94 and 1995-96 levied surcharge on the amount of tax of Rs. 21593.98 lakh instead of the correct amount of tax of Rs.26805.11 lakh payable by the dealers. This resulted in short levy of surcharge of Rs. 521.11 lakh.

On these being pointed out (between June 1999 and March 2000), the department raised (November 1999) an additional demand for Rs.4.85 lakh in one case and stated that the other case would be reviewed. Further reply has not been received (January 2001).

The cases were reported to the Government (between December 1999 and June 2000); their reply has not been received (January 2001).

3.04 Turnover escaping assessment

(i) In 2 Commercial Taxes Circles (Central Circle, Calcutta and *Chirkunda*), the gross turnover of two dealers was determined (between July and November 1998) at Rs.2427.27 lakh for the assessment year 1994-95 but while computing tax, the assessing authority incorrectly levied tax on Rs.1852.46 lakh only. Thus, turnover worth Rs. 574.81 lakh escaped assessment, which resulted in under assessment of tax amounting to Rs.65.87 lakh (including additional tax and surcharge).

On these being pointed out (between February and March 2000), the department agreed (March 2000) to review the cases. Further reply has not been received (January 2001).

The cases were reported to the Government (June 2000); their reply has not been received (January 2001).

(ii) Under the Bihar Finance Act, 1981, “gross turnover” for the purpose of levy of sales tax, in respect of sales of goods, means aggregate of sales prices received and receivable by a dealer during any given period.

In 4 Commercial Taxes Circles*, 4 dealers made sale of medicine, coal, mustard oil, vanaspati, high speed diesel and diesel oil, etc. valued at Rs.47912.78 lakh as per the returns filed between 1991-92 and 1996-97 by them but their gross turnover was incorrectly determined (between March 1997 and February 1999) at Rs.47548.39 lakh. This resulted in short determination of gross turnover by Rs.364.39 lakh and consequential short levy of tax amounting to Rs.46.71 lakh (including additional tax and surcharge).

On these being pointed out (between August 1998 and March 2000), the department raised (December 1999) an additional demand for Rs.4.54 lakh in one case and in other cases stated that it would be reviewed. Further reply has not been received (January 2001).

The cases were reported to the Government (between December 1999 and June 2000); their reply has not been received (January 2001).

3.05 Incorrect grant of exemption

By a notification issued in December 1995, sale of HDPE# bags was exempted from levy of sales tax on the condition that the dealer must not have opted for deferment.

In *Adityapur* Commercial Taxes Circle, *Jamshedpur*, a manufacturer of HDPE bags was allowed (November 1998) exemption on sale of finished goods valued at Rs.321.05 lakh during the period 1995-96 and 1996-97. Though the manufacturer was granted eligibility certificate of deferment of tax for the period from May 1994 to March 2002, he was granted certificate of exemption from levy of sales tax on finished goods for the period from October 1995 to November 2003. This incorrect grant of exemption resulted in under assessment of tax of Rs.32.07 lakh.

On this being pointed out (January 2000), the department stated (January 2000) that deferment and exemption have been granted under two different industrial policies. The reply of the department is not tenable in view of the conditions and restrictions imposed under the said notification. Further reply has not been received (January 2001).

The case was reported to the Government (June 2000); their reply has not been received (January 2001).

* Central Circle, Calcutta, *Dhanbad*, Patna (Special) and *Ranchi* (Special).

High-density polyethylene.

3.06 Under assessment of Central Sales Tax

(A) Under the CST Act, 1956, on the inter-State sale of goods (other than declared goods) which are not supported by prescribed declaration forms, tax is leviable at the rate of ten per cent or at the rate applicable in the State, whichever is higher.

In 4 circles, though the sale of goods valued at Rs. 22308.34 lakh made by 6 dealers during the assessment years (between 1990-91 and 1996-97) was not supported by prescribed declaration forms, tax was levied at lower rates. This resulted in under assessment of Central Sales Tax amounting to Rs. 374.96 lakh (including additional tax and surcharge) as detailed below: -

(Rupees in lakh)								
Sl. No.	Name of Circle/ No. of dealers	Commodity	Period of Assessment	Month & Year of Assessment	Value of goods	Rate of tax (per cent)	Rate levied (per cent)	Tax short levied
1.	Central Circle, Calcutta 1	HSD & LDO LPG and Lubricant	1992-93, 1994-95 & 1995-96	3/97, 12/98 & 4/99	8972.81 9736.28	14+SC* 9+AT# +SC	14 10	232.62
2.	Jamshedpur 2	Electrical goods Tin Plate	1995-96	11/98	1353.01 919.79	12+AT+SC 8	12 Nil	106.49
3.	Adityapur 2	Electrical goods Auto Parts	1994-95 to 1996-97	1, 11 and 12/98	329.27 931.04	12+AT+SC 10+AT+SC	10	31.88
4.	Katras 1	Lead	1990-91	9/94	66.14	10	4	3.97
Total					22308.34			374.96

On these being pointed out (between November 1995 and March 2000), the department stated (between November 1995 and March 2000) that the cases would be reviewed. Further reply has not been received (January 2001).

The cases were reported to the Government (between December 1999 and June 2000); their reply has not been received (January 2001).

(B) Under the provisions of the CST Act, 1956, the Bihar Finance Act, 1981 and rules framed thereunder, no tax shall be payable on sales or purchases of goods which have taken place in the course of export out of the territory of India provided the sale was substantiated by documentary evidence. According to orders issued by the Government in March 1986 and August 1991, for exemption from levy of tax on sale taking place in course of export to Nepal, the transactions must be supported apart from the other evidences, by bill of export granted by Custom officials.

In 4 Commercial Taxes Circles (Barh, Hazaribagh, Patna Special and Patna South), it was noticed (between May and December 1999) that in cases of 10 dealers of medicine, electrical goods, chemicals, fertiliser, glass sheets, India

* Surcharge.

Additional Tax.

made foreign liquor (IMFL), corrugated paper and motor parts, sale of goods valued at Rs. 990.94 lakh during the period between 1993-94 and 1997-98, not supported by prescribed documentary evidences like bill of export, payment through banks and movements of goods out of territory of India, was exempted (between March 1998 and January 1999) from levy of tax treating the sale in course of export, although the transactions were liable to be treated as sale within the State. This incorrect grant of exemption resulted in under assessment of tax amounting to Rs. 80.52 lakh (including additional tax and surcharge).

On these being pointed out (between May and December 1999), the department agreed (between May and December 1999) to review the cases. Further reply has not been received (January 2001).

The cases were reported to the Government (between April and June 2000); their reply has not been received (January 2001).

3.07 Non/short levy of additional tax

Under the Bihar Finance Act, 1981, every dealer is required to pay additional tax at the rate of one per cent (except on liquor) on gross turnover.

In 2 Commercial Taxes Circles^{*}, in case of 3 dealers engaged in the business of chemicals, tea, etc. (assessed between August and December 1998), additional tax (including surcharge) aggregating Rs. 18.76 lakh was either not levied or short levied during 1994-95 on the assessed tax of Rs.11833.10 lakh.

On these being pointed out (between July 1999 and March 2000), the department raised (January 2000) an additional demand for Rs. 12.91 lakh in one case and in respect of remaining 2 cases stated that these would be reviewed. Further reply has not been received (January 2001).

The cases were reported to the Government (between December 1999 and June 2000); their reply has not been received (January 2001).

3.08 Non-levy of penalty for excess collection of tax

Under provisions of the Bihar Finance Act, 1981, no registered dealer shall collect from any person any tax on sale of goods in excess of tax liability under the said Act. In the event of any contravention of the provision of the Act, the prescribed authority shall direct the dealer to pay, by way of penalty, a sum equal to twice the amount of tax so collected.

^{*} Central Circle, Calcutta and Palamau.

In 2 Commercial Taxes Circles (Central Circle, Calcutta and Sasaram), 2 dealers engaged in a business of cement and elevator, collected tax in excess of their tax liability by Rs. 16.30 lakh during the years 1994-95, 1995-96 and 1996-97. However, the assessing authorities while finalising (between November 1998 and June 1999) the assessment did not levy any penalty. This resulted in non-levy of penalty of Rs. 32.60 lakh.

On these being pointed out (August 1999 and March 2000), the department agreed (between August 1999 and March 2000) to review the cases. Further reply has not been received (January 2001).

The cases were reported to the Government (between December 1999 and June 2000); their reply has not been received (January 2001).

3.09 Misclassification of goods

Under the provisions of the Bihar Finance Act, 1981, the Government may specify in respect of any goods, class or description of goods that sales tax shall be levied only at that point or points in the series of sales as may be specified. By notifications issued in December 1977 as amended from time to time, limestone is leviable to tax at the first point of sale and chassis of heavy vehicles is leviable to tax at the last point of sale in Bihar.

In 2 Commercial Taxes Circles*, 2 dealers sold limestone and chassis of heavy vehicles valued at Rs. 1278.58 lakh during the years from 1994-95 to 1996-97 on which tax was incorrectly levied (between November and December 1998) either at the lower rates or at incorrect point of sale. This resulted in under assessment of tax of Rs. 56.85 lakh (including additional tax and surcharge).

On these being pointed out (July and August 1999), the department raised (June 2000) an additional demand of Rs. 55.86 lakh in one case and in the other case agreed to review. Further reply has not been received (January 2001).

The cases were reported to the Government (between February and May 2000); their reply has not been received (January 2001).

3.10 Non-realisation of instalment of deferred tax and interest

Under the Bihar Sales Tax Supplementary (Deferment of Tax) Rules, 1990, the deferred amount of tax shall be repaid within 10 years from the date of commencement of production, in three or five annual equal instalments, as the case may be, payable by 31 March every year after the expiry of validity period. In case of default, interest at the rate of 2 per cent per month shall be charged on such amount of tax remained unpaid till the date of payment.

* *Chaibasa and Patna City (East).*

Under the provisions of the Bihar Finance Act, 1981, when any money is due or may become due to a dealer who has failed to comply with a notice of demand served, the prescribed authority may direct to pay the amount due together with penalty and if it remains unpaid, it shall be recoverable as an arrear of land revenue.

In Commercial Taxes Circle, *Adityapur (Jamshedpur)*, a manufacturer, who was allowed deferment of tax (from October 1989 to September 1994) failed to repay all the 5 annual instalments (first being Rs.5.40 lakh and rest Rs. 14.15 lakh each) payable from 31 March 1995 to 31 March 1999. The dealer was also liable to be charged interest of Rs. 25.44 lakh from the due date upto March 1999, which was recoverable alongwith deferred amount of tax of Rs.62 lakh payable by him. However, no action was taken by the department to recover the tax alongwith interest.

On this being pointed out (January 2000), the department stated (January 2000) that the case would be reviewed. Further reply has not been received (January 2001).

The case was reported to the Government (June 2000); their reply has not been received (January 2001).

3.11 Loss of revenue due to assessment being barred by limitation

Under provisions of the Bihar Finance Act, 1981, no proceeding for assessment of tax payable by a dealer in respect of any period shall be initiated after the expiry of 8 years/4 years (with effect from 1993-94) from the expiry of such period. Further, no proceeding for re-assessment in pursuance of or as a result of an order on appeal, revision and reference or review shall be initiated and completed after the expiry of two years from the date of communication of such order to the assessing authority.

(a) In 2 Commercial Taxes Circles (*Buxar and Katras*), sale of goods valued at Rs.52.62 lakh made during the years 1987-88 and 1994-95 by 2 dealers dealing in contract work and refractory materials were not assessed to tax within the stipulated time, though the dealers had submitted their returns in January 1989 and between August 1994 and March 1995. This resulted in loss of revenue of Rs 5 lakh (including additional tax and surcharge).

On these being pointed out (November and December 1999), the department agreed (November and December 1999) to review the cases. Further reply has not been received (January 2001).

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

(b) Cross verification (between November 1999 and May 2000) of inspection reports of IB* (HQ) and *Dhanbad* Divisional IB with the records of 3 dealers in 3 Circles** revealed that tax on concealed turnover of Rs. 233.06 lakh and entry tax on import value of scheduled goods valued at Rs. 110.13 lakh relating to the period between 1990-91 and 1995-96 was not levied within the stipulated period. This resulted in loss of revenue amounting to Rs. 33.09 lakh including penalty of Rs. 4.22 lakh due to the cases becoming barred by limitation.

(c) By an inspection conducted in 1994, the IB (HQ) detected that a manufacturer of ingot, rolled products, etc. registered in *Ranchi West circle, Ranchi*, had suppressed taxable turnover by Rs. 333.92 lakh during 1992-93 by returning sale of goods valued at Rs. 1349.82 lakh against Rs. 1683.74 lakh as reflected in their audited accounts. The dealer was also allowed incorrect grant of exemption on transfer of goods made outside the State worth Rs. 558 lakh and Rs. 958.96 lakh during the years 1992-93 and 1994-95 respectively treating this as *Arhat* sale which was actually a sale made in course of inter-State trade and commerce directly to the dealers of outside State and was leviable to tax. Further, it was also detected that the dealer was allowed incorrect adjustment of tax (set-off) amounting to Rs. 18.10 lakh during 1992-93, though the dealer had availed the benefit of tax-free purchase of raw materials. The report was sent to the circle in August 1996 by IB (HQ) for taking action under the provisions of the Act *ibid*, but even after a lapse of 4 years from the date of issue of its inspection report, tax of Rs. 192.89 lakh including penalty of Rs. 40.07 lakh remained outstanding (January 2001).

The above findings were pointed out to the department (July and November 2000) and to the Government (July and November 2000); their replies have not been received (January 2001).

3.12 Short levy of tax on liquor

By a notification issued in June 1985 (effective from 1 July 1985) under provisions of the Bihar Finance Act, 1981, tax on sale of IMFL is leviable at every stage of sale at the rate of 25 per cent of the sale price and additional tax at the rate of 2 per cent on the total sales turnover including tax. The amount of sales tax paid at each preceding stage of sale would be adjusted against the amount of tax payable at each subsequent stage of sale.

In 2 circles (*Darbhanga* and *Siwan*), it was noticed that in case of 3 dealers, tax on sale of liquor worth Rs. 127.37 lakh made during the years between 1994-95 and 1996-97 worked out to Rs.12.40 lakh against which tax of Rs.3.68 lakh was only levied (between January 1997 and November 1998). This resulted in short levy of tax amounting to Rs.8.72 lakh.

* Bureau of Investigation of Commercial Taxes Department.

** *Jharia*, *Muzaffarpur* and *Siwan*.

On these being pointed out (December 1999), the department stated (December 1999), that the cases would be reviewed. Further reply has not been received (January 2001).

The cases were reported to the Government (May and June 2000); their reply has not been received (January 2001).

3.13 Loss of revenue due to closing down of business

Under provisions of the Bihar Finance Act, 1981, every dealer requiring to possess a registration certificate shall apply for the same in the prescribed manner to the prescribed authority and the said authority after having been satisfied about the contents and particulars of the application, shall grant a registration certificate to the dealer after furnishing of security for proper payment of tax payable by the dealer and the dealer shall comply with such requirement.

In *Adityapur* circle, in case of a dealer, it was noticed from the demand and collection register, assessment order and demand notices that assessment for the years from 1990-91 to 1993-94 was completed (between November 1996 and March 1998) after closing down of business (1994-95) and tax was assessed to Rs. 283.39 lakh and 864.55 lakh under the Bihar Finance and CST Acts respectively and an additional demand of Rs 1056.86 lakh worked out after adjustment of tax of Rs 91.08 lakh paid by the dealer. However, the notices of demand could not be delivered on the plea that dealer had already closed down his business. This resulted in loss of revenue of Rs 1056.86 lakh.

(Rupees in lakh)

Year	Date of assessment	Tax levied	Tax paid	Balance recoverable
1990-91	30.11.1996	371.91	34.73	337.18
1991-92	30.11.1996	387.11	35.84	351.27
1992-93	30.11.1996	297.20	18.64	278.56
1993-94	9.3.1998	91.72	1.87	89.85
Total		1147.94	91.08	1056.86

On this being pointed out (January 1999), the department stated (June 2000), that action for recovery of dues as arrears of land revenue was being taken. Further reply has not been received (January 2001).

The case was reported to the Government (June 2000); their reply has not been received (January 2001).

3.14 Incorrect allowance of concessional rate of tax

Under provisions of the Bihar Finance Act, 1981, tax is leviable at the concessional rate on sales to, or purchases by, a registered dealer, of goods required by him directly for use in the manufacture or processing of any goods for sale and in respect of which the purchaser has been granted a certificate by the prescribed authority. If the goods purchased are utilised by the purchaser for any purpose other than those specified, the purchaser is liable to pay tax at differential rate arrived at after deducting the concessional rate from the normal rate applicable to the goods. By a notification issued in February 1990, the contractors were excluded from the purview of making sale/purchase at concessional rate of tax.

In *Bokaro and Chirkunda* Circles, 2 dealers/manufacturers (assessed between June 1997 and November 1998) sold goods valued at Rs.187.09 lakh to the manufacturers/contractors out of goods purchased at concessional rate for use in manufacture during the years between 1994-95 and 1996-97 and the tax was incorrectly levied at concessional rate of tax instead of the normal rate of tax. This resulted in under assessment of tax of Rs.10.95 lakh (including additional tax and surcharge).

On these being pointed out (between November 1998 and March 2000), the department stated (between December 1998 and March 2000) that the cases would be reviewed. Further reply has not been received (January 2001).

The cases were reported to the Government (May and June 2000); their reply has not been received (January 2001).

CHAPTER 4 : State Excise

4.01 Results of Audit

Test check of the records of the excise offices, conducted in audit during the year 1999-2000, revealed under assessments and losses of revenue amounting to Rs.2441.86 lakh in 2155 cases, which broadly fall under the following categories: -

(Rupees in lakh)			
Sl. No	Category	No. of cases	Amount
1.	Non/delayed settlement of excise shops	429	1646.12
2.	Non- realisation of licence fee	260	189.81
3.	Irregular allowance of wastage of country spirit/spiced country liquor	16	9.55
4.	Loss of revenue due to wastage of spirit	2	1.83
5.	Other irregularities	1448	594.55
Total		2155	2441.86

During the year 1999-2000, the concerned department accepted under assessments etc., of Rs.506.60 lakh involved in 287 cases of which 149 cases involving Rs.97.69 lakh had been pointed out in audit during 1999-2000 and rest in earlier years. A few illustrative cases involving tax effect of Rs. 1606.17 lakh are given in the following paragraphs: -

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

Under the Bihar Excise Act, 1915 and rules framed thereunder, the licences of excise shops for retail outlet of country spirit, foreign liquor and spiced country spirit are settled annually by auction by the Collector. When the upset/reserved fee is not obtained in any case, the Collector of the district may, at his discretion, accept a lower fee, which shall, however, be subject to the approval of the Commissioner. The department also issued (June 1995) instructions to all Collectors/ Deputy Commissioners to operate the unsettled excise shops departmentally. If the shops are settled subsequently, the departmental operation would be withdrawn.

In 22 Excise districts*, 213 country spirit, 115 India made foreign liquor (IMFL) and 136 spiced country liquor shops remained unsettled during the

* Araria cum Kishanganj, Aurangabad, Bhagalpur cum Banka, Bokaro, Deoghar, East Champaran, Gaya, East Singhbhum, Giridih, Hazaribagh cum Chatra cum Koderma, Katihar, Khagaria, Madhepura, Munger cum Jamui cum Lakhisarai cum Sheikhpura, Muzaffarpur, Nalanda, Nawada, Palamau cum Garhwa, Purnea, Ranchi, Saharsa cum Supaul and West Champaran.

years 1996-97, 1997-98 and 1998-99. No efforts were made either to settle the shops below the reserved fee or to run them departmentally. This resulted in non-supply of liquor to retail outlet causing loss of excise revenue of Rs.1530.30 lakh in shape of licence fee, excise duty, movement fee, etc.

On these being pointed out (between June 1998 and March 2000), the department stated (between June 1998 and March 2000) that shops could not be settled due to non-availability of bidders and fixation of high reserved fee. The reply of the department is not tenable as in the absence of bidders no efforts were made to run the shops departmentally or to settle them below the reserved fee.

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

4.03 Non-realisation of additional amount on excess lifting of country spirit

Under the Bihar Excise Act, 1915 and rules framed thereunder read with condition of sale notifications (between February 1997 and May 1998), permission for issue of liquor in any month beyond 30 per cent above the approved Minimum Guaranteed Quota (MGQ) for that month, shall be granted to retail licensees after receiving additional amount proportionate to the auction money for the year 1997-98 and at a fixed rate of Rs. 15 per London Proof Litre (LPL) for the year 1998-99.

In 18* excise districts, 434 and 343 retail licensees were permitted to lift 185514.77 LPL and 161009.10 LPL of country spirit in excess of 30 per cent above the approved MGQ in different months during the years 1997-98 and 1998-99 respectively without receiving the additional amount which resulted in non-realisation of revenue of Rs. 47.86 lakh.

On these being pointed out (between May 1999 and March 2000), the department agreed (between May 1999 and March 2000) to take further action. Further reply has not been received (January 2001).

The cases were reported to the Government (between March and May 2000); their reply has not been received (January 2001).

* Aurangabad, Bhagalpur, Bokaro, Deoghar, Dumka, East Champaran, East Singhbhum, Gaya, Hazaribagh, Madhepura, Muzaffarpur, Nawada, Patna, Ranchi, Sahebganj, Saharsa, West Champaran and West Singhbhum.

4.04 Short realisation of duty on IMFL

By a notification issued in July 1996, the Government enhanced the rates of duty on IMFL with effect from 11 June 1996. Accordingly, the rates of excise duty on Regular, Semi-premium and on Scotch and Premium brands of IMFL were revised from Rs.50 per LPL to Rs.55, Rs.75 and Rs.100 per LPL respectively.

In a distillery in Patna district, it was noticed that Excise duty on 105257.04 LPL of IMFL was realised at the pre-revised rate during the period between 11 and 22 June 1996. This resulted in short realisation of duty of Rs. 11.77 lakh.

On this being pointed out (June 1997), the department stated (June 1997) that due to late receipt of Government orders, duty at revised rates could not be levied.

The case was reported to the Government (May 2000); their reply has not been received (January 2001).

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

The Bihar Excise Act, 1915 and rules framed thereunder provide that in settlement of Excise shops, a person whose bid has been accepted by the presiding officer at the auction must pay the sum required on account of advance fee immediately. Notification for sale further stipulates that in case of settlement for whole year, the purchaser is liable to pay six months' licence fee in advance immediately after settlement and balance to be paid between July and December in equal monthly instalments. In case of settlement for six months or less, the entire amount of licence fee is payable in advance immediately after the settlement. Further, when a shop is knocked down, the purchaser is liable for any loss that may accrue to Government in case it becomes necessary to re-sell the shop for a lower sum or to keep it unsettled in case of his failure to pay the sum payable at the time of sale.

In 4 District Excise Offices*, licensees of 9 country spirit, 3 spiced country spirit and 5 IMFL shops with whom licences were settled/ renewed for the years 1997-98 and 1998-99 failed to deposit the required advance licence fee within the stipulated time. Out of these, in 6 cases though licences were cancelled (between December 1997 and October 1998), the shops remained unsettled for the remaining period of the financial year. In 3 cases licences were cancelled at the fag end of the year, while in 8 cases the licensees were allowed to run the shops for the entire period of licence without realisation of licence fee. This resulted in non-realisation of revenue of Rs. 10.44 lakh.

* Deoghar, Katihar, Patna and Purnea.

On these being pointed out (between May and July 1999), the department agreed (between May and August 1999) to take further action. Further reply has not been received (January 2001).

The cases were reported to the Government (between March and May 2000); their reply has not been received (January 2001).

4.06 Short realisation of revenue due to incorrect classification

The Government of Bihar by issue of a notification in March 1997 revised annual licence fees for sale of IMFL under Hotel, Restaurant, Bar, Clubs and Canteen Licences with effect from 1 April 1997.

In excise districts of *Dhanbad* and *Ranchi*, 6 Hotels/Restaurants were classified in lower categories during the year 1998-99 due to incorrect classification of location of Hotel/Restaurant/Bar in Urban and Rural areas. The licence fee amounting to Rs.6.20 lakh was, however, realised at the lower rate as against the recoverable amount of Rs.12.00 lakh based on revised rate which resulted in short realisation of licence fee of Rs.5.80 lakh.

On these being pointed out (December 1999 and January 2000), the District Excise Officer, *Dhanbad* agreed (December 1999) to review the cases. In case of *Ranchi*, it was stated (January 2000) that action was being taken for realisation. Further reply has not been received (January 2001).

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

CHAPTER 5: Taxes on Vehicles

5.01 Results of Audit

Test check of the records of the transport offices during the year 1999-2000 revealed non/short levy of motor vehicles tax, fees, penalties, fines, etc. amounting to Rs. 25701.17 lakh in 11022 cases, which broadly fall under the following categories: -

(Rupees in lakh)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of taxes	225	620.42
2.	Non-imposition of fees, fines and penalties	263	2.74
3.	Discrepancy in Government revenue deposited under the head PGT #	--	1264.65
4.	Short levy of taxes due to incorrect fixation of seating capacity/RLW##	193	41.63
5.	Other irregularities	10341	23771.73
Total		11022	25701.17

During the year 1999-2000, the department accepted under assessment and other irregularities in 609 cases involving Rs.379.16 lakh pointed out in audit in earlier years. A few illustrative cases and a review on "Recovery of dues treated as arrears of land revenue" involving Rs. 12696.84 lakh are given in the following paragraphs: -

Passengers and Goods Tax.

Registered Laden Weight.

5.02 Recovery of dues treated as arrears of land revenue**5.02.01 *Introductory***

Under provisions of the Bihar Motor Vehicles Taxation (BMVT) Act, 1994 and rules made thereunder, road tax and additional motor vehicles tax are payable annually or quarterly in advance. Where tax remains unpaid, the taxing officer may impose penalty. Any tax or penalty remaining unpaid may be recovered in the same manner as arrears of land revenue. As per executive instructions (June 1988 and November 1990), the taxing officer is required to issue demand notices in those cases where the amounts have not been paid and thereafter certificate proceedings are to be initiated for recovery of dues as arrears of land revenue. Under the Public Demands Recovery (PDR) Act, 1914, any money, which is declared by any law for the time being in force as arrears of revenue, is recoverable as arrears of land revenue. When the certificate officer is satisfied that any public demand payable to the collector is due, he may sign a certificate in the prescribed form, stating that the demand is due and shall cause the certificate to be filed in his office. However, no time limit has been fixed under the BMVT Act for treating the arrears as arrears of land revenue.

5.02.02 *Organisational set up*

The State Transport Commissioner (STC) is the head of the Motor Vehicles (Transport) Department and deals with all matters of policy. The Government has entrusted the responsibility for administration of Acts and Rules to him. In performance of duties, he is assisted by 3 Joint State Transport Commissioners at Headquarters, 13 Secretaries of Regional Transport Authorities (RTAs), 55 District Transport Officers (DTOs), Motor Vehicles Inspectors (MVIs), the Enforcement Wing (EW) consisting of Enforcement Officers, Inspectors and Sub Inspectors at the district level and 3 Check Posts.

5.02.03 *Scope of audit*

With a view to ascertaining whether provisions of the Act, Rules and executive instructions were properly followed regarding realisation of arrears, audit was aimed at analysing stage-wise system lapses. During the course of audit, records of 7 DTOs* alongwith concerned District Certificate Offices and STC office for the period from 1994-95 to 1999-2000 were test checked between April and June 2000.

* Dhanbad, Gaya, Hazaribagh, Jamshedpur, Muzaffarpur, Patna and Ranchi.

5.02.04 Highlights

(i) Arrears amounting to Rs 3866.98 lakh in 4134 cases could not be realised during June 1993 to February 2000 because of non-furnishing of necessary details by DTOs to District Certificate Officers.

[Paragraph 5.02.07(ii)(b)]

(ii) There was loss of revenue of Rs 1144.78 lakh due to incorrect dropping of 1763 cases in 3 District Transport Offices.

[Paragraph 5.02.08(a)]

(iii) Non-vacation of withholding orders resulted in non-realisation of arrears of Rs. 408.11 lakh in 253 cases.

[Paragraph 5.02.08 (c)]

(iv) After issuance of 1st notice, 6203 certificate cases of Rs 5230.17 lakh were not executed even after 3 to 84 months.

[Paragraph 5.02.09(a)(ii)]

(v) There was delay ranging from 2 to 3 years in initiation of 5587 certificates of Rs.4877.86 lakh in one District Transport Office.

[Paragraph 5.02.09(b)]

5.02.05(a) Position of arrears

The position of arrears as on 31 March of the preceding 5 years is as under:-

(Rupees in lakh)	
Year	Amount at the beginning of the year
1995-96	26303.95
1996-97	21973.66
1997-98	20193.22
1998-99	19997.20
1999-2000	19598.15

The break-up of arrears viz. additions and disposal in respective years was not furnished by the department. The stages at which arrears were pending were also not made available. The department stated that the total amount of arrears at the end of 1999-2000 was covered by 49720 certificate cases.

(b) Position of certified arrears

As per information furnished by the STC, the position of certified arrears of 4 years is as below: -

Period	Total no. of cases	Amount	(Rupees in lakh)				
			Settlement		Balance		Percentage of disposal
			Cases	Amount	Cases	Amount	
1996-97	56079	21282.52	6799	2831.18	49280	18451.34	12.12
1997-98	50064	18673.65	1461	551.18	48603	18122.47	2.91
1998-99	49531	18483.64	1148	404.10	48383	18079.54	2.31
1999-2000	49831	18726.38	556	308.41	49275	18417.97	1.11

The department could not furnish age-wise information regarding arrears, though called for. However, from the information collected from 5 DTOs*, it was noticed that arrears in 100 cases each exceeding Rs 1 lakh involving Rs 270.77 lakh were outstanding for more than 5 years.

(c) Non-achievement of target of collection for arrears

The targets for collection of arrears fixed by the Finance Department *vis-à-vis* the collections made by the department are as detailed below: -

Year	Target	Collection	Shortfall	(Rupees in lakh)
				Percentage of collection to target
1994-95	6936.38	2369.18	4567.20	34.15
1995-96	7936.39	2528.88	5407.51	31.86
1996-97	7142.00	1594.27	5547.73	22.32
1997-98	2230.00	1368.50	861.50	61.36
1998-99	1526.50	916.47	610.03	60.03
1999-2000	5620.00	1085.86	4534.14	19.32

It would be seen from the above that targets fixed were not achieved and the percentage of collection of arrears ranged between 19.32 and 61.36 during 1994-95 to 1999-2000 leaving huge balances unrealised.

5.02.06 Non-initiation of certificate proceedings

Under the BMVT Act, 1994 taxes are to be paid within the prescribed time. According to instructions issued by the STC (June 1988 and November 1990), the DTOs are responsible for timely realisation of tax. In case of non-payment of tax, a demand notice is to be issued at first instance and thereafter certificate proceedings can be initiated.

Details of information regarding issue of demand notices were not maintained by any of 7 DTOs** test checked. Consequently, no certificate proceedings could be initiated.

* Dhanbad, Gaya, Hazaribagh, Jamshedpur and Ranchi.

** Dhanbad, Gaya, Hazaribagh, Jamshedpur, Muzaffarpur, Patna and Ranchi.

20 illustrative cases each involving Rs. 2 lakh and above having implications of Rs 75.31 lakh pending for more than 2 to 5 years are given below: -

(Rupees in lakh)				
Name of office of DTO	Vehicle No.	Type	Period of tax dues	Amount of dues
Dhanbad	BER 8775	Bus	17 January 1993 to March 2000	4.52
	BHG 6962	Bus	16 March 1993 to March 2000	4.37
	BPW 9708	Bus	30 June 1992 to March 2000	4.85
	BR 17 0011	Bus	24 January 1994 to March 2000	4.42
	BRW 7909	Bus	18 March 1994 to March 2000	4.11
Gaya	BR 2 P 2986	Bus	January 1997 to March 2000	2.36
	BR 2 P 6061	Bus	January 1996 to March 2000	3.20
	BR 2 P 9286	Bus	October 1996 to March 2000	2.49
	BR 2 P 9495	Bus	July 1995 to March 2000	3.46
	BR 2 P 3873	Bus	11 December 1996 to March 2000	2.55
Jamshedpur	BR 16 P 515	Bus	28 April 1996 to March 2000	2.82
	BR 16 P 1116	Bus	16 November 1994 to March 2000	3.91
	BR 16 G 19	Truck	April 1993 to March 2000	2.52
	BR 16 G 402	Truck	July 1993 to March 2000	2.47
	BR 16 G 8179	Truck	April 1993 to March 2000	2.52
Ranchi	BR-14 P 2121	Bus	December 1992 to March 2000	4.97
	BR-14 P 2522	Bus	December 1992 to March 2000	5.10
	BR-14 P 7866	Bus	August 1993 to March 2000	4.84
	BR-14 P 9009	Bus	December 1993 to March 2000	4.64
	BR-14 P 269	Bus	July 1992 to March 2000	5.19
Total	20 cases			75.31

Thus, failure of the department to issue demand notices for realisation of tax dues and consequently non-initiation of certificate proceedings resulted in non-realisation of revenue of Rs. 1048.31 lakh in 2 districts for the period between April 1969 and March 2000. In one district (Patna) dues of Rs. 490.42 lakh were involved in 2667 cases while in the other district (*Jamshedpur*) the number of cases involved in Rs. 496.82 lakh was not furnished by the office (January 2001).

5.02.07(i) Delay in filing of certificates

Under the BMVT Act, no time limit has been prescribed within which the DTO should initiate the certificate proceeding against a defaulter.

In the offices of 6 District Certificate Officers (DCOs)*, it was noticed that certificates were filed after delays ranging between 3 and more than 40 years. 110 illustrative cases showing age-wise/money-wise details involving tax dues amounting to Rs 281.24 lakh are given below: -

* Dhanbad, Gaya, Hazaribagh, Jamshedpur, Muzaffarpur and Ranchi.

(Rupees in lakh)

Tax involved	No of cases	Amount	No. of districts involved
5 lakh	12	67.24	3
4 lakh	6	26.28	3
3 lakh	18	57.48	3
2 lakh	19	49.89	5
1 lakh	55	80.35	4
Total	110	281.24	

(Rupees in lakh)

Pending for more than	No. of cases	Amount	No. of districts
40 years	1	2.55	1
30 years	2	6.17	1
20 years	25	94.90	4
10 years	69	146.62	6
5 years	9	25.10	4
3 years	4	5.90	2
Total	110	281.24	

(ii)(a) Non-return of Certificate Requisitions

As per Board's Instructions under the PDR Act, the Requiring Officer (RO) is primarily responsible for prompt disposal of objections, if referred to him, and return of the files after such disposal and early application for execution of certificates.

It was noticed that the DTO, Gaya sent 271 requisitions involving Rs.165.38 lakh to the DCO, Aurangabad in July 1994 for initiation of certificate proceedings. However, these were returned in August 1996 to the RO (DTO) on the ground of incomplete address of defaulters/improper filing of cases. No action was taken (June 2000) by the RO to re-submit the requisitions to the DCO, Aurangabad after compliance with the required information.

On this being pointed out (June 2000), the DTO, Gaya stated that the cases would be sent to the DTO, Aurangabad.

(b) Non-compliance of information sought by Certificate Officers

The PDR Act and Board's Instructions issued thereunder from time to time, *inter alia*, provide for furnishing by the RO correct addresses of the defaulting vehicle owners against whom certificates are to be enforced. Further, the RO is required to send report on any case called for by the Certificate Officer.

Test check of records in connection with disposal of certificate cases revealed that the Certificate Officers asked for (between June 1993 and February 2000) from the concerned ROs certain details such as change of address of defaulters, denials of liabilities by debtors, etc. in respect of 4134 cases

involving Rs.3866.98 lakh for initiating certificate proceedings as detailed below: -

(Rupees in lakh)			
Name of District	Period during which information sought by DCO (between)	No. of cases	Amount
Dhanbad	1994-95 and December 1999	1287	922.00
Gaya	August 1994 and September 1995	942	1037.38
Hazaribagh	June 1993 and February 2000	362	241.01
Jamshedpur	March 1998	330	506.41
Patna	February 1997	2	6.76
Ranchi	May 1995 and November 95	1211	1153.42
Total		4134	3866.98

The compliance was, however, not received by the concerned Certificate Officers. Neither the ROs responded to observations of Certificate Officers nor Certificate Officers pursued these cases in disregard to concept of joint responsibility. This resulted in blockade of revenue of Rs.3866.98 lakh.

5.02.08 (a) Loss of revenue due to dropping of certificates

No provision exists in the PDR Act to drop certificate proceeding once initiated. However, in the offices of DTO, Gaya, Muzaffarpur and Patna, it was noticed that 1763 cases involving tax dues of Rs.1144.78 lakh were dropped (between January 1994 and 1999-2000) as antecedents of debtors were not available and consequently reduced from the balance of pending certificates. This resulted in loss of revenue of Rs.1144.78 lakh. Age-wise and money-wise analysis of 44 illustrative cases are given below: -

(Rupees in lakh)			(Rupees in lakh)		
Cases more than Rupees	Number of cases	Amount	Periods between institution and dropping of cases	Number of cases	Amount
4 lakh	3	12.77	More than 3 years	11	28.71
3 lakh	5	17.30	Between 1 and 3 years	28	64.25
2 lakh	20	48.81	Below 1 year	5	5.61
1 lakh	12	17.33			
50 thousand	4	2.36			
Total	44	98.57	Total	44	98.57

(b) Incorrect disposal/dropping of certificates from register X

In office of 7 DTOs*, it was noticed that 8981 cases involving tax dues of Rs.4824.27 lakh were disposed of during 1994-95 to 1999-2000 but the exact amount of dues realised on disposal of cases could not be ascertained from the Register X as amount shown as dues realised in the returns furnished to the STC by the DTOs is inclusive of certificate proceedings. Thus, the figure of realisation of dues on finalisation of cases did not represent the realisation of dues due to certificate proceedings. In offices of 4 DCOs (Gaya, Muzaffarpur, Patna and Ranchi), 4034 cases of Rs.3740.23 lakh were dropped while in

* Dhanbad, Gaya, Hazaribagh, Jamshedpur, Muzaffarpur, Patna and Ranchi.

return it was shown as realised. In *Hazaribagh* and *Muzaffarpur*, 480 cases of Rs.812.97 lakh were shown as disposed of against which Rs.1.11 lakh only in 33 cases was realised as detailed below: -

(Rupees in lakh)

Name of district	Number of cases disposed of	Total amount involved	Amount realised	Number of cases
<i>Hazaribagh</i>	116	74.36	0.03	2
<i>Muzaffarpur</i>	364	738.61	1.08	31
Total	480	812.97	1.11	33

The department had no mechanism and also did not take any action to ascertain the realisation of dues against the cases disposed of / dropped *vis-à-vis* the amount credited to the Government account.

(c) *Withholding of certificate cases*

The PDR Act does not provide for withholding /stay of certificate cases.

In offices of 2 DTOs (*Gaya* and *Muzaffarpur*), it was noticed that 253 certificate cases involving tax effect of Rs. 408.11 lakh were withheld (between September 1995 and July 1997) by respective DCOs on the ground that debtors were not traceable on the given addresses. 15 illustrative cases each involving more than Rs 1 lakh are given below: -

(Rupees in lakh)

Name of office of DTO	Certificate Case number/ Year	Vehicle Number/ Type	Period	Amount of dues	Period of withholding
1	2	3	4	5	6
Gaya	441/93-94	BRB 2151 / Truck	July 1964 to January 1993	3.76	September 1995
	458/93-94	BRB 2277 / Truck	April 1965 to December 1992	3.66	September 1995
	592/93-94	BRB 3034 / Truck	November 1968 to December 1992	3.90	September 1995
	703/93-94	BRB 3767/ Truck	December 1972 to January 1993	3.03	September 1995
	109/93-94	BRB 577/ Truck	July 1958 to February 1993	4.37	September 1995
	178/93-94	BRB 836 / Bus	August 1959 to December 1992	3.09	September 1995
	402/93-94	BRB 1867 / Truck	April 1965 to December 1992	3.66	September 1995
	403/93-94	BRB 1873 / Truck	August 1964 to December 1992	3.73	September 1995
	468/93-94	BRB 2304 / Truck	July 1972 to February 1993	3.00	September 1995
	434/93-94	BRB 2108/ Truck	January 1959 to January 1993	3.08	September 1995
	449/93-94	BRB 2236/ Truck	October 1973 to December 1992	2.05	September 1995
	456/93-94	BRB 2271/ Truck	October 1979 to December 1992	2.24	September 1995

1	2	3	4	5	6
Gaya	482/93-94	BRB 2369/ Truck	April 1974 to January 1993	2.80	September 1995
	501/93-94	BRB 2427/ Truck	May 1974 to January 1993	2.80	September 1995
Muzaffarpur	1953/92-93	NLA 4229 / Truck	N.A	1.10	29 July 1997
			Total	46.27	

5.02.09(a) Execution of certificates

As per the PDR Act, the Certificates Officers shall not take any step in execution of certificate until a period of thirty days has elapsed since the date of service of the notice.

- (i) It was noticed that in respect of 146 cases involving Rs 45.21 lakh received between April 1997 and January 1999 in office of the DCO, *Hazaribagh* notices were issued between January and June 1999 after delay of 5 to 22 months of receipt of the cases.
- (ii) A test check of records of 5 DCOs revealed that after issuance of service notices by the Certificate Officers, no steps were taken to execute the certificates in 6203 cases involving Rs. 5230.17 lakh even after a period ranging between 3 and 84 months as detailed below: -

(Rupees in lakh)				
Name of Certificate Office	No of cases	Amount	Date of issue of service notice (between)	Delay since issue of first notice to 31 March 2000
Gaya	151	40.65	October 1994 and December 1999	3 to 65 months
<i>Hazaribagh</i>	217	94.51	July 1996 and June 1999	10 to 45 months
Muzaffarpur	9	50.31	September 1995	54 months
Patna	239	166.83	April 1996 and October 1998	18 to 47 months
<i>Ranchi</i>	5587	4877.87	March 1993 and June 1995	57 to 84 months
Total	6203	5230.17		

Of the above, in 3 districts alone (*Hazaribagh*, *Ranchi* and Muzaffarpur), the tax dues against only 64 certificate cases involving Rs 136.82 lakh filed during 1993-94, 1994-95 and 1995-96 each involving more than Rs 1 lakh was Rs. 11.07 lakh (5 cases), Rs. 75.44 lakh (50 cases) and Rs. 50.31 lakh (9 cases) respectively.

(b) Delay in entry of cases in Register X

Under the PDR Act, certificate proceeding initiated for realisation of arrears are required to be sent to the certificate Officer who enters its details in a register called Register X. Further, the Certificate Officer is responsible for ensuring that no delay occurs in the Certificate Office and certificates are made as soon as applied for.

In the office of DCO, *Ranchi*, it was noticed that 4874 certificate requisitions involving Rs. 4058.96 lakh received between March and June 1993 and 713 requisition involving Rs. 818.90 lakh received between February and May 1995 were entered in Register X between 1994 and 1995 and 1997 and 1998 respectively resulting in delay in initiating the certificate proceedings ranging from 2 to 3 years.

The above findings were pointed out to the department (July 2000) and reported to the Government (July 2000); their replies have not been received (January 2001).

5.03 Non-realisation of tax from vehicles involved in surrender

Under the BMVT Act, 1994 and rules made thereunder, when the owner of a motor vehicle does not intend to use his vehicle for certain period not exceeding six months at a time, he can be exempted from payment of tax by the competent authority provided that his claim for exemption is supported by the required evidence such as certificate of registration, fitness certificate, tax token, etc. For the period of non-use of vehicle he is entitled for exemption from payment of tax after following the prescribed procedure. Further, where the Taxation Officer is satisfied after due enquiries that a motor vehicle has not been used for a continuous period of not less than one calendar month, he may exempt the owner of the motor vehicle from payment of arrears up to a maximum of Rs. 4000 and when the amount of such arrears of tax exceeds this limit, he shall refer the matter to the STC, Bihar or any officer not below the rank of Assistant Transport Commissioner for decision.

(a) Rejection of application for surrender

In 16 District Transport Offices^{*}, it was noticed (between July 1996 and June 2000) that in respect of 40 motor vehicles, road tax and additional motor vehicles tax were not realised for different periods falling between April 1991 and March 1999 though the applications for exemption from payment of tax were rejected (between November 1993 and July 1999) by the STC and RTA. This resulted in non-realisation of taxes amounting to Rs. 14.77 lakh.

(b) Surrender beyond six months

In 15 District Transport Offices^{**}, it was noticed (between May 1997 and June 2000) that in respect of 128 motor vehicles, the prescribed period of surrender had expired between July 1994 and March 1999 but no undertakings were received from any owner for extending the period of surrender. In the absence of such undertakings, the vehicle owners were liable to pay tax of Rs. 31.96

^{*} Begusarai, Bhagalpur, Bhojpur, *Bokaro*, Darbhanga, *Dhanbad*, *Dumka*, *Jamshedpur*, Katihar, Munger, Patna, Purnea, *Ranchi*, Samastipur, Sasaram (Rohtas) and Sitamarhi.

^{**} Begusarai, Bhagalpur, Bhojpur, Chapra (Saran), Darbhanga, *Deoghar*, *Dumka*, Gaya, *Giridih*, *Hazaribagh*, Muzaffarpur, Patna, Purnea, *Ranchi* and Sasaram (Rohtas).

lakh for the period between July 1994 and June 2000, which was neither paid nor realised by the department.

(c) *Pendency of exemption cases*

In 24 District Transport Offices*, it was noticed (between July 1996 and June 2000) that in respect of 170 motor vehicles, road tax and additional motor vehicles tax were not realised for different periods falling between January 1990 and April 2000, as the applications for exemption from payment of taxes have been lying pending since September 1992 in the office of STC and concerned RTAs. The specific reasons for pendency of exemption cases, though called for, were not furnished by the department. This resulted in non-realisation of taxes of Rs. 51.33 lakh.

The above findings were pointed out (July 2000) to the department and reported (July 2000) to the Government; their replies have not been received (January 2001).

5.04 Loss of revenue due to plying of vehicles without permits

Under the Motor Vehicles Act, 1988, the BMVT Act, 1994 and rules made thereunder, no owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passenger or goods save in accordance with the condition of a permit granted or countersigned by the RTA or State Transport Authority or any other prescribed authority. The user of a transport vehicle without a permit would be liable to pay penalty which may extend to five thousand rupees. Under provisions of the Bihar Motor Vehicles Rules, 1992, permit fee and application fee are to be paid at the prescribed rates. Further, the Government authorised (April 1991) the officers of the EW and Mobile Squads to seize and detain motor vehicles plying without permits.

In 9 District Transport Offices**, test check of records between December 1999 and June 2000 revealed that motor vehicles taxes were paid and certificates of fitness obtained in respect of 6806 vehicles. During cross verification of records of STC and respective RTAs, it was found that no permit was obtained in respect of these vehicles from the STC, RTAs by the owners plying their vehicles on specified routes. It was also noticed that EW/Mobile Squads failed to seize these vehicles on road. Thus, due to absence of co-ordination among STC, RTA, DTOs and EW/Mobile Squads, 6806 transport vehicles plying without permits remained undetected with consequential loss of revenue of Rs. 140.14 lakh in shape of permit fees

* Bhagalpur, Bhojpur, Bokaro, Daltonganj, Darbhanga, Deoghar, Dhanbad, Dumka, Gaya, Giridih, Gumla, Hazaribagh, Jahanabad, Jamshedpur, Khagaria, Madhubani, Munger, Muzaffarpur, Nalanda, Patna, Purnea, Ranchi, Samastipur and Sasaram (Rohtas).

** Bokaro, Dhanbad, Giridih, Hazaribagh, Madhubani, Muzaffarpur, Patna, Ranchi and Samastipur.

(Rs. 136.12 lakh) and application fees (Rs. 4.02 lakh) for the period between 1994-95 and 1999-2000.

The above findings were pointed out (July 2000) to the department and reported (July 2000) to the Government; their replies have not been received (January 2001).

5.05 Short realisation of revenue due to misclassification of vehicles

Under the Motor Vehicles Act, 1988, a motor vehicle owned by a college, school or other educational institutions and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities, shall be treated as omnibus and shall be taxed accordingly. As per executive instruction issued by the State Transport Commissioner, Bihar in July 1994, unless an educational institution is recognised either by Bihar/Central educational institution, this facility will not be given to such institution.

In 10 District Transport Offices*, 86 motor vehicles not registered in the name of college, school or any educational institution recognised by the Bihar/Central educational institution, were treated as omnibus and road tax and additional motor vehicles tax were realised at lower rates resulting in short realisation of tax of Rs.55.53 lakh for the period between January 1994 and October 2002.

On these being pointed out (between May 1999 and January 2000), the DTOs stated (between May 1999 and January 2000) that in respect of 65 cases the demand notices would be issued, in respect of 19 cases action for realisation would be taken and in respect of 2 cases the matter would be examined and demand notices would be issued.

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

5.06 Lack of control over collection of tax

Under the Bihar and Orissa Motor Vehicles Taxation Act, 1930, as amended from time to time and rules made thereunder, tax in respect of a vehicle is payable annually or quarterly within 15 days from the commencement of the year or quarter, as the case may be.

* Bhagalpur, Bokaro, Dumka, Dhanbad, Giridih, Hazaribagh, Madhubani, Muzaffarpur, Patna and Ranchi.

In 20 District Transport Offices*, it was noticed (between May 1999 and March 2000) that the owners of 674 transport vehicles had stopped payment of taxes in the offices where they were originally registered and no intimation regarding change of address was found recorded. This resulted in non-recovery of tax of Rs.312.33 lakh pertaining to the period from January 1990 to March 2000.

On these being pointed out (between May 1999 and March 2000), the concerned authorities stated (between May 1999 and March 2000) that in 634 cases demand notices would be issued and in 40 cases matter would be examined. Further reply has not been received (January 2001).

The cases were reported to the Government (May 2000); their reply has not been received. (January 2001).

5.07 Incorrect grant/ renewal of certificate of fitness

(a) Under the Motor Vehicles Act, 1939 (replaced by the Act of 1988), a transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness granted by Motor Vehicles Inspector. Under instruction issued (September 1982) by the department, Motor Vehicles Inspectors are required not to grant/renew certificates of fitness to transport vehicles in respect of which there are arrears of tax.

During the course of audit of 12 District Transport Offices**, it was noticed (between October 1996 and December 1999) that in respect of 65 vehicles, road tax and additional motor vehicles tax amounting to Rs.13.50 lakh for the period between January 1990 and August 1999 were in arrears but certificates of fitness were granted by the prescribed authorities during the period of non-payment of taxes.

On these being pointed out (between October 1996 and December 1999), the DTOs stated (between October 1996 and December 1999) that in 16 cases demand notices would be issued, in 17 cases the matter would be examined and in 32 cases the matter would be referred to the concerned Motor Vehicles Inspectors. Further replies have not been received (January 2001).

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

(b) According to executive instruction issued by the STC in July 1991, Motor Vehicles Inspectors are required to seize the vehicles, which are involved in road accident during the period of non-payment of tax and institute cases against owners of such vehicles.

* Begusarai, Bhagalpur, Bhojpur, Bokaro, Chaibasa, Darbhanga, Dhanbad, Dumka, Gaya, Giridih, Hazaribagh, Madhepura, Madhubani, Munger, Muzaffarpur, Patna, Purnea, Ranchi, Samastipur and Sasaram (Rohtas).

** Begusarai, Bhagalpur, Bokaro, Darbhanga, Dhanbad, Dumka, Gaya, Giridih, Hazaribagh, Madhubani, Patna and Purnea.

In 7 District Transport Offices^{*}, it was noticed (between June 1997 and March 2000) that 14 motor vehicles owners evaded road tax and additional Motor Vehicles tax for various periods between January 1990 and December 1998 though certificates of fitness of the Motor Vehicles Inspectors were issued to these vehicles which met with accident on road during the period of non-payment of tax. Non-observance of the executive instruction resulted in non-realisation of tax of Rs. 7 lakh.

On these being pointed out (between June 1997 and March 2000), the DTOs stated that in 10 cases demand notices would be issued and in other 4 cases action would be taken after examination. Further reply has not been received (January 2001).

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

5.08 Non-realisation of tax due to cancellation of registration

Under the Motor Vehicles Act, 1988 read with executive instruction issued by the STC in June 1981, cancellation of certificate of registration can be made subject to realisation of arrears of tax.

In 9 District Transport Offices^{**}, the certificates of registration of 18 transport vehicles were cancelled (between January 1995 and November 1997) without realising the tax of Rs. 6.21 lakh for the period falling between January 1990 and November 1997.

On these being pointed out (between January 1997 and March 2000), the DTOs stated (between January 1997 and March 2000) that in 5 cases demand notices would be issued, in 12 cases action would be taken after examination and that one case would be sent to the RTA, Hazaribagh for examination. Further reply has not been received (January 2001).

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

^{*} Bhojpur, Bokaro, Chapra (Saran), Gaya, Hazaribagh, Khagaria and Sasaram (Rohtas).

^{**} Bhojpur, Chaibasa, Chapra (Saran), Darbhanga, Deoghar, Giridih, Jamshedpur, Muzaffarpur and Ranchi.

5.09 Non-realisation of tax from dealers/manufacturers

Under the BMVT Act, 1994, tax at the annual rate as specified in Schedule-III shall be paid by a manufacturer/dealer of motor vehicles, in respect of the motor vehicles in his possession in the course of business as manufacturer or dealer.

In 5 District Transport Offices*, it was noticed (between October 1996 and March 2000) that tax was not realised from 52 dealers/manufacturers in respect of 114728 vehicles in their possession during the years 1993-94 to 1998-99. This resulted in non-realisation of tax amounting to Rs.92.48 lakh as detailed below: -

(Rupees in lakh)			
Name of office of DTO	Year	No. of vehicles	Tax due
Bhagalpur	1993-94	433	0.28
	1994-95	1388	0.85
Darbhanga	1994-95	958	0.55
	1995-96	452	0.27
<i>Dhanbad</i>	1994-95	4710	2.77
<i>Jamshedpur</i>	1995-96	46153	38.54
	1996-97	52536	44.02
	1998-99	5732	3.51
Purnea	1994-95	805	0.54
	1995-96	343	0.24
	1996-97	1218	0.91
Total		114728	92.48

Out of the total amount of Rs. 92.48 lakh, an amount of Rs. 79.87 lakh involved in 94718 vehicles pertained to 5 dealers / manufacturers as given below: -

(Rupees in lakh)				
Name of office of D.T.O	Name of dealer / manufacturer	Year	Number of vehicles	Amount
<i>Jamshedpur</i>	M/s. TELCO Ltd., Jamshedpur	1995-96	40731	75.30
		1996-97	47114	
	M/s PEBCO Ltd., Auto Divn. Jamshedpur	1995-96	840	1.20
		1996-97	840	
<i>Dhanbad</i>	M/s Tewari Bechar & Co.Ltd., Jamshedpur	1995-96	612	1.05
		1996-97	612	
<i>Dhanbad</i>	M/s Rahul Udyog Viniyog Ltd., Dhanbad	1994-95	2195	1.30
		M/s. Surya Auto, Dhanbad	1994-95	1774
Total			94718	79.87

On these being pointed out (between November 1996 and March 2000), the DTOs stated (between November 1996 and March 2000) that demand notices would be issued. Further reply has not been received (January 2001).

* Bhagalpur, Darbhanga, *Dhanbad*, *Jamshedpur* and Purnea.

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

5.10 Non-realisation of instalments of arrear dues

According to executive instructions issued by the STC, Bihar in January 1984, August 1985, June 1988, November 1991 and September 1992, the arrear of road tax and additional motor vehicles tax including penalty is recoverable in instalments as fixed by the authority alongwith current tax, and in case of non-payment, the entire amount of arrears was to be realised in lump sum.

In 8 District Transport offices^{*}, it was noticed that owners of 34 transport vehicles were permitted to pay arrears of road tax and additional motor vehicles tax aggregating Rs.14.10 lakh for the period from July 1982 to May 1998 in instalments after payment of one third of arrears in lump sum alongwith taxes of the current quarter. It was, however, observed that in 3 cases, subsequent instalments were not recovered at all and in the remaining 31 cases, only few instalments were recovered. No action was taken to realise the balance instalments amounting to Rs.10.93 lakh (besides penalty).

On these being pointed out (between October 1998 and March 2000), the DTOs stated (between November 1998 and March 2000) that in respect of 21 cases demand notices would be issued and in 13 cases action would be taken to realise the amount. Further reply has not been received (January 2001).

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

5.11 Short levy of tax due to application of incorrect rates

Under the Bihar and Orissa Motor Vehicles Taxation Act, 1930 (replaced by the BMVT Act, 1994), every owner of a registered motor vehicle is required to pay road tax and additional motor vehicles tax at the rates specified in the Schedule - I (Part-C) and Schedule-II to the Act.

In 9 District Transport Offices^{**}, road tax and additional motor vehicles tax were levied on 53 motor vehicles at rates lower than those specified in the schedule(s) to the Act. This resulted in short levy of tax of Rs.5.97 lakh for various periods falling between January 1990 and December 1999.

^{*} Begusarai, Bhagalpur, Bhojpur, Chapra (Saran), Gaya, Giridih, Hazaribagh and Sasaram (Rohtas).

^{**} Bokaro, Chaibasa, Chapra (Saran), East Singhbhum, Giridih, Kishanganj, Lohardaga, Madhepura and Ranchi.

On these being pointed out (between January 1997 and January 2000), the DTOs stated (between January 1997 and January 2000) that in 52 cases the demand notices would be issued and in one case certificate would be instituted for realisation. Further reply has not been received (January 2001).

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

CHAPTER 6 : Land Revenue

6.01 Results of Audit

Test check of the records of the revenue circles, conducted in audit during the year 1999-2000, revealed non/short levy of cesses, loss of revenue etc. amounting to Rs.15390.80 lakh in 518 cases, which broadly fall under the following categories: -

(Rupees in lakh)			
Sl. No.	Category	No. of cases	Amount
1.	Non-settlement of vested lands	130	196.32
2.	Non-fixation of <i>salami</i> and commercial rent	75	566.66
3.	Non-levy and short levy of cesses and/ or interest on arrears of cesses	79	133.51
4.	Non-settlement of <i>sairats</i>	65	62.38
5.	Other cases	169	14431.93
Total		518	15390.80

During the year 1999-2000, the concerned department accepted under-assessments etc. of Rs.1121.45 lakh involved in 484 cases of which 478 cases involving Rs.1090.33 lakh had been pointed out in audit during 1999-2000 and the rest in earlier years. A few illustrative cases involving tax effect of Rs. 14838.79 lakh are given in the following paragraphs: -

6.02 Settlement of town *Khas Mahal* Land

(A) *Non-realisation of revenue due to non-renewal /violation of terms and conditions of leasehold property*

Under the provisions of the Bihar Government Estates (*Khas Mahal*) Manual, 1953 and the rules framed thereunder for grant of lease and the terms of lease deeds, the State Government is to issue notices to the lessees six months prior to the expiry of lease, to apply for renewal of such lease, while a lessee is required to apply three months prior to the expiry of his lease for renewal thereof.

On fresh leases *salami* at the current market value of land is leviable. The annual rental for fresh leases in respect of residential and commercial lease is 1/50th and 1/20th of such *salami* respectively.

The lessees are also liable to pay arrears of double the rental from the date of non-payment of annual rental at the rate prescribed in the original lease till the

date of expiry of the lease and at the rate proposed in fresh lease from the date of expiry thereof as penal rent alongwith interest at the rate of 10 per cent on arrear rentals.

During test check of records (between January and May 2000) for the period from 1925-26 to 1999-2000 of the offices of an Additional Collector (*Gumla*) and 2 *Khas Mahal* Officers (*Arrah* and *Koderma*), it was noticed that in respect of 453.24 acres of *khas mahal* land leased out during the period from 1925 to 1980, 48 lessees violated the terms and conditions of lease deeds and 1817 leases expired by 31 March 1996. The lessees were not paying the lease rent also. The details are as under: -

(i) Non-renewal of lease deeds: -

A lessee continuing on the leasehold property without payment of rent and renewal of lease is to be treated as trespasser and has no case for renewal on past terms and conditions.

1817 leases in respect of 439.72 acres of *khas mahal* land expired between 1956-57 and 1995-96. All the lessees did not apply for renewal before expiry of the leases. The lessees were not paying the annual rent also. The details are indicated in the table below: -

(Rupees in lakh)

Sl. No.	Name of district	Period	No. of leases	Area involved (in acres)	Salami	Penal rent		Interest	Total
						Upto expiry	Since expiry		
1.	Arrah	upto 1956-57	1203	67.23	1607.01	--	2699.77	2902.26	7209.04
2.	Gumla	upto 1995-96	224	47.21	1888.40	0.01	1824.76	1358.15	5071.32
3.	Koderma	upto 1985-86	390	325.28	256.57	--	207.46	112.03	576.06
Total			1817	439.72	3751.98	0.01	4731.99	4372.44	12856.42

(ii) Conversion of residential lease for commercial purpose and sale/transfer of leasehold property: -

A lessee of *khas mahal* holding is not authorised, except with the prior sanction of the Collector of a district, to transfer, assign, sub-let or part with the possession of leasehold property. Further, on breach or non-observance of the lease agreement, Collector/Deputy Commissioner may re-enter upon the said demised premises and determine the lease.

In 13.52 acres of *khas mahal* leased land, the terms and conditions of the lease-deeds were violated by 48 lessees by using residential leases for commercial purposes and by un-authorised sale / transfer of the leasehold property. The details are indicated as below: -

(Rupees in lakh)

Sl. No.	Name of District	Period	No. of lessees	Area involved (in acres)	Salami	Penal Rent	Interest	Total
1.	Gumla	upto 1995-96	9	2.99	119.60	383.19	381.17	883.96
2.	Arrah	upto 1956-57	39	10.53	68.86	152.88	133.66	355.40
Total			48	13.52	188.46	536.07	514.83	1239.36

Thus, violation of terms of lease deeds and non-renewal of leases resulted in non-realisation of revenue of Rs. 14095.78 lakh (*salami*: Rs.3940.34 lakh, Penal rent: Rs.5268.07 lakh and Interest: Rs.4887.27 lakh). The lessees were still continuing on the leasehold property without payment of rent and renewal thereof. The notices were not issued to the lessees in any case to notify their intention of taking fresh lease on fresh terms and conditions. As none of the lessees notified his intention for renewal of the lease, the department should have initiated action for eviction of premises, which was not done in these cases.

On these being pointed out (between January and May 2000), the department agreed (between January and May 2000) to take necessary action. Further replies have not been received (January 2001).

The cases were reported to the Government in May 2000; their reply has not been received (January 2001).

(B) *Non-removal/settlement of encroached Public land*

Under the Bihar Public Land Encroachment Act, 1956, if a person has encroached or is responsible for the continuance of any encroachment upon any public land, he may be served a notice requiring him to vacate the encroachment or to settle such public land with such person on payment of rent and damages, for the use of such land, as per rules laid down in Bihar Government Estates (*Khas Mahal*) Manual, 1953. Accordingly, in case of impairment of the value of public land by using it for residential/commercial purposes, *salami* at the prevailing market value of such land together with annual commercial / residential rent at one twentieth / one fiftieth of such *salami* is payable respectively. Mention was made regarding encroachment of Government land in Report No. 1 of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 1999 {paragraph 2.01(b)}.

In 8* Revenue Anchals in 5** districts it was noticed (between July 1999 and May 2000) that 4 persons had encroached the land measuring 4.42 acres by setting up business establishments while 121 persons have illegally constructed houses for residential purposes in 105.87 acres of public land. 11

* Barachatti, Ekangarsarai, Kargahar, Koderma, Hilsa, Rohtas, Sasaram and Shambhuganj.

** Banka, Gaya, Koderma, Nalanda and Rohtas.

such cases where the encroached land was more than 1 acre in each case, involving a total amount of Rs. 65.14 lakh are shown below: -

(Rupees in lakh)

Sl. No	Name of encroachers	Name of Anchal and Districts	Area involved (in acres)	Year of encroachment	Salami	Residential rent	Commercial Rent	Total amount involved
1.	Ramanand Ahir	Sasaram, Rohtas	3.63	1998-99	26.02	0.52	--	26.54
2.	Bhikhar Yadav	-do-	1.29	1998-99	9.69	0.19	--	9.88
3.	Explosion Office and Godown	Koderma, Koderma	3.76	1980-81	3.76	-	3.76	7.52
4.	Umesh Chandra Agrawal	-do-	2.23	1981	4.45	1.70	-	6.15
5.	Raj Kumar Topno	-do-	1.25	1981	2.50	0.95	-	3.45
6.	Explosion Office and Godown	-do-	1.58	1980-81	1.58	-	1.58	3.16
7.	Sabir Ahmad	-do-	1.89	1980-81	1.89	0.76	-	2.65
8.	Abdul Sakur	-do-	1.53	1980-81	1.53	0.61	-	2.14
9.	Ramkrit Singh	Rohtas, Rohtas	2.10	1996-97	1.60	0.10	-	1.70
10.	Krishan Mohan Mishra	-do-	1.41	1996-97	1.08	0.06	-	1.14
11.	Kurban Ansari	-do-	1.02	1997-98	0.78	0.03	-	0.81
Total			21.69		54.88	4.92	5.34	65.14

However, no action was taken for eviction or regularisation in respect of encroachment of the said land. This resulted in non-realisation/fixation of *salami* and residential/ commercial rent of Rs. 158.12 lakh.

On these being pointed out (between July 1999 and May 2000), the Anchal Adhikaries stated (between July 1999 and May 2000) that the action was being taken. Further reply has not been received (January 2001).

The cases were reported to the Government (between March and June 2000); their reply has not been received (January 2001).

6.03 Non-fixation and non-realisation of land rent

Under the provisions of the Bihar Tenancy Act, 1885 amended with effect from 26 August 1993, a *raiyyat* may with previous permission of the Collector use his land for purpose other than those specified in the original Act. The Collector, before giving such permission shall re-determine the rent of such land in the prescribed manner to the extent of five per cent but not less than three per cent of the market value of such land. Provided further that if a *raiyyat*

has not taken prior permission for such use, the Collector may give *post-facto* permission on payment of double amount of the rent which he would have been liable to pay, had he applied in time for the period between the date of use or the date of commencement of this Act and the date of application or detection, as the case may be.

In 42 Revenue Anchals* in 13** districts, 1323 *raiyyats* having tenancy for agricultural purpose converted 264.76 acres of land for the purposes other than those enumerated in the Act by installing thereon shops, petrol pumps, saw mills, cinema halls and hotels during the period from August 1993 to March 1999. Action to evict the tenants or to regularise the occupancy by refixing rent under the existing laws had not been taken in any of these cases till the date of audit (March 2000) and the *raiyyats* have been continuing to hold their tenancy on agricultural rent. This resulted in non-realisation of revenue of Rs.416.41 lakh during the period from August 1993 to 31 March 1999.

On these being pointed out (between February 1997 and March 2000), the Anchal Adhikaries, Barauni, Ekangarsarai, Mahua, Makhdumpur and Teghra stated that in 87 cases proposal for fixation of rent has already been approved by the DCLR# while other Anchal Adhikaries stated that in 1236 cases action was being taken to realise the rent. Further replies have not been received (January 2001).

The cases were reported to the Government (between May and June 2000); their reply has not been received (January 2001).

6.04 Incorrect distribution of *Bhoodan* land

Under the provisions of Bihar *Bhoodan Yagna* Regulation, 1960, each member of a family can be granted at least 20 decimals of first class fertile land and a maximum of one acre of general cultivable land. In case of waste land it can be granted more than the above limit. Further, a minimum of 50 acres and a maximum of 300 acres of land can be granted to any Sarvodaya Co-operative Society organised at the instance of *Bhoodan Yagna* Committee (BYC) for a minimum of 10 and a maximum of 50 members of landless families respectively. By an order (October 1960) of the Revenue Department (Land Reforms) a separate register showing details of *Bhoodan* land is required to be maintained in addition to the general *khatians* by the Anchal Adhikaries to facilitate administration of *Bhoodan Yagna* Act by the Government. Further, the Revenue Department instructed (July 1989) all Collectors and Dy.

* Amarpur, Balia, Barahat, Barahia, Barauni, Bidupur, Bihia, Chapra, Dev, Ekangarsarai, Ekma, Fatehpur, Garkha, Ghosi, Goh, Goraul, Hajipur, Halsi, Haspura, Imamganj, Jahanabad, Kargahar, Kurtha, Lakhisarai, Lalganj, Mahua, Mahwar, Makhdumpur, Nabinagar, Obra, Punpun, Raghohpur, Rajaun, Rohtas, Sandesh, Sasaram, Shahpur, Shambhuganj, Sheosagar, Sonbarsa, Teghra and Wazirganj.

** Aurangabad, Banka, Begusarai, Bhojpur, Gaya, Jahanabad, Lakhisarai, Nalanda, Patna, Rohtas, Saharsa, Saran and Vaishali.

Deputy Collector, Land Reforms.

Commissioners to send a verification report conducted by the district administration showing the work done by the BYC by the 15th of every month.

As per provisions contained in the Bihar *Bhoodan Yagna* Act, 1954, the grantee is liable to pay rent to the State Government. Further, under the provisions of the Bihar *Bhoodan Yagna* Rules, 1955, and Bihar *Bhoodan Yagna* Regulation, 1960, a *Gair Mazarua parti* (waste) land shall be exempt from payment of rent for a period of at least three years, from the year the first crop is harvested thereon.

In Chenari and Nauhatta Anchals of Rohtas district 11500.56 acres of waste land was distributed during March and April 1956 among 12 persons through 12 *pramanpatras* ranging from 50 to 1941.70 acres of land to each individual which was much in excess of the limit prescribed for Sarvodaya Co-operative Society. Although the lands were distributed during March and April 1956, proposals for fixation of rent were not sent by the District *Bhoodan Yagna* Committee (DBYC), Rohtas to the concerned Anchal Adhikaries till the date of audit (November 2000). The rent at the average rate of Rs.15 per acre per annum for the period from April 1959 to March 2000 worked out to Rs. 134.52 lakh. In course of audit, it was found that neither separate register for *Bhoodan* land was maintained by the Anchal Adhikaries nor the district administration sent the verification report of work performed by the BYC to the Government. In absence of these, incorrect distribution of land valuing Rs. 7986.96 lakh could not be detected by the Government which involved Rs. 134.52 lakh in shape of rent and cesses at an average rate of rent Rs. 15 per acre per annum as per table given below: -

(Rupees in lakh)

Sl. No	Name of the donor	Name & address of the grantee	<i>Praman patra</i> No/Date of issue	Land granted (in acres)	Location	Value	Rent & cesses involved (upto 31.3.2000)
1	2	3	4	5	6	7	8
1	Chakleshwar Kr. Jain, Arrah, Brijchand Sah, Banaras	Satyanaryan Singh. S/o Sina Singh, Vill: Bhurkuda. PS: Chenari, (Rohtas)	62308/ 13.4.1956	1941.70	Vill: Phulwaria Thana no. 560 PS: Chenari, (Rohtas)	1359.19	22.71
2	-do-	Butai singh. S/o Tilak Singh Vill: Urdaga PS: Chenari (Rohtas)	62309/ 15.4.1956	1708.50	Vill: Urdaga Thana no. 554 PS: Chenari (Rohtas)	1195.95	19.98
3	-do-	Bitan Singh S/o Ghuran Singh Vill: Urdaga PS: Chenari (Rohtas)	62310/ 15.4.1956	1483.23	-do-	1038.26	17.35
4	-do-	Rupa Singh Yadav, S/o Bharosa Singh Vill: Oraiyan PS: Chenari (Rohtas)	62279/ 10.4.1956	1582.80	Vill: Madpa Thana no. 559 PS: Chenari (Rohtas)	1107.96	18.51

1	2	3	4	5	6	7	8
5	-do-	Isri Singh, S/o Naik Singh Vill: Bhurkuda PS: Chenari (Rohtas)	62304/ 13.4.1956	685.35	Vill: Bhurkuda Thana no. 555 PS: Chenari (Rohtas)	479.75	8.02
6	-do-	Phaudar Singh S/o Babuji Singh Vill Bhurkuda PS Chenari (Rohtas)	62303/ 13.4.1956	1851.91	-do-	1296.34	21.66
7	do-	Ramdhani Singh S/o Lalu Singh Vill: Oraiyen PS: Chenari (Rohtas)	62278/ 10.4.1956	750.20	Vill: Oraiyen Thana no. 556 PS: Chenari (Rohtas)	525.14	8.77
8	-do-	Parmanand Bharti S/o Gurushri Swami Hariharanand Bharti Vill- Gupteshwardham PS : Chenari (Rohtas)	52068/ 1956	335.51	Vill: Gupteshwardh -am Thana no. 562 PS: Chenari (Rohtas)	234.86	3.92
9	-do-	Sitaram Singh S/o Jhaul Singh Vill: Urdaga PS: Chenari (Rohtas)	62311/ 15.4.1956	762.36	Vill: Shergarh Thana no. 553 PS: Chenari (Rohtas)	533.65	8.92
10	Deo Narayan Singh, Vill Gadav PO. Konar Distt: Mirzapur (UP)	Bandhu Chowkidar S/o Fali Chowkidar Vill:Yadunathpur PS: Rohtas (Rohtas)	62656 / 6.3.1956	50.00	Vill: Yadunathpur Thana no. 632 PS: Rohtas (Rohtas)	27.05	0.59
11	-do-	Sahdeo Mahto S/o Budhinath Mahto Vill: Yadunathpur PS: Rohtas (Rohtas)	62655 / 6.3.1956	50.00	-do-	27.05	0.59
12	Rani Manik Rajkumari Vill: Ulibanahi PO. Daranagar Rohtas	Banshi Choudhary S/o Sachi Choudhary Vill: Madhukudiya PS: Rohtas (Rohtas)	62459/ 6.3.1956	299.00	Vill : Madhukudiya Thana no. 629 PS. Rohtas (Rohtas)	161.76	3.50
Total				11500.56		7986.96	134.52

On these being pointed out (June and November 2000), the Additional Collector, Rohtas stated (June and November 2000) that the concerned Anchal Adhikaries would be asked to explain about the incorrect distribution of *Bhoodan* land and necessary action taken after proper enquiry. Further reply has not been received (January 2001).

The cases were reported to the Government (July and November 2000); their reply has not been received (January 2001).

6.05 Non-levy of cesses on holdings exempted from payment of land rent

Under the Bihar Land Rent (exemption from payment) Act, 1981, Government exempted with effect from 1 April 1978 small holding upto 3 hectares in 7 districts of Chotanagpur and Santhal Pargana Civil division and holding upto 2 hectares in other districts of the State, from levy of land rent. However, such holdings were not exempted from levy of various cesses like road cess, education cess, health cess and agricultural development cess leviable under the relevant Cess Act. In September 1982, Government while communicating the revised rates of different cesses instructed all the Revenue Officers in Bihar to levy and collect cesses in respect of all tenants (*raiyats*) including those who were exempted from payment of land rent, as aforesaid.

In 4 Revenue Anchals* of 3 district (Bhojpur, Gaya and Jahanabad) it was noticed that cesses were not levied in respect of holdings exempted from payment of land rent. The total non-levy of cesses worked out to Rs 26.76 lakh for the years 1995-96 to 1998-99.

On these being pointed out (between July 1999 and March 2000) the department stated (between July 1999 and March 2000) that action would be taken after investigation. Further replies have not been received (January 2001).

The cases were reported to the Government (between April and June 2000); their reply has not been received (January 2001).

6.06 Non-settlement of vested land

The rights of intermediaries in *Gair Mazrua Khas* land were abolished under the provisions of the Bihar Land Reforms Act, 1950 and all such lands were vested in the Government. Instructions were issued by the Government from time to time to Revenue Officers to examine all cases of unsettled *Gair Mazrua Khas* land and to settle such land with persons of eligible categories, such as scheduled caste, scheduled tribes, backward classes and the landless persons etc., at fair and equitable rent. Mention was made regarding revenue implication on non-settlement of vested land in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) pertaining to the years 1995-96, 1996-97, 1997-98 and 1998-99 (paragraphs 5.5, 6.9, 6.6 and 6.04 respectively). The delay still continues.

In 4 Revenue Anchals** in the districts of Bhojpur, *Hazaribagh*, *Gumla* and *West Singhbhum*, 126999.43 acres of *Gair Mazrua Khas* land were vested in the Government in 1955-56, out of which 50162.11 acres were fit for

* Amas, Bihia, Charpokharia and Jahanabad.

** Bihia, *Bishnugarh*, *Gumla* and *Saraikela*.

settlement and 76837.32 acres of land was unfit for settlement. It was seen that only 12162.195 acres of land could be settled till March 1999 and the remaining 37999.915 acres were yet to be settled by the department. Non-settlement of these lands on fair and equitable rent since the year 1995-96 to 1998-99 had a revenue effect of Rs.7.20 lakh in the shape of land rent and cess.

On these being pointed out (between March 1998 and March 2000), Anchal Adhikari, *Bihia* stated (March 2000) that action would be taken after verification of the nature of the land while Anchal Adhikari, *Bishnugarh* stated (August 1999) that the proposal for settlement has already been sent to the higher authority but due to some objections on certain points action was being taken to resubmit it after verification of the facts whereas Anchal Adhikari, *Gumla* and *Saraikele* stated that necessary action would be taken to expedite the settlement. Further reply has not been received (January 2001).

The cases were reported to the Government (May 2000); their reply has not been received (January 2001).

CHAPTER 7 : Other Tax Receipts

7.01 Results of Audit

Test check of the records of the following receipts, conducted in audit during the year 1999-2000, revealed under assessments of tax, fee, duty and loss of revenue etc., amounting to Rs. 1917.98 lakh in 1208 cases which broadly fall under the following categories: -

(Rupees in lakh)

Sl. No.	Category	No. of cases	Amount
A. STAMPS AND REGISTRATION FEES			
1.	Short levy due to misclassification of documents	20	551.38
2.	Incorrect grant of exemption	1	1.33
3.	Short realisation of Stamp duty, Registration fee due to late receipt of revised rates	2	279.86
4.	Other cases	1174	841.42
B. TAXES ON SUGARCANE			
1.	Non-levy of interest on arrears of tax	5	161.58
2.	Other cases	3	67.77
C. ELECTRICITY DUTY			
1.	Short levy of Electricity duty	1	1.10
2.	Under assessment of duty due to excess allowance of transmission loss	1	6.29
D. ENTERTAINMENTS TAX			
1.	Short levy of entertainments tax	1	7.25
Total		1208	1917.98

During the year 1999-2000, the concerned department accepted under assessments etc. of Rs.5.33 lakh in 9 cases pointed out in audit in earlier years.

A few illustrative cases involving tax effect of Rs. 682.01 lakh are given in the following paragraphs: -

A. Stamps and Registration fees

7.02 Short levy of Stamp duty and Registration fees due to under valuation of properties

Under the provisions of the Indian Stamp Act, 1899 and the Registration Act, 1908, read with rules contained in Bihar Stamp (Prevention of under valuation of instruments) Rules, 1995, an instrument of deed of conveyance is chargeable to duty and fees on the consideration money expressed in instruments or value arrived at according to rates approved in the minimum estimated value of respective district whichever is higher.

In 15 Districts Sub-Registrar (DSR) offices* test checked, it was noticed (between December 1999 and May 2000) that 1499 deeds were registered (between 1995-96 and 1998-99) for the value lower than rates approved in the minimum estimated value. This resulted in short levy of stamp duty and registration fees of Rs 439.44 lakh.

The cases were reported to the department and Government (July 2000). The Government in their reply stated (September 2000) that concerned DSRs have been directed (September 2000) to report the cases of under valuation and to take appropriate steps to realise the amount. Further reply has not been received (January 2001).

7.03 Non-collection of deficit stamp duty

Under the Indian Stamp Act, 1899, every public officer (excluding Police Officer) before whom any instrument chargeable with duty is produced or comes in the performance of his function shall, if it appears that such instrument is not duly stamped, inform the same and send the instrument in original to the Collector. The Act further provides that the stamp duty payable shall be realised by the Collector together with a penalty of Rs 5 or an amount not exceeding ten times of the amount of proper duty and return it to the impounding officers.

* Bokaro, Chaibasa, Darbhanga, Dhanbad, Giridih, Gumla, Hajipur, Hazaribagh, Jamshedpur, Koderma, Muzaffarpur, Nawada, Samastipur, Sasaram and Sitamarhi.

In 8 Registering Offices*, Rs. 25.52 lakh in 826 cases pertaining to the years upto 1994-95 and from 1995-96 to 1998-99 remained unrealised till March 1999 although the said cases were impounded by concerned District Sub-Registrars and sent to the respective Collectors for realisation of the amount.

On these being pointed out (between January and June 2000), it was stated (between January and July 2000) that the cases were being pursued. The reply is not tenable as no action was taken under section 48 of the Indian Stamp Act, 1899. Further reply has not been received (January 2001).

The cases were reported to the Government (July 2000). The Government in their reply stated (September 2000) that concerned officers were instructed (September 2000) to take action under section 48 of the Indian Stamp Act, 1899 for realisation of duty. Realisation particulars are awaited (January 2001).

7.04 Short levy of stamp duty and registration fees due to misclassification of instruments

Under the Indian Stamp Act, 1899, "Mortgage deed" includes every instrument whereby, for the purpose of securing money advanced to or to be advanced by way of loan or an existing or future debt or the performance of an engagement, one transfers or creates to or in favour of another, a right over or in respect of specified property. The rate of stamp duty and registration fees is higher on mortgage deed than that on instrument of agreement/power of attorney.

In 3 District Sub-Registrar Offices**, it was noticed (between January and March 2000) that in respect of 7 instruments registered in the aforesaid offices during the year 1997-98 on power of attorney/agreement, the Bihar State Financial Corporation (Corporation) agreed to advance loan to the parties. The loanees agreed to mortgage their properties in favour of the Corporation as security for loan together with interest due thereon and executed irrevocable power of attorney on their behalf. The loanees, thus, mortgaged their property in favour of the Corporation. Thus, the instruments were to be classified as 'Mortgage Deed' and not as Power of Attorney. Misclassification of deeds resulted in short levy of stamp duty and registration fees amounting to Rs.7.91 lakh.

On these being pointed out (between January and March 2000), the department stated (between January and March 2000), that it was an agreement between the loanees and the Corporation to mortgage the property.

* Bhojpur (Arrah), Darbhanga, Dhanbad, Giridih, Ranchi, Sasaram (Rohtas), Sitamarhi and Vaishali (Hajipur).

** Bokaro, Dhanbad and Sasaram.

The reply of the department is not tenable as the property was mortgaged to Corporation till the recovery of loan and interest through irrevocable power of attorney.

The cases were reported to the Government (June 2000); their reply has not been received (January 2001).

B. Electricity Duty

7.05 Short levy of duty

Under the Bihar Electricity Act, 1948, duty shall be levied and paid to the State Government on the units of energy consumed or sold, excluding losses of energy in transmission and transformation at the rate or rates specified in the Schedule.

In Commercial Tax Circle, *Katras* a licensee consumed 166.59 lakh units of energy (purchased from Bihar State Electricity Board) during the years 1993-94 to 1996-97. Scrutiny of assessment records of the licensee revealed that duty was actually levied on 9.40 lakh units of energy only. The omission resulted in short levy of duty amounting to Rs.6.29 lakh (including surcharge).

On this being pointed out (October 1999), the department raised (October 2000) an additional demand for Rs. 6.29 lakh. Further report on realisation has not been received (January 2001).

The case was reported to the Government (May 2000); their reply has not been received (January 2001).

C. Taxes on Sugarcane

7.06 Non/short payment of tax on purchase of sugarcane

Under provisions of the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981 tax at the rate of Re.1 per quintal is leviable on entry of sugarcane into a specified local area for consumption or use of, or sale to a factory situated therein or on the purchase of sugarcane by or on behalf of occupier of a sugar factory. The Act further provides that occupier of any factory shall not remove the sugar from the factory until the tax payable on sugarcane is paid

and certificate of payment is obtained from the Cane Officer concerned. The Act does not provide for any exemption from payment of tax or permit part payment.

During the crushing season 1998-99, 3 sugar factories* of the State and 2 sugar factories** of Uttar Pradesh had purchased 85.00 lakh quintals and 16.17 lakh quintals of sugarcane respectively. However, they paid tax of Rs.33.51 lakh and Rs.11.00 lakh against Rs.85.00 lakh and Rs.16.17 lakh respectively. Thus there was non/short payment of tax of Rs.56.66 lakh.

On this being pointed out (February 2000), the department stated (September 2000) that an amount of Rs. 19.73 lakh has been realised from the different sugar factories and certificate proceedings in 3 cases have been instituted. Further reply has not been received (January 2001).

The case was reported to the Government (June 2000); their reply has not been received (January 2001).

7.07 Non -levy of interest on arrears of tax

Under the provisions of the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981 and rules framed thereunder, in case of non-payment of tax on purchase of sugarcane payable by the occupier of a sugar factory, interest shall be recoverable at the rate of 11 per cent per annum.

In the office of the Cane Commissioner, Patna, arrears of tax aggregating Rs.1328.97 lakh pertaining to the years upto 1994-1995 and 1995-96 to 1997-98 on account of sugarcane purchased by sugar factories was outstanding for realisation during the year 1998-99. Interest amounting to Rs.146.19 lakh payable on the arrears of tax was neither levied nor recovered.

On this being pointed out (February 2000), the department agreed to take action. Further reply has not been received (January 2001).

The case was reported to the Government (June 2000); their reply has not been received (January 2001).

* Bagaha, Motihari and Narkatiaganj.

** Basti and Kaptanganj.

CHAPTER 8 : Mineral Concession, Fees and Royalties

8.01 Results of Audit

Test check of the records of mining offices, conducted in audit during the year 1999-2000, revealed under assessments and losses of rent, royalty, fee etc. amounting to Rs.17425.89 lakh in 6216 cases, which broadly fall under the following categories: -

(Rupees in lakh)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of royalties and cesses	1637	115.89
2.	Non-levy of penalty/fine	2925	1392.17
3.	Non/short levy of dead rent/surface rent	55	468.82
4.	Non-levy of stamp duty and registration fees	281	95.52
5.	Non/short levy of auction money	66	14.00
6.	Non-levy of interest	121	12.89
7.	Non-initiation of certificate proceedings	106	39.36
8.	Short levy of royalties due to down grading of coal	6	102.84
9.	Non-levy of royalty on coal consumed by workmen	2	3.85
10.	Other irregularities	1017	15180.55
Total		6216	17425.89

During the year 1999-2000, the department accepted under assessment etc. of Rs.125.65 lakh involved in 888 cases of which 127 cases involving Rs.4.42 lakh had been pointed out in audit during 1999-2000 and rest in earlier years.

A few illustrative cases and a review on "Levy and collection of royalty and other mining dues in respect of major minerals" involving revenue effect of Rs. 15318.67 lakh are given in following paragraphs: -

A- Major Minerals

8.02 Levy and collection of royalty and other mining dues in respect of major minerals

8.02.01 Introduction

The grant of mineral concessions and mining leases for the purpose of prospecting and mining of major minerals is governed by the Mines and Minerals (Regulation and Development) Act (MMRD Act), 1957 enacted by the Parliament and the Mineral Concession Rules (MC Rules), 1960 framed thereunder.

Receipts from mines and minerals comprise mainly royalty, dead rent, surface rent, application fees for lease/permit/prospecting licence, price of minerals (illegally mined), fines and penalties, interest for belated payment of dues, etc. Revenue realised from mines and minerals forms an important source of revenue receipts of the State Government.

8.02.02 Organisational set up

The regulation and development of mines and minerals, grant of mineral concessions, assessment, levy and collection of mining dues are administered by the Mines and Geology Department of the State with the Commissioner - cum-Secretary as its head at the Government level and the Director of Mines as the head of the department. The Director of Mines is assisted by Additional Directors of Mines (ADMs), Deputy Directors of Mines (DDMs) and District Mining Officers (DMOs)/ Assistant Mining Officers (AMOs). The DMOs/AMOs in-charge of districts (mining) are primarily responsible for assessment, levy and collection of royalty and other mining dues. The DDMs in-charge of circles are appellate authorities and are delegated with the powers of Certificate Officers for recovery of mining dues.

8.02.03 Scope of audit

With a view to ascertaining adequacy and effectiveness of the system and procedures and the position of compliance of the provisions of the MMRD Act, 1957 and the MC Rules, 1960 framed thereunder, a review of relevant records pertaining to years from 1994-95 to 1998-99 was conducted in 17* out of 42 District Mining Offices, 3** out of 11 circles and the Directorate of Mines during the period from November 1999 to July 2000. Findings of the review and some points noticed in course of local audit inspection during earlier years are discussed in succeeding paragraphs: -

* Bokaro, Chaibasa, Deoghar, Dhanbad, Garhwa, Giridih, Godda, Gumla, Hazaribagh, Jamshepura, Koderma, Lohardaga, Munger, Pakur, Ranchi, Rohtas and Sahebganj.

** Dhanbad, Hazaribagh and Ranchi.

8.02.04 Highlights

- (i) In 4 districts, demands for royalty and price of minerals amounting to Rs 7270.76 lakh for illegal and unauthorised mining of 16.52 lakh tonnes of coal, lime stone, etc. during the period between May 1994 and March 1999 were not raised.

[Paragraph 8.02.06]

- (ii) In 5 districts, 12.73 lakh tonnes of coal, 0.87 lakh tonnes of lime stone, 196.58 lakh tonnes of iron ore, 0.22 lakh tonnes of graphite and 0.06 lakh tonnes of dolomite remained undisposed of for periods ranging between 1 and 9 years on which royalty payable amounting to Rs.3019.59 lakh remained unpaid.

[Paragraph 8.02.07]

- (iii) In *Hazaribagh* district, a private sector coal company did not pay royalty of Rs.102.01 lakh for consumption/sale of 2.04 lakh tonnes of coal during the period March 1998 to February 1999.

[Paragraph 8.02.08]

- (iv) In 7 districts, surface rent was not fixed at the commercial rate resulting in non/short levy of surface rent of Rs.2238.02 lakh.

[Paragraph 8.02.09]

8.02.05 Trend of revenue

The variation between Budget estimates and actual mining receipts together with receipts from major minerals during the years from 1994-95 to 1999-2000 is given below: -

(Rupees in crore)

Year	Budget estimates	Actuals	Receipts from Major minerals	Percentage of variation (Budget estimates and actuals)
1994-95	940.05	704.35	683.32	(-) 25.07
1995-96	793.80	769.09	736.90	(-) 3.11
1996-97	825.00	820.28	773.37	(-) 0.57
1997-98	860.00	808.55	764.69	(-) 5.98
1998-99	1025.00	740.92	689.30	(-) 27.72
1999-2000	1050.00	707.56	Not available	(-) 32.61

It is revealed from the above that there is a wide variation between the Budget Estimates and the actuals specially during years 1994-95, 1998-99 and 1999-2000. A comparison of the figures of Budget Estimates with those of actuals reveals that actuals always fell short of Budget Estimates and there was decreasing trend in collection of revenue.

8.02.06 Unauthorised extraction/removal of mineral

Under the MMRD Act, 1957, no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of a mining lease. Further, whenever any person raises, without any lawful authority, any mineral from any land, the Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof, and may also recover from such person rent, royalty or tax as the case may be, for the period during which the land was occupied by such person without any lawful authority.

Scrutiny of records in 4 District Mining Offices revealed (between May 1998 and March 2000) that the amount recoverable on account of royalty and price of minerals for unauthorised extraction/ removal of minerals was Rs.7270.76 lakh as detailed in the table given below: -

(Quantity and amount in lakh)

Sl. No.	District	Name of the party	Period	Mineral raised/ removed	Quantity (in M.T.)	Amount of royalty and price leviable	Remarks
1	Dhanbad	BCCL	3/96 to 3/99	Coal	9.58	6439.99	Extraction and removal of coal after expiry of lease
2	Deoghar	P.P. Modi	4/96 to 3/99	Felspar Quartz	0.02 0.06	3.26 6.16	The lessees raised minerals outside their lease hold area
		S.S. Malpani	4/96 to 3/99	Felspar Quartz	0.03 0.02	4.48 1.97	
3	Godda	ECL/ Forest Department	5/95 to 3/99	Coal	6.73	790.18	Coal illegally raised and removed in the areas
4	Sasaram (Rohtas)	M/s Rohtas Mineral Supply Agency	5/94 to 9/96	Lime stone	0.08	24.72	Mining beyond leased area
Total					16.52	7270.76	

On being pointed out, the department raised (December 1998) a demand for Rs 21.35 lakh against Sl. No. 4. Reply in remaining cases has not been received (January 2001).

8.02.07 Blocking up of royalty

The MMRD Act, 1957 provides payment of royalty by the lessee on the quantity of minerals removed or consumed from the leased area. According to judgement of the Hon'ble Orissa High Court (Case No.909 of 1974), removal from the seam in mine and extracting the same through the pit's mouth to the surface satisfy the requirement of Section 9 in order to give rise to liability for payment of royalty. A similar judgement was also delivered by the Hon'ble Patna High Court, Ranchi Bench in CWJC 2477 of 1996(R).

During the course of audit, it was noticed (between October 1998 and January 2000) that 210.46 lakh tonnes of various minerals were lying in stock undisposed of for periods ranging from 1 to 9 years. In these cases, demands for royalty were not raised and realised in accordance with judicial pronouncements. Due to non-raising of demands, royalty of Rs.3019.59 lakh remained blocked/ unpaid as detailed below: -

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(Rupees in lakh)

Sl.No	Name of Office / lessee	Name of Mineral	Period from which lying in stock	Mineral lying un-disposed (in lakh MT)	Amount of royalty
1	DMO, Chaibasa / IISCO (One lessee)	Iron ore	3/95	196.58	1670.90
2	DMO, Dhanbad / BCCL (10 Collieries)	Coal	Between 1/94 and 4/98	12.07	1224.18
3	DMO, Garhwa / 1. BSMDC (1 lessee) 2. SAIL (1 lessee)	Graphite/ Dolomite	Between 1990 and 3/95	0.28	7.73
4	DMO, Hazaribagh / CCL (2 Collieries)	Coal	4/97	0.66	88.98
5	DMO, Rohtas / 1. M/s Sone Valley Portland Cement (2 lessees) 2. M/s S. Ltd.	Lime stone	Between 6/91 and 9/92	0.87	27.80
Total				210.46	3019.59

8.02.08 Non-payment of royalty

Under MC Rules, 1960, the lessee shall store properly the unutilised or non-saleable sub-grade ores or minerals for future beneficiation. Proviso under the said rule further provides that if the Government is satisfied that having regard to the inferior quality of such mineral, it cannot be used as a major mineral or that there is no market for such mineral as major mineral, it may by order permit the lessee to dispose of the mineral in such quantity and in such manner as may be specified therein as a minor mineral.

During the course of audit of DMO, Hazaribagh (November 1999), it was noticed that a private coal company returned production of 13.68 lakh tonnes

(including 12.05 lakh tonnes of opening stock) of non-determinable* coal during the period from March 1998 to February 1999 of which 2.04 lakh tonnes of coal was either consumed in the boiler or was sold. However, neither royalty was paid by the lessee on the quantity of coal consumed/ sold nor requirements laid down in the rules referred to above were complied with. The DMO, too, failed to raise demand for coal consumed or sold. Taking the coal of the lowest grade as base, the royalty payable amounted to Rs.102.01 lakh. ✓

8.02.09 Non/short levy of surface rent

As laid down in the M C Rules, 1960, the holder of a mining lease is liable for payment of surface rent in respect of surface area used by him for the purpose of mining operation at such rate not exceeding land revenue and cesses assessable on the land. In this connection, the Government of Bihar specified in 1965 that mining operation being a commercial activity and not an agricultural operation, surface rent should be charged as for commercial rent, which is equal to one-twentieth of the market value of the land called *salami*.

In 7 districts** , it was noticed (between June and July 2000) that 45 lessees of different minerals used 15083.23 acres of land out of the total area of 36215.34 acres leased out to them, for the purpose of mining operation during the years from 1994-95 to 1998-99. However, surface rent was either not paid or paid at the non-commercial rate. Non-fixation and non-application of commercial rate resulted in non/short levy of surface rent of Rs.2238.02 lakh ✓ as detailed in the table given below: -

(Rupees in lakh)

Sl. No.	Name of district	No. of lessees	Total Area used (in acres)	Rent payable (Commercial)	Rent paid	Balance
1.	Bokaro	10	7067.88	1206.47	2.21	1204.26
2.	Chaibasa	6	6340.38	971.13	2.78	968.35
3.	Hazaribagh	11	288.16	21.21	0.12	21.09
4.	Ranchi	5	613.01	21.86	0.85	21.01
5.	Lohardaga	5	263.20	9.47	0.01	9.46
6.	Dhanbad	5	125.00	8.20	0.13	8.07
7.	Gumla	3	385.60	5.78	--	5.78
Total		45	15083.23	2244.12	6.10	2238.02

8.02.10 Arrears of revenue

(i) Figures of demand, collection and balance

The figures of demand, collection and balance in respect of major minerals for years 1994-95 to 1998-99 could not be supplied (January 2001) by the department/Government despite repeated pursuance since November 1999. In absence of the information, the balance dues at the end of March 1999 in

* Non-determinable coal means coal the grade of which cannot be determined.

** Bokaro, Chaibasa, Dhanbad, Gumla, Hazaribagh, Lohardaga and Ranchi.

respect of major minerals and their age wise pendency could not be ascertained.

However, the department reported the total dues as Rs. 34635.22 lakh (certified Rs. 33695.06 lakh and Rs. 940.16 lakh uncertified) in respect of major and minor minerals at the end of March 1999.

(ii) Delay in disposal of certificate cases

As per instructions of the Board of Revenue, the Requiring Officer and the Certificate Officer are jointly responsible for the prompt disposal of certificate cases and are bound to bring to each other's notice and if necessary to the notice of the Collector, any undue delay. The Requiring Officer is primarily responsible for systematic application for certificates, the prompt disposal of objections and the early application for execution. He is also required to see that execution proceedings are progressing.

The records of the Deputy Director of Mines-cum-Certificate Officer, *Ranchi* revealed that 3362 cases involving Rs.1318.79 lakh were pending at the end of 31 March 1998. Of these, 70 certificate cases test checked involving Rs.274.40 lakh had been pending for recovery/disposal for 5 to 30 years. 10 top cases having revenue implications above Rs. 2 lakh are detailed below:-

(Rupees in lakh)

Sl. No.	Name of the certificate debtor/ district	CC No. / year	Dues certified/ Mineral	Stage at which pending
1	2	3	4	5
1.	Prince Md. K.Shah Receiver Dhalbhum Estate & M/s Indian Copper Ltd. / <i>Jamshedpur</i>	5M / 70-71	76.12 (Copper)	The certificate debtor is dead. Notices issued to successors (September 1996) returned undelivered. No action was taken thereafter.
2.	Sahabjada Md. Hussain Shah Receiver Dhalbhum Estate <i>Ghatsila /</i> <i>Jamshedpur</i>	1M / 71-72	17.77 (Copper)	-do-
3.	M/s. Jawahar Fire Bricks and Refractories Works/ <i>Lohardaga</i>	4MR/76-77	2.48 (Bauxite)	Certificate debtor not attending court proceedings since 1988. Present address was called for from RO but was not intimated.
4.	Dr..Satya Narayan Sinha / <i>Jamshedpur</i>	12/77-78, 30/78-79,7/79- 80, 6/ 82-83 and 2/83-84	5.46 (Phosphate)	Whereabouts of Certificate debtor were not available. The RO did not supply information in respect of the Certificate debtor or his successors, though called for time and again.
5.	M/s. Steel Authority of India Ltd. / <i>Chaibasa</i>	4/87-88	4.21 (Iron ore)	Report of RO had been called for (July 1999).

1	2	3	4	5
6.	M/s. Central Coal fields Ltd. / Ranchi	62/91-92	32.25 (Coal)	Objection petition filed (March 1995) has remained undisposed (December 2000).
7.	BSMDC / Jamshedpur	4/91-92	4.18 (Kyanite)	Last notice issued to Certificate debtor (November 1998) remained unresponded to.
8.	M/s. CCL / Ranchi	214/92-93	26.96 (Coal)	Hearing was in progress (July 2000).
9.	-do-	152/93-94	12.68 (Coal)	Kurki warrant was to be issued as per orders dated 12.2.98 but remained un-complied with (April 2000).
10.	-do-	150/93-94	6.79 (Coal)	Objection petition filed (December 1993) remained to be disposed (December 2000).
Total			188.90	

(iii) Variation between figures of Register 9 and Register 10

Under provisions of the PDR Act, certificate proceedings are initiated for realisation of arrears for which the Requiring Officer sends the proposal of certificate to the Certificate Officer and enter the details of such cases in Register 9. These are in turn entered in Register 10 maintained by the Certificate Officer for issue of certificates for realisation of dues.

As reported by the DDM, Ranchi circle, Ranchi, the total dues under certificate in respect of DMO, East Singhbhum (Jamshedpur) was Rs.61.79 lakh at the end of 31 March 1999 involved in 362 cases whereas test check of only 15 cases of Register 9 and their cross verification with Register 10 revealed the certificate dues of Rs. 2308.30 lakh. The discrepancy involved in these cases needs to be located and reconciled by the DDM. Further, to arrive at the correct figure, the entire entries of Register 10 required to be cross verified with entries of Register 9.

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

Under provisions of the M C Rules, 1960, an application for the renewal of lease shall be made to the Government at least twelve months before the date on which the lease is to expire and when a lease is sanctioned, a lease deed in the prescribed form is required to be executed on payment of prescribed stamp duty within six months of the order of sanction or within such further period as the Government may allow in this behalf. The deed so executed is required to be registered under the Registration Act, 1908.

In 4 District Mining Offices*, it was noticed (between March and July 2000) that in the case of 10 lessees (4 Government undertakings and 6 private parties) although the leases had expired on dates falling between 31 August 1981 and 10 July 1996 and applications for renewals for periods falling between 13 September 1981 and 27 March 2000 made in time, the applications for renewals had been pending with the Government for years.

* Chaibasa, Jamshedpur, Lohardaga and Ranchi.

The non-renewal of leases resulted in deprivation of Government revenue on account of stamp duty and registration fees of Rs.130.88 lakh calculated on the basis of average annual royalty based on average annual production/despatch as detailed in the table below:-

(Rupees in lakh)							
Sl.No	Name of Lessee / Mineral/period of leases/District	Area in Hectare/Mauza	Period of renewal applied for	Annual Royalty on average production / despatch	Royalty on which stamp duty leviable	Stamp Duty/ Registration fees leviable	Total
1	2	3	4	5	6	7	8
1.	Hindustan Copper Corpn. Ltd. / Kyanite/ 20 yrs from 1.9.61 / <i>Chaibasa</i>	1748.00	20 yrs from 1.9.81	6.98	20.93	<u>3.08</u> 0.84	3.92
2.	ACC Ltd / Lime stone/ 20 yrs from 13.9.65/ <i>Chaibasa</i>	63.87 / <i>Kondwa</i>	20 yrs from 13.9.85	50.00	150.00	<u>22.05</u> 6.00	28.05
3.	S.N.Jaishwal / China clay/20 yrs from 7.1.67/ <i>Ranchi</i>	383.90/ <i>Haruptoli, Jarandih</i>	20 yrs from 7.1.87	0.58	1.73	<u>0.25</u> 0.07	0.32
4.	Steel Authority of India / Iron ore / 30 yrs from 28.3.60/ <i>Chaibasa</i>	1936.12/ <i>Kiriburu</i>	30 yrs from 28.3.90	66.59	332.93	<u>48.94</u> 13.32	62.26
5.	ACC Ltd. / Lime stone/ 20 yrs from 1.1.71/ <i>Chaibasa</i>	598.894 / <i>Rajanka</i>	10 yrs from 1.1.91	34.61	51.91	<u>7.63</u> 2.08	9.71
6.	ACC Ltd. / Lime stone/20 yrs from 1.1.71/ <i>Ranchi</i>	399.935 / <i>Sarle (Ranchi)</i>	20 yrs from 1.1.91	0.60	1.80	<u>0.26</u> 0.07	0.33
7.	M/s Hindustan Copper Ltd./ Copper & Zink/20 yrs from 29.8.71/ <i>Jamshedpur</i>	785.09	20 yrs from 29.8.91	39.19	117.56	<u>17.28</u> 4.70	21.98
8.	Minerals & Minerals Ltd. / Bauxite/30 Yrs from 28.4.65/ <i>Lohardaga</i>	55.04 / <i>Pakhar</i>	10 yrs from 28.4.95	8.05	12.08	<u>1.78</u> 0.48	2.26
9.	BSMDC /Lime stone /20 years from 5.5.76 / <i>Ranchi</i>	104.062/ <i>Bentibagda</i>	20 years from 5.5.96	0.31 (Dead Rent)	0.94	<u>0.14</u> 0.04	0.18
10.	Indian Aluminium Co. Ltd. / Bauxite/15 yrs from 11.7.81/ <i>Lohardaga</i>	87.44 / <i>Bhusar and Ketrang</i>	10 yrs from 11.7.96	6.68	10.02	<u>1.47</u> 0.40	1.87
Total				213.59	699.90	<u>102.88</u> 28.00	130.88

Out of these, one lessee of kyanite in the district of *Chaibasa* continued to possess the area without execution of the renewed lease deed for nearly 13 years before surrender of lease (August 1994) resulting in loss of revenue.

The above findings were pointed out to the department (July 2000) and reported to the Government (July 2000); their replies have not been received (January 2001).

B- Minor Minerals

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

Under the BMMC Rules, 1972, settlement of sand is done for one calendar year by the Collector of the District by public auction to the highest bidder and a deed of settlement is to be executed on payment of stamp duty as prescribed in the Indian Stamp Act, 1899.

In 9 District Mining Offices*, 230 sand bearing areas were settled at Rs.368.28 lakh for the years 1998 and 1999 without executing proper deeds of settlement as required under the Indian Stamp Act, 1899. Thus, there was loss of stamp duty of Rs.23.47 lakh.

On these being pointed out (between August 1998 and March 2000), DMOs, *Bokaro, Dhanbad and Dumka* contended that stamp duty was not payable on such deeds being optional. The contention is not tenable since as per Rule 11 *ibid*, a deed is required to be executed in all such cases.

The cases were reported to the Government (between May and June 2000); their replies has not been received (January 2001).

8.04 Non-levy of penalty for non-submission/delayed submission of monthly returns

Under the BMMC Rules, 1972, every lessee or permit holder is required to submit every month, a return in the prescribed form for extraction and removal of minor minerals by the fifteenth day of the month following the month to which it relates. In case, a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay as penalty a sum of Rs.20 for every day after the expiry of the prescribed date subject to a maximum of Rs.2500.

In 5 District Mining Offices**, it was noticed (between August 1999 and March 2000) that 41 lessees/permit holders in 521 cases defaulted in furnishing returns within the prescribed dates. The delay in submission of returns ranged from 128 to 1666 days for various months falling between

* *Bokaro, Chaibasa, Deoghar, Dhanbad, Dumka, Jamshedpur, Ranchi, Rohtas and Vaishali.*

** *Chaibasa, Dumka, Gumla, Jamshedpur and Ranchi.*

August 1994 and March 1999. No penalty was imposed by the assessing officers in these cases. The total amount of penalty realisable worked out to Rs.13.03 lakh.

On these being pointed out (between August 1999 and March 2000), the department agreed to re-examine the cases. Further reply has not been received (January 2001).

The cases were reported to the Government (between February and June 2000); their reply has not been received (January 2001).

CHAPTER 9 : Other Non -Tax Receipts

9.01 Results of Audit

Test check of the records of the following receipts conducted in audit during the year 1999-2000, revealed losses/non-recovery of revenue etc. amounting to Rs 10015.21 lakh in 198 cases which broadly fall under the following categories: -

(Rupees in lakh)			
Sl. No.	Category	No. of cases	Amount
A.	FOREST RECEIPTS		
1.	Loss of revenue due to delay in initiation of certificate cases	1	8.78
2.	Loss of revenue due to departmental lapses	18	727.97
3.	Loss of revenue due to non-realisation of sales tax/non-disposal of <i>katha</i>	2	2.44
4.	Loss of revenue due to non-renewal of licence of saw mills	3	7.49
5.	Cases of short demand/short levy	11	1700.38
6.	Other irregularities	17	6041.33
B.	WATER RATES		
1.	Delay in assessment of water rates	40	420.20
2.	Non-achievement of target	31	355.03
3.	Other cases	75	751.59
Total		198	10015.21

During the year 1999-2000, the concerned departments accepted loss of revenue of Rs.94.28 lakh involved in 14 cases and all the cases have been pointed out in audit during 1999-2000. A few illustrative cases involving revenue effect of Rs. 636.84 lakh are given in the following paragraphs: -

A. FOREST RECEIPTS

9.02 Loss of revenue due to non-disposal of perishable forest produce seized in offence cases

Under the Indian Forest Act, 1927 and instruction (May 1959) of the Chief Conservator of Forest, Bihar, perishable forest produce like *kendu* leaves, illicitly manufactured *katha* etc., involved in prosecution offence cases are to

be disposed of immediately with the permission of the Court to avoid natural decay.

In North Forest Division, *Daltonganj*, 1921 bags of *kendu* leaves involved in 24 cases valued at Rs.6.56 lakh and 15.23 quintals of *katha* in 35 cases valued at Rs.3.91 lakh were seized in different offence cases between 1991-92 and 1998-99 and were lying undisposed in different places of the division. No action was taken by the division to obtain permission from the Court for disposal of the seized articles. Thus, due to non-initiation of any action by the division for their timely disposal, these produces deteriorated in quality with the passage of time resulting in loss of revenue of Rs.10.47 lakh.

On this being pointed out (November 1999), the Divisional Forest Officer stated (November 1999) that action for disposal would be taken up after receipt of the order from the Court. Further report has not been received (January 2001).

The case was reported to the Government (May 2000); their reply has not been received (January 2001).

9.03 Non-raising of demand at revised rates towards diversion of forest land for non-forest purposes

With a view to compensating loss of productive capacity of forest land, Government issued orders in November 1991 under the Forest Conservation Act, 1980, for realisation of the net present value (NPV) of forest land from the user agencies in case of diversion of the land for non-forest purposes. The order further specified the criteria for calculation of NPV of forest land and the rate applicable for 1991.

Government in a resolution decided (May 1998) that the rates of NPV were to be revised financial year-wise and in case Government did not revise the rates for any financial year, the same would be fixed after adding 10 per cent to the rate of NPV for the preceding financial year. The resolution fixed the revised rates for each year for the period upto 1997-98 and prescribed that in cases where NPV based on the rates of 1991-92 was realised from the user agencies in later years, the differential amount would be assessed and realised. Principal Chief Conservator of Forest (PCCF) further instructed (September 1998) all Divisional Forest Officers (DFO) to issue demand notice to user agencies for payment of differential amount.

During test check of records of 5 forest Divisions*, it was noticed (between November 1999 and May 2000) that 774.035 hectares of forest land was diverted to different user agencies for non-forest purposes after 1991-92. Against demand for Rs 1750.15 lakh at revised rates for the period between 1993-94 and 1998-99,

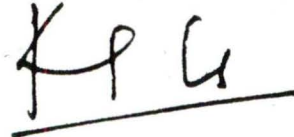
* 1. North Forest Division, Chaibasa 2. South Forest Division, Chaibasa .3. Dhanbad Forest Division, Dhanbad 4. East Forest Division, Hazaribagh, 5. Ranchi West Forest Division, Lohardaga.

demand for Rs 1123.78 lakh only was raised (between January 1993 and December 1998), out of which Rs 733.73 lakh only was realised (between July 1993 and March 1999). Thus, failure of the department in raising the demand at revised rates resulted in non-realisation of revenue of Rs 626.37 lakh.

On these being pointed out (between November 1999 and May 2000), DFO, *Dhanbad* raised (August 2000) the revised demand while DFOs of remaining 4 divisions stated (between November 1999 and May 2000) that revised demand would be raised on user agencies. Further reply has not been received (January 2001).

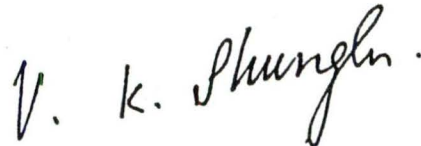
The cases were reported (June and September 2000) to the Government; their reply has not been received (January 2001).

Ranchi
The



(K.K.SRIVASTAVA)
Accountant General (Audit)-II,
Bihar and Jharkhand

Countersigned



New Delhi
The

(V.K.SHUNGLU)
Comptroller and Auditor General of India