

ଓଡ଼ିଶା ବିଧାନ ସଭା
ସ୍ଥାପନ କିଆଁ ଗଢା.....
Laid before the Orissa
Legislative Assembly
on..... 07 AUG 2001

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

FOR THE YEAR ENDED 31 MARCH 2000

(REVENUE RECEIPTS)

GOVERNMENT OF ORISSA

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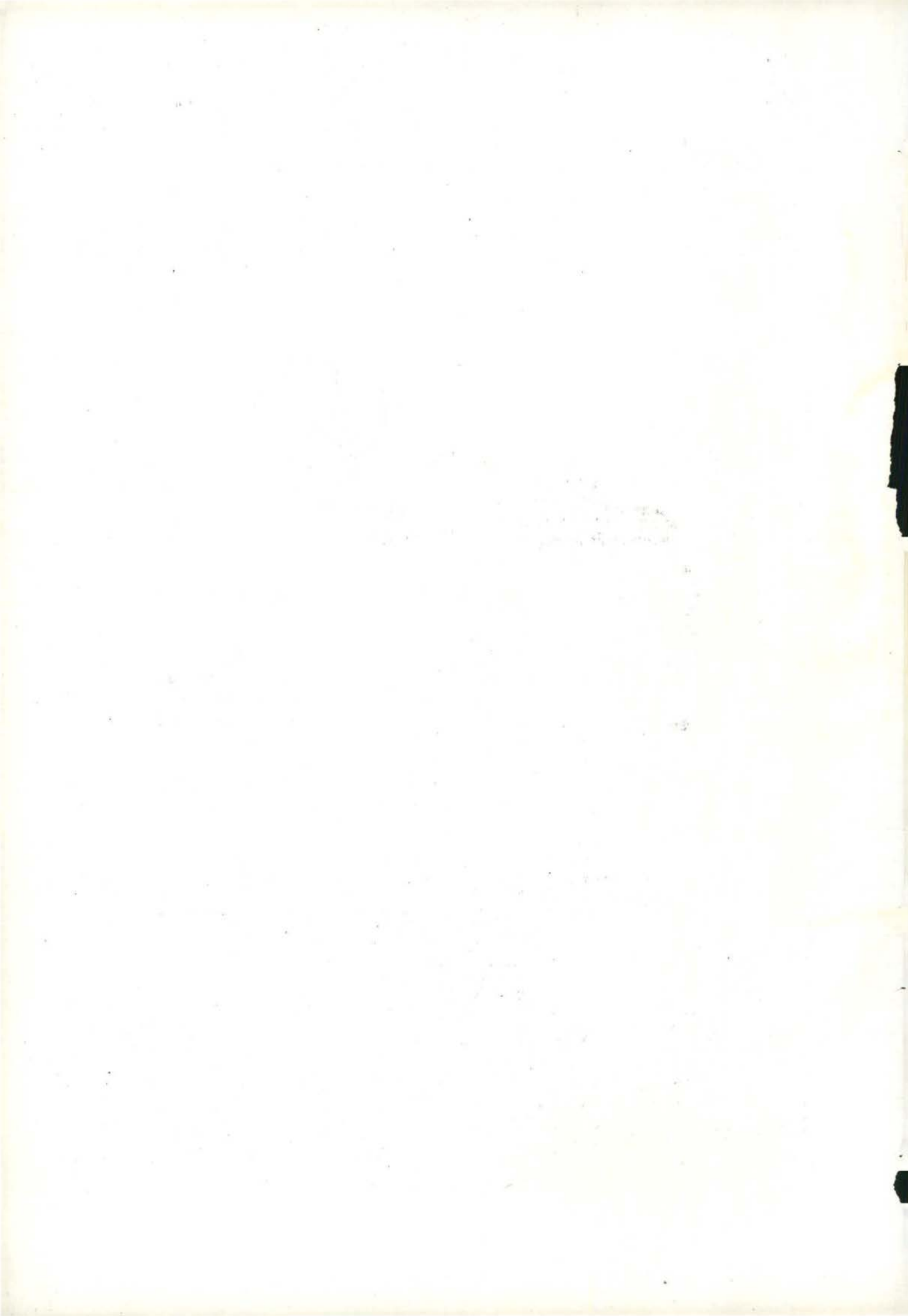
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PREFATORY REMARKS

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 result of audit of receipts comprising sales tax, taxes on motor vehicles, land revenue, State excise, forest receipts, mining receipts and other departmental 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 1999-2000 as well as those noticed in earlier years but which could not be covered in previous years' Reports.

OVERVIEW

This report contains 30 paragraphs and 4 reviews relating to non-levy, short levy of tax, penalty, etc. involving Rs.260.05 crore which is 10.74 *per cent* of the revenue receipts of 1999-2000. The Government has accepted audit observations involving Rs.6.15 crore of which Rs.0.64 crore had been recovered upto August 2000. Some major findings are mentioned below :-

1 General

- (i) The total revenue raised by the Government of Orissa during the year 1999-2000 was Rs.2420.56 crore comprising tax revenue of Rs.1704.08 crore and non-tax revenue of Rs.716.48 crore. While tax revenue consists mainly of Sales Tax (Rs.1107.55 crore), the non-tax revenue was mainly from Mines and Minerals (Rs.320.09 crore).

{Para 1.1}

- (ii) Test check of records of Sales Tax, Motor Vehicles Tax, Land Revenue, State Excise, Forest, Mines and Minerals, and Other Departmental offices conducted during the year 1999-2000 revealed under-assessment, short levy/loss of revenue etc. amounting to Rs.417.33 crore in 4,01,773 cases. During the year 1999-2000, the concerned departments accepted under-assessment etc. of Rs.38.60 crore involved in 28,579 cases pointed out during 1999-2000 and earlier years.

{Para 1.9}

- (iii) As on 30 June 2000, 3,769 inspection reports issued upto December 1999 containing 12,087 audit observations involving Rs.666.67 crore were outstanding for want of comments/final action by the concerned departments.

{Para 1.10}

2

Sales Tax

- (i) A review on "Collection of Sales Tax Arrears" revealed the following:
- (a) Improper maintenance of records resulted in under-reporting of arrears amounting to Rs.18.30 crore in seven circles.
{Para 2.2.6(b)}
- (b) Arrears amounting to Rs.26.58 crore were pending for collection in 7,198 cases under tax recovery proceedings for periods ranging from one year to twenty two years.
{Para 2.2.7.1}
- (c) Collection of arrears of Rs.58.06 crore in 4,578 cases was held up due to stay granted by departmental officers of which arrears of Rs.15.37 crore in 2,278 cases were held up for more than three years due to non-vacation of stay orders granted by departmental authorities.
{Para 2.2.8}
- (d) Non-initiation of collection proceedings and inaction/improper action of the assessing officers resulted in loss of revenue of Rs.88 lakh.
{Para 2.2.10(a)}
- (ii) Application of incorrect rate of tax led to short levy of tax of Rs.81.34 lakh.
{Para 2.3}
- (iii) Incorrect grant of exemption/deferment led to short levy of tax of Rs.1.53 crore.
{Para 2.4}
- (iv) Allowance of inadmissible deduction led to short levy of tax of Rs.99.07 lakh.
{Para 2.8}

3 **Motor Vehicles Tax**

- (i) A review on "Arrears of Motor Vehicles Tax" revealed the following:
- (a) Non-compliance of recommendations of Public Accounts Committee led to continued growth in arrears from Rs.19.23 crore in 1994-95 to Rs.43.12 crore in 1999-2000.
{ Para 3.2.5 }
- (b) Demand notices were not issued in 675 cases involving arrears of tax and penalty amounting to Rs.7.08 crore.
{ Para 3.2.9 }
- (c) 318 certificate cases involving arrear of Rs.1.14 crore could not be sustained due to lack of diligence on the part of assessing officer.
{ Para 3.2.11 (A) }
- (ii) Motor vehicles tax and additional tax including penalty amounting to Rs.1.80 crore was either not realised or short realised in respect of 407 vehicles.
{ Para 3.3 }
- (iii) Tax and penalty of Rs.9.25 crore was not realised though the vehicles were neither covered by off-road declaration nor was tax paid in other regions.
{ Para 3.5 }

4 **Land Revenue**

Non/short realisation of water rate for use of water from Government sources of Rs.66.79 lakh.

{Para 4.2}

5 **State Excise**

- (i) Loss of Excise Duty of Rs.7.99 crore on account of lower outturn of rectified spirit from molasses due to non-adoption of Chemical Examiner's reports in working out the outturn of stock.

{ Para 5.2 }

- (ii) Failure of licensee to maintain minimum stock resulted in loss of Excise Duty of Rs.63.61 lakh.

{ Para 5.3 }

6 **Forest Receipts**

A review on "Collection of Arrears of Forest Receipts" revealed the following:

- (a) Improper maintenance of essential records led to under reporting of arrears of Rs.5.12 crore.

{ Para 6.2.6 }

- (b) Non-institution of certificate cases involving arrears of Rs.23.23 lakh in 136 cases led to loss of revenue of Rs.23.23 lakh as the cases had become time barred.

{ Para 6.2.7 (A)(a) }

- (c) Arrears of royalty amounting to Rs.81.58 lakh outstanding against a firm remained unrealised due to inaction on the part of the department.

{ Para 6.2.7 (A) (d) }

- (d) Steps were not taken by the department to recover arrear of Rs.55.66 crore pending from the Orissa Forest Development Corporation.

{ Para 6.2.7 (B)(i) }

- (e) Non-finalisation of rate of royalty of sal seed for the year 1992 to 1994 resulted in increase in arrears of Rs.89 lakh.

{Para 6.2.7 (B)(iii)}

7 **Mining Receipts**

Levy of royalty on the quantity recovered from beneficiation plant instead of on the quantity removed from seam led to short levy of royalty of Rs.1.07 crore.

{ Para 7.2(a) }

8 **Departmental Receipts**

- (i) A review on "Assessment and Collection of Electricity Duty" revealed the following:
- (a) Certificate cases were not instituted for realisation of arrears of Electricity Duty of Rs.9.70 crore from consumers whose power supply had been disconnected.

{ Para 8.2.7.1 }

- (b) Irregular grant of exemption of Electricity Duty led to loss of revenue of Rs.17.17 crore.

{ Para 8.2.7.7(i) (ii) }

- (ii) Guarantee fees amounting to Rs.6.71 crore was not realised from various loanees by Commerce and Transport, Welfare, Textile and Handloom, Co-operation and Energy departments.

{ Para 8.3 }

CHAPTER-1 : GENERAL

1.1 Trend of Revenue Receipts

1.1.1 The tax and non-tax revenue raised by the Government of Orissa 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 two years are given below:-

(Rupees in crore)

		1997-1998	1998-1999	1999-2000
I	Revenue raised by State Government			
(a)	Tax Revenue	1421.74	1487.13	1704.08
(b)	Non-Tax Revenue	540.92	557.49	716.48
	Total	1962.66	2044.62	2420.56
II	Receipts from Government of India			
(a)	State's share of divisible union taxes	1563.61	1694.52	1748.45*
(b)	Grants-in-aid	1105.76	815.26	1715.63
	Total	2669.37	2509.78	3464.08
III	Total Receipt of the State Government(I+II)	4632.03	4554.40	5884.64
IV	Percentage of I to III	42.37	44.89	41.13

* For details, please see Statement No.- 11- Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Orissa for the year 1999-2000. Figures under the 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

1.1.2 The details of the tax revenue raised during the year 1999-2000 alongwith figures for the preceding two years are given below:

(Rupees in crore)				
Heads of Revenue	1997-1998	1998-1999	1999-2000	Percentage of increase (+) or decrease (-) in 1999-2000 over 1998-99
1. Sales Tax	925.08	971.09	1107.55	(+) 14.05
2. Taxes and duties on electricity	127.73	110.13	127.20	(+) 15.50
3. Land Revenue	38.69	58.57	50.46	(-) 13.85
4. Taxes on Vehicles	141.78	143.18	155.53	(+) 8.63
5. Taxes on goods and passengers	0.01	0.01	34.18 [#]	(+)341700.00
6. State Excise	105.80	109.67	114.82	(+) 04.70
7. Stamp duty and registration fees	76.77	87.59	102.01	(+) 16.46
8. Other taxes and duties on commodities and services	5.88	6.89	12.33	(+) 78.96
Total	1421.74	1487.13	1704.08	

The reasons for variations for the following items, as furnished by the concerned departments were as under:-

- (a) *Land Revenue*: The decrease (13.85 per cent) was stated to be due to (i) super cyclone of October 1999 and (ii) 50 per cent remission of cess and 50 per cent suspension of cess granted by Government in December 1999 in 14 cyclone affected districts.
- (b) *Motor Vehicle Tax*: The increase (8.63 per cent) was stated to be due to increase of transport population and increase of permit and application fees for driving licenses, fitness certificates and registrations.
- (c) *State Excise*: The increase (4.70 per cent) was stated to be due to settlement of excise shops on renewal basis at 10 per cent hike over the consideration money of the previous year.
- (d) *Stamp and Registration Fees*: The increase (16.46 per cent) was attributed to more collection of stamp duty and registration fee on registration of more documents.

Reasons for variations in respect of sales tax, taxes and duties on electricity, taxes on goods and passengers though called for (April 2000) from the departments concerned have not been received (November 2000).

Represents tax on 'Entry of goods into local areas' introduced in the State from 1 December 1999

1.1.3 The details of major non-tax revenue realised during the years 1997-98 to 1999-2000 are given below:

(Rupees in crore)

Heads of Revenue	1997-1998	1998-1999	1999-2000	Percentage of Increase (+) or decrease (-) in 1999-2000 over 1998-99
1. Forest	73.29	87.30	95.78	(+) 9.71
2. Mines and Minerals	317.15	314.05	320.09	(+) 1.92
3. Education	12.65	12.49	15.11	(+) 20.98
4. Interest	18.69	19.62	19.46	(-) 0.82
5. Public Health, Sanitation and Water Supply	12.95	12.56	14.71	(+) 17.12
6. Irrigation, Navigation, Drainage and Flood Control Projects	8.55	13.79	10.51	(-) 23.79
7. Police	6.60	08.71	10.17	(+) 16.76
8. Others	91.04	88.97	230.65*	(+) 159.24
Total	540.92	557.49	716.48	

The reasons for variations for the following items, as furnished by the departments were as under:

- (a) *Forest*: The reason for increase (9.71 per cent) was stated to be due to excess collection of Rs.11 crore from *kendu leaves* as compared to previous year's collection.
- (b) *Education*: The increase (20.98 per cent) was stated to be due to deposit of arrear receipts by non-Government colleges under Higher Education Department.
- (c) *Irrigation*: The decrease (23.79 per cent) was stated to be due to (i) super cyclone of October 1999 and (ii) 50 per cent remission and 50 per cent suspension of current demand of water rate granted by Government in 14 cyclone affected districts.
- (d) *Police*: The increase (16.76 per cent) was stated to be due to collection of arrears and revision of pay scales.

Reasons for variations relating to Interest, Public Health, Sanitation and Water Supply, Irrigation, Navigation, Drainage and Flood Control Projects, and Others though called for (April 2000) have not been received (November 2000).

*Includes receipt of dividend of Rs.111.14 crore under dividend head and Rs.17.06 crore under other administrative services head.

1.2 Non-implementation/delay in implementation of fiscal reform measures under Memorandum of Understanding (MOU)

The Government of Orissa and the Ministry of Finance, Government of India, agreed (April 1999) that the Central Government would assist the State Government to get out of overdraft on the condition that the State Government would implement certain specific time bound reform measures which were enumerated in a Memorandum of Understanding (MOU). These measures included certain steps for additional resource mobilisation and increase in user charges.

Audit scrutiny of the implementation of the MOU revealed the following position:

I Resource Mobilisation Measures

According to the MOU, the State Government was required to implement the following measures including issue of Government orders by the dates specified against each:

Sl. No.	Taxation measures	Action to be taken	Date by which action to be taken	Present position
1	Rationalising the current six rates of Sales Tax to three	Notification to be issued	May 1999	Rationalisation of Sales Tax undertaken as of February 2000 raising tax rates of certain goods upwards.
2	Introduction of Value Added Tax (VAT)	Computerisation of procedure Training of officers Computerisation of accounts of traders	March 2000 March 2000 December 2001	Only training of officers on VAT has been undertaken.
3	Kendu leaves trade to be restructured	Preparation of strategy paper and action plan	July 1999	Forest Department intimated in April 2000 to initiate action. No further progress.
4	Improve excise administration and enforcement	Upward revision and rationalisation of license and minimum guarantee fees	June 1999	Consideration money, minimum guaranteed quantity and license fees increased (April 2000) and Bihar Orissa Excise Bill passed (August 2000) for improving Excise administration and enforcement.
5	Rationalising stamp duty	Amendment bill to the Stamp Act to be introduced in the Assembly. The amendment would emphasize among other things authorising Government/designated authority in respect of fixation of benchmark valuation of land, collection of deficient stamp duties instead of impounding documents.	June 1999	Amendment bill not yet introduced in the Assembly.

Sl. No.	Taxation measures	Action to be taken	Date by which action to be taken	Present position
6	Introduction of professional tax	Notification to be issued	June 1999	Bill has been passed by the Assembly on 31.7.2000. Notification yet to be issued as of August 2000.
7	Introduction of Entry Tax	Notification to be issued	June 1999	Notification issued with effect from 1.12.1999

II Tax concessions-deferrals and exemptions

According to the MOU, the State Government had to bring out a paper outlining the strategy of phasing out tax concession to industries by 30 April 1999. The paper was to contain a detailed action plan for doing away with tax deferral to industries and for reducing tax concessions. The Government orders to do away with deferrals and reduce tax incentives at least by 50 *per cent* was to be issued before the end of May 1999.

It was noticed that as against the target date of end May 1999, Government withdrew tax concession on deferment and tax exemption to industries under Industrial Policy Resolution 1989 (IPR-1989) and earlier IPRs with effect from August 1999. Deferment of tax was also disallowed to industrial units with effect from January 2000 except those who are already in the pipeline.

III User charges

In accordance with the agreement, the Government of Orissa was to issue orders to determine user charges for social and economic services such as schools, college and university fees, water charges, health-care fees etc. Government was also required to enhance the user charges for secondary and college education by July 1999. It was, however, noticed that no action was initiated by the Government to ensure the same as of August 2000.

Government stated (September 2000) that an increase by fifty *per cent* of irrigation water rates was under consideration of the Government while a provision has been made for automatic increase in water rate tariff for urban water supply at a rate of ten *per cent* over a year subject to review after five years. It was further stated (November 2000) that proposal for user charges on educational and vocational studies was under consideration of Government.

1.3 Variations between Budget Estimates and Actuals

The variations between Budget Estimates of revenue for the year 1999-2000 and the actual receipts under the principal heads of tax and non-tax revenue and the reasons therefor as intimated by the respective departments are given below:

(Rupees in crore)					
Sl. No.	Heads of Revenue	Budget Estimates	Actual receipts	Variations Increase (+) Shortfall (-)	Percentage of variation
Tax Revenue					
1	Sales Tax	1200.00	1107.55	(-) 92.45	(-) 07.70
2	Taxes and Duties on electricity	131.00	127.20	(-) 03.80	(-) 02.90
3	Land Revenue	63.00	50.46	(-) 12.54	(-) 19.90
4	Taxes on vehicles	196.00	155.53	(-) 40.47	(-) 20.65
5	State Excise	130.60	114.82	(-) 15.78	(-) 12.08
6	Stamp duty and Registration fees	100.00	102.01	(+) 02.01	(+) 02.01
Non-Tax Revenue					
7	Mines and Minerals	346.09	320.09	(-) 26.00	(-) 7.51
8	Forest	110.00	95.78	(-) 14.22	(-) 12.92
9	Education	13.62	15.11	(+) 01.49	(+) 10.94
10	Interest	20.00	19.46	(-) 00.54	(-) 02.70
11	Police	08.00	10.17	(+) 02.17	(+) 27.13

- (a) *Sales tax:* The shortfall (7.7 per cent) was reported to be mainly due to (i) recession in mines, automobiles and works contract sectors, (ii) diminishing demand for minerals in the market, (iii) nullification of section 13 AA of Orissa Sales Tax Act, 1947 by Hon'ble Supreme Court in February 2000, (iv) diversion of trade in motor vehicle sector to other States (Bihar and M.P.) in February and March 2000 due to adoption of floor rate from 4 per cent to 12 per cent which the above States have not adopted, (v) effect on the trade of the super cyclone of October 1999 and (vi) uncertainty regarding withdrawal of incentives under IPR 1989.
- (b) *Land Revenue:* The variation (19.90 per cent) was stated to be due to (i) fixation of target at Rs.63 crore against demand for Rs.39.80 crore and (ii) sanction of 50 per cent remission and 50 per cent suspension in 14 districts affected by super cyclone.

- (c) *Motor Vehicles Tax:* The shortfall (20.65 per cent) was stated to be due to want of staff and reduction of vehicle population at the border check gates alongwith less receipt of bank drafts relating to National Permits from other States, engagement of staff in Parliamentary and Assembly elections held in the year 2000 and the super cyclone in coastal areas.

It was however noticed in audit that the shortfall occurred despite an increase of 12.15 per cent in the number of vehicles on road during 1999-2000 as compared to 1998-99.

- (d) *Mines and Minerals:* The shortfall (7.51 per cent) was attributed to fixation of budget at 10.1 per cent higher than the previous year's collection figures whereas the rates of royalty was not increased during the year. To achieve the budget estimate, there should have been 10 per cent increase in dispatch of minerals but increase in dispatch of mineral was only 2.23 per cent.
- (e) *Forest:* The shortfall (12.92 per cent) was reported to be due to less payment of royalty by Orissa Forest Development Corporation on timber and bamboo along with less collection of minor forest produces.
- (f) *Education:* The increase (10.94 per cent) was due to deposit of arrear receipts by non-Government colleges under Higher Education Department.
- (g) *Police:* The variation (27.13 per cent) was stated to be due to collection of arrears and revision of scales of pay.

Reasons for variations relating to *State Excise* and *Interest* though called for (April 2000) have not been received (November 2000):

It was evident that the wide variation between Budget Estimates and Actual Receipts reflected a lack of adequate assessment of actual receipts and the possibilities of additional resource mobilisation as the Budget Estimates were being framed without any specific assessments of receipts from the respective administrative departments concerned.

1.4 Analysis of Collection

The break up of the total collections (at the pre-assessment stage and after regular assessment) of Sales Tax during the year 1999-2000 and the corresponding figures for the preceding two years as furnished by the department are given below:

(Rupees in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Amount of arrear demand collected	Amount refunded	Net collection of tax	Percentage of col. 2 to 6
1	2	3	4	5	6	7
1997-98	883.62	35.50	14.74	10.83	923.03*	96
1998-99	977.89	31.55	18.05	55.61	971.88**	101
1999-2000	1083.06	28.31	15.19	27.49	1099.07***	99

The position of revenue collected by Sales Tax Department as detailed above revealed that the collection of revenue at pre-assessment stage ranged between 96 and 101 per cent during last 3 years ending March 2000.

1.5 Cost of Collection

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

(Rupees in crore)

Heads of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1998-99
1 Sales Tax	1997-1998	925.08	14.96	1.62	1.40
	1998-1999	971.09	21.52	2.22	
	1999-2000	1107.55	20.70	1.87	
2 Taxes on vehicles	1997-1998	141.78	3.29	2.32	3.22
	1998-1999	143.18	2.71	1.89	
	1999-2000	155.53	7.40	4.76	
3 State Excise	1997-1998	105.80	7.83	7.40	3.25
	1998-1999	109.67	11.69	10.66	
	1999-2000	114.82	11.16	9.72	
4 Stamp duty and Registration fees	1997-1998	76.77	7.29	9.50	5.45
	1998-1999	87.59	10.92	12.47	
	1999-2000	102.01	14.41	14.13	

* The difference of Rs.2.05 crore (Rs.925.08 crore - Rs.923.03 crore) is yet to be reconciled.

** The difference of (-) Rs.0.79 crore (Rs.971.09 crore - Rs.971.88 crore) is yet to be reconciled.

*** The difference of Rs.8.48 crore (Rs.1107.55 crore - Rs.1099.07 crore) is yet to be reconciled (November 2000)

The expenditure on collection of Sales Tax, State Excise and Stamp Duty and Registration Fees as a percentage of total collections under the respective heads is higher as compared to the national average.

1.6. Arrears of Revenue

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

(Rupees in crore)				
Heads of Revenue	Amount of arrears as on 31 March 1999	Amount of arrears as on 31 March 2000	Arrears more than five years old	Remarks
1. Sales Tax	865.38	832.71	218.02	The stages of arrears was as under: (a) Demands covered by Certificate proceedings/ Tax Recovery proceedings 133.94 (b) Demands stayed by (i) Supreme Court/ High Court 332.18 (ii) Departmental authorities 190.39 (c) Other stages (i) Under third party notices 22.42 (ii) Under show cause notices 149.73 (d) Amounts likely to be written off 4.05 Total 832.71
2. Taxes on vehicles	42.68	43.12	--	Item-wise breakup was as under:- i) Orissa State Road Transport Corporation 26.02 ii) Private vehicle 17.10 Total 43.12
3. Land Revenue	13.60	20.87	--	The realisation has been suspended by Govt. in 14 cyclone affected districts. Item-wise breakup was as follows: (a) Rent 2.01 (b) Cess 6.34 (c) Nistar Cess 0.14 (d) Sairat 4.26 (e) Misc. Revenue 8.12 Total 20.87
4. State Excise	NA	6.96	--	Specific action taken to effect the recovery has not been furnished. However, the stage-wise position of arrears was as under: a) Demands covered by certificate proceedings 2.40

Audit Report (Revenue Receipts) for the year ended 31 March 2000

(Rupees in crore)

Heads of Revenue	Amount of arrears as on 31 March 1999	Amount of arrears as on 31 March 2000	Arrears more than five years old	Remarks
5. Forest	57.94	45.64*	--	b) Demands stayed by High Court/ other judicial authorities. 2.63
				c) Demands stayed by Departmental authority of Government 0.31
				d) Amounts likely to be written off including deposited amount of Rs.2.80 lakh 0.05
				e) Other stages of recovery. 1.57
				Total 6.96
6. Mines and Minerals	31.84	28.97	1.75	Figures of 10 Divisions were not furnished. The item-wise details in respect of 17 divisions was as under:-
				(a) Forest Lease 8.44
				(b) Kendu Leaves 0.15
				(c) OFDC 37.05
				Total 45.64
7. Irrigation (WR)	NA	11.15	--	The stages of recovery was as under:
				(a) Demand covered by certificate proceedings 4.14
				(b) Demand stayed by High Court/Other Judicial Authorities 0.20
				(c) Amount likely to be written off 0.71
				(d) Recoverable amount 23.92
Total 28.97				
7. Irrigation (WR)	NA	11.15	--	The realisation has been suspended by Govt. in 14 cyclone affected districts. Item-wise breakup was as follows :-
				(i) Compulsory Basic Water Rate 8.26
				(ii) Fluctuating Water rate 1.54
				(iii) Non-Irrigation 1.35
				Total 11.15

* Arrears relating to 17 divisions only out of 27 divisions.

(Rupees in crore)

Heads of Revenue	Amount of arrears as on 31 March 1999	Amount of arrears as on 31 March 2000	Arrears more than five years old	Remarks
8. Other Departmental Receipts (Rent) G.A. Deptt.	NA	8.12	--	<p>Item wise break up was as under :-</p> <p>Residential Buildings</p> <p>1. M.L.A's and Ex. M.L.A's 0.30</p> <p>2. Boards and Corporation 0.36</p> <p>3. Private parties 0.32</p> <p>4. Retired Govt. Servants 2.32</p> <p>5. Transferred Govt. Servants 1.07</p> <p>6. Certificate cases 0.04</p> <p>7. Central Govt. employees occupying State Govt. Qrs. and. water tax 1.14</p> <p>8. Usual House Rent 0.11</p> <p>9. Recovery stayed by High Court and other judicial authorities 1.69</p> <p>0.02</p> <p>Non-Residential Buildings 0.75</p> <p>Total 8.12</p>
9. Interest	26.01	76.94	--	<p>1. Co-operation Department: 52.17</p> <p>More than Rs.2 lakh in each case (16 cases involving Rs.51.88 crore). The reason for outstanding was stated to be the poor financial condition of the co-operative institutions.</p> <p>2. Industry Department 24.77</p> <p>Item wise break up was as under :</p> <p>Orissa Small Industries Corp. 0.21</p> <p>Industrial Development Corp. 6.06</p> <p>Film Development Corp. 0.05</p> <p>Orissa Instruments Co. 0.19</p> <p>Orissa State Financial Corp. 11.02</p> <p>State Aid Rural Industries Program loanees 0.95</p> <p>Sales Tax loanees 3.79</p> <p>Electricity Duty loanees 2.11</p> <p>Panchayat Samiti Industries 0.39</p> <p>Total 24.77</p>

1.7 Arrears in assessment

The details of Sales Tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and the 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 close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
1995-96	2,41,936	1,85,522	4,27,458	1,79,846	2,47,612	42
1996-97	2,47,612	1,87,650	4,35,262	1,68,837	2,66,425	39
1997-98	2,66,425	1,82,857	4,49,282	1,68,521	2,80,761	38
1998-99	2,80,761	1,86,439	4,67,200	1,55,498	3,11,702	33
1999-00	3,11,702	1,84,660	4,96,362	1,49,044	3,47,318	30

It would be seen that the number of outstanding cases went up from 247612 at the end of 1995-96 to 347318 at the end of 1999-2000 registering an increase from 58 per cent in 1995-96 to 70 per cent in 1999-2000. It was also noticed that the department could not even dispose of the cases which became due during the year.

1.8 Fraud and evasion of tax

The number of cases of evasion of tax detected by the Sales Tax department and assessments finalised during 1999-2000 are given below:

		Number of cases
A. (i)	Cases pending as on 31 March 1999	15,856
(ii)	Cases detected during the year 1999-2000	2,483
	Total	18,339
B.	Cases in which investigations were dropped/ assessments completed during the year 1999-2000	4,243
C.	Cases which were pending at the end of the year (i.e., 31 March 2000)	14,096

The revenue involved in these cases was not furnished by the department. It would be seen from the above that the disposal of detected cases was very low (23 per cent).

1.9 Results of Audit

Test check of the records of Sales Tax, Motor Vehicles Tax, Land Revenue, State Excise, Forest, Mines and Minerals and Other Departmental offices conducted during the year 1999-2000 revealed under-assessment/short levy/loss of revenue etc. amounting to Rs.417.33 crore in 4,01,773 cases. During the course of the year 1999-2000, the concerned departments accepted under-assessment etc. of Rs.38.60 crore involved in 28,579 cases which were pointed out in 1999-2000 and in earlier years.

This report contains 30 paragraphs and 4 reviews involving financial effect of Rs.260.05 crore of which Rs.6.15 crore has been accepted by Government/Department. Recovery made in these cases amounted to Rs.0.64 crore up to August 2000. Audit observations with a total revenue effect of Rs.2.15 crore have not been accepted by the Department/Government but their contentions being at variance with the facts or legal position have been appropriately commented upon in the relevant paragraphs. Replies in the remaining cases have not been received (November 2000).

1.10 Outstanding inspection reports and audit observations

Audit observations on incorrect assessments, short levy of taxes, duties, fees, etc. as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of one month.

The number of inspection reports and audit observations relating to revenue receipts issued up to 31 December 1999 which were pending settlement by the departments as on 30 June 2000 along with corresponding figures for the preceding two years are given below:

	1998	1999	2000
1. Number of inspection reports pending settlement	2896	3576	3769
2. Number of outstanding audit observations	10032	11558	12087
3. Amount of revenue involved (in crore of rupees)	335.04	395.74	666.67

Department-wise break up of the inspection reports and audit observations outstanding as on 30 June 2000 is given below:

(Rupees in crore)

Department	Nature of receipts	Number of outstanding		Amount of receipts involved	Year to which observations relate	Number of Inspection Reports to which even first replies have not been received
		Inspection reports	Audit observations			
1. Finance	Sales Tax	602	2394	129.87	1972-73 to 1999-2000	37
	Entertainment Tax	160	180	0.95	1973-74 to 1999-2000	9
	Luxury Tax	8	11	0.37	1997-98 to 1999-2000	5
2. Commerce and Transport (Transport)	Taxes on vehicles	282	3254	41.63	1970-71 to 1999-2000	15
	Taxes on goods and passenger	70	237	1.09	1973-74 to 1987-88	--
3. Revenue and Excise	Land Revenue	1017	2345	53.33	1997-98 to 1999-2000	77
	Stamp Duty and Registration Fees	270	323	10.94	1976-77 to 1999-2000	46
	State Excise	227	607	32.67	1973-74 to 1999-2000	11
4. Forest and Environment	Forest Receipts	555	1589	131.48	1967-68 to 1999-2000	24
5. Steel and Mines	Mining Receipts	100	191	16.96	1974-75 to 1999-2000	1
6. Others	Departmental Receipts	478	956	247.38	1977-78 to 1999-2000	14
Total		3769	12087	666.67		239

Given the huge pendency and the amount of revenue involved, it is recommended that Government should look into this matter and ensure that effective steps are taken (a) for action against officials who failed to send replies to Inspection Reports/Paras as per the prescribed time schedule, (b) to raise demand and realise the short levy/non-levy of tax, fees, duties and arrears of revenue etc. in time bound manner and (c) to ensure proper response to the audit observations by the departments concerned.

Government stated (November 2000) that steps had been taken to review the pending inspection reports and audit observations. A Monitoring Committee had been formed in most departments and an apex committee was being constituted.

1.11(a) Response of the Departments to Draft Audit Paragraphs

Government of Orissa, Finance Department, in their circular memorandum (May 1967) instructed various departments of the Government to submit compliance to the draft audit paragraphs floated by the Accountant General (AG) for inclusion in the Audit Reports of the Comptroller and Auditor General (C&AG) within six weeks from the date of receipt of such draft audit paragraphs. The above instructions were reiterated (December 1993) while accepting the recommendation of the High Power Committee on response of the State Governments to the Audit Reports of the C&AG. The draft paras (DP) are normally forwarded by the AG to the Principal Secretary/Secretary of the administrative Department concerned through demi-official letters seeking confirmation of the factual position and comments thereon within the stipulated period of 6 weeks.

Seventy one draft paragraphs being considered for inclusion in this Report were demi-officially forwarded to the Secretaries/Principal Secretaries of the concerned departments during March-May 2000 with a request to verify the factual position and offer comments thereon. Demi-official reminders were also issued at the expiry of six weeks time in each case. The position of response to the draft paras are detailed below:

Sl. No.	Name of the Department/Nature of receipt	No. of draft paras forwarded including review	No. of draft paras in respect of which replies were received	No. of draft paras in which replies were not received
1	Finance (Sales Tax)	26	26	Nil
2	Finance (Departmental Receipt)	01	01	Nil
3	Energy (Electricity Duty & Fees)	01	01	Nil
4	Transport (Motor Vehicle Tax)	17	16	01
5	Revenue (Land Revenue, Stamp Duty and Registration Fees)	11	Nil	11
6	Excise (Excise Duty and Fees)	05	01	04
7	Mining and Geology (Mining Receipts)	06	06	Nil
8	Forest and Environment (Forest Receipts)	04	01	03
Total		71	52	19

While the Finance, Energy and Mining and Geology Departments have responded to all the draft paras issued to them, no response was received from the Department of Revenue in respect of paras relating to Land Revenue, Stamp Duty and Registration Fees. The Forest Department and the Excise Department have responded to one para each out of 4 and 5 paras issued to them respectively.

Government stated (November 2000) that the concerned departments had been requested to expedite submission of compliance to draft audit paragraphs.

1.11(b) Follow up on Audit Reports

Finance Department instructed (May 1967 and May 1968) all departments of the Government to take *suo motu* action to verify the facts and figure mentioned in the Audit Reports presented before the State Legislature and submit a comprehensive note covering all aspects of the cases in the Audit Paragraphs to the Public Accounts Committee (PAC) soon after receipt of the Audit Report. In December 1993, the Finance Department further instructed that the departments should submit explanatory notes on paragraphs included in the Audit Reports indicating the action taken or proposed to be taken within a period of three months without waiting for any notice or call from PAC. Since the Audit Reports of the Comptroller and Auditor General of India (Revenue Receipts) represent the culmination of the process of statutory audit starting with initial inspection of the accounts records maintained in various offices under departments of Government, it is imperative that they elicit appropriate and timely response from the Executive as a measure of rectification of errors noticed in audit and to safeguard the interests of revenue.

It was noticed that though the Audit Reports (Revenue Receipts) of the Comptroller and Auditor General relating to the State for the years 1989-90 to 1997-98 were presented to the State Legislative Assembly in December 1991, October 1992, April 1993, April 1994, June 1995, July 1996, April 1997, July 1998 and July 1999 respectively, five departments did not submit *suo motu* explanatory notes on 273 paragraphs/review paragraphs to the PAC for examination of the cases as tabulated below:

Year	No. of paras in the AR	No. of paras discussed by PAC after getting compliance from departments	No. of paras pending for discussion for want of compliance notes from the departments	Finance Department			Transport Department MVT	Revenue and Excise Department			Forest & Environment (Forest Receipt)	Steel & Mines Department (Mining Receipt)
				ST	ET	DR		Land Revenue	State Excise	Stamp Duty & Regn.		
1989-90	69	68	01	--	--	--	--	01	--	--	--	--
1990-91	68	37	31	15	02	--	--	04	06	04	--	--
1991-92	63	51	12	--	--	--	--	05	07	--	--	--
1992-93	54	21	33	--	--	--	19	07	07	--	--	--
1993-94	44	03	41	10	--	--	16	03	07	02	--	03
1994-95	47	06	41	14	02	--	12	05	05	--	--	03
1995-96	40	--	40	13	--	--	10	04	06	--	04	03
1996-97	36	--	36	09	--	01	11	03	04	--	03	05
1997-98	38	--	38	10	01	--	12	04	03	03	02	03
Total	459	186	273	71	05	01	80	36	45	09	09	17

The break up revealed that the non-compliance to audit paragraphs stood at 59.48 per cent of total paras presented to the Assembly during the above period. Lack of follow up action on Audit Reports by the Departments resulted in non-realisation of substantive revenue to the State besides recurrence of similar errors every year.

Government stated (November 2000) that the concerned departments had been requested to take prompt action and submit explanatory notes to the Public Accounts Committee for examination.

1.11(c) Response of the departments to PAC Reports/ Recommendations

The Orissa Legislative Assembly (OLA) Secretariat issued instructions (May 1966) to all departments of the State Government to submit notes showing action taken by the Government on various suggestions, observations and recommendations made by the Public Accounts Committee (PAC) for their consideration within six months after presentation of the PAC Report to the Legislature. The above instructions were reiterated by Government in Finance Department in December 1993 and by the OLA Secretariat in January 1998. The PAC Reports/recommendations are the principal medium by which the Legislature enforces financial accountability of the Executive to the Legislature and it is appropriate that they elicit timely response from the departments in the form of Action Taken Notes (ATNs).

However, it was noticed from the PAC reports submitted during 10th and 11th Assembly that 36 Reports containing 265 paras/recommendations were presented by the PAC before the Legislature during February 1991 to December 1997 after examination of the Audit Reports (Revenue Receipts) of 14 Departments for the year 1985-86 to 1992-93 as detailed below:

Sl. No.	Name of the Assembly	PAC Report No./ Date of placement in Assembly	Department to which it relates	No. of paras outstanding	Reference to Audit Reports (R/R)
1	10 th	4 th /27.02.1991	Revenue and Excise	21	1985-86
2		11 th /30.03.1992	Steel and Mines	04	1987-88
3		12 th /30.03.1992	Home	01	1986-87
4		13 th /12.11.1992	Fishery and ARD	04	1986-87
5		23 rd /23.03.1993	Housing and UD	01	1987-88
6		25 th /23.03.1993	Irrigation	01	1987-88
7		28 th /23.07.1993	Energy	03	1986-87 & 1987-88
8		29 th /23.07.1993	Energy	02	1988-89 & 1989-90
9		30 th /11.11.1993	Commerce and Transport	16	1986-87
10		32 nd /11.11.1993	Commerce and Transport	05	1988-89
11		33 rd /11.11.1993	Commerce and Transport	03	1989-90
12		34 th /11.11.1993	Commerce and Transport	29	1990-91
13		41 st /29.12.1993	Energy	04	1990-91
14		46 th /25.03.1994	Education	02	1990-91
15		50 th /25.03.1994	Irrigation	02	1988-89 & 1989-90
16		54 th /27.09.1994	Water Resources	01	1990-91
17		59 th /21.12.1994	Forest & Environment	18	1986-87
18		60 th /21.12.1994	Forest & Environment	13	1987-88
19		61 st /21.12.1994	Forest & Environment	05	1988-89
20		62 nd /21.12.1994	Forest & Environment	16	1989-90
21		63 rd /21.12.1994	Forest & Environment	16	1990-91

Sl. No.	Name of the Assembly	PAC Report No./ Date of placement in Assembly	Department to which it relates	No. of paras outstanding	Reference to Audit Reports (R/R)
22	11 th	5 th /14.03.1996	Steel & Mines	03	1988-89
23		7 th /16.03.1996	Finance	14	1986-87
24		8 th /16.03.1996	Steel & Mines	05	1989-90
25		13 th /22.03.1996	Steel & Mines	08	1990-91
26		14 th /22.03.1996	Forest & Environment	14	1991-92
27		15 th /22.03.1996	Revenue & Excise	18	1986-87
28		19 th /31.07.1996	Finance	10	1987-88
29		20 th /31.07.1996	Agriculture	01	1988-89
30		21 st /31.07.1996	Home	03	1988-89
31		25 th /27.11.1996	Finance	13	1988-89
32		27 th /27.11.1996	Law	01	1988-89 & 1990-91
33		32 nd /27.11.1996	Home	02	1987-88
34		43 rd /29.03.1997	Home	01	1991-92 & 1992-93
35		48 th /08.12.1997	Energy	02	1991-92
36		49 th /08.12.1997	Energy	03	1992-93
Total				265	

However, no ATN have been received from the departments so far. Thus, the very purpose of placement of the Audit Reports in the Legislature and their examination by the PAC remained unfulfilled.

Government stated (November 2000) that the concerned departments were being requested to act upon the Reports/Recommendations of the Public Accounts Committee and submit Action Taken Notes immediately.

CHAPTER-2 : SALES TAX

2.1 Results of Audit

Test check of assessments and refund cases and connected documents of the Commercial Tax offices during 1999-2000 revealed under-assessment of tax, loss of revenue etc. amounting to Rs.197.38 crore in 499 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Under-assessment of tax due to application of incorrect rate	116	5.54
2	Incorrect grant of exemption	100	8.04
3	Short levy of tax due to incorrect computation of taxable turnover	128	6.37
4	Non-levy of Interest	17	0.24
5	Non-levy of surcharge	16	0.05
6	Others	121	12.63
7	Review on "Collection of arrears of Sales Tax"	1	164.51
Total		499	197.38

During the year 1999-2000, the department accepted under-assessment etc. of Rs.12.89 crore in 365 cases out of which 13 cases involving Rs.34 lakh were pointed out in 1999-2000 and the rest in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.4.08 crore and findings of a review on "Collection of sales tax arrears" involving Rs.164.51 crore are mentioned in the following paragraphs.

2.2 Collection of Sales Tax Arrears

2.2.1 Introduction

The levy and collection of sales tax are governed by the Orissa Sales Tax (OST) Act, 1947, the Central Sales Tax (CST) Act, 1956 and the rules framed thereunder. A registered dealer is required to submit periodical returns in the prescribed manner to the assessing authority alongwith proof of payment of tax. After finalisation of the assessment, the assessing authority issues a demand notice specifying the additional amount of tax due which is payable within a period of thirty days of receipt of the demand notice. In the event of failure to deposit the tax demanded, tax certificate proceedings under the Orissa Public Demand Recovery Act, 1962, (OPDR) is to be instituted for cases within the State. For cases outside the State, Revenue Recovery Certificates are issued under the Revenue Recovery Act, 1890 to the Revenue Recovery Authority.

The total arrears in sales tax collection at the end of the financial years 1995-96 to 1999-2000 vis-à-vis the sales tax collected are as follows:

Year	Sales Tax collected	Sales Tax arrears	(Rupees in crore)
			Percentage of arrears to the revenue collected
1995-96	716.10	722.36	100.87
1996-97	893.51	786.42	88.01
1997-98	925.08	971.92	105.06
1998-99	971.09	865.38	89.11
1999-2000	1107.55	832.71	75.18

The arrears during the period of 1995-96 to 1999-2000 varied from 75.18 per cent to 105.06 per cent of the sales tax revenue collected in those years.

The year-wise analysis of sales tax pending for collection as on 31.3.2000 as reported by the CCT Orissa (August 2000) is given below:

Year	(Rupees in crore)		
	OST	CST	Total
Up to 1995-1996	202.16	101.71	303.87
1996-1997	51.43	51.54	102.97
1997-1998	144.57	34.86	179.43
1998-1999	51.35	27.34	78.69
1999-2000	127.04	36.66	163.70
Total	576.55	252.11	828.66^{&}

& Excluding Rs.4.05 crore proposed to be written off.

Out of the total of Rs.832.71 crore pending collection as on 31.3.2000, an amount of Rs.496.48 crore was pending in departmental proceedings, Rs.332.18 crore was under litigation in the Supreme Court/High Court and Rs.4.05 crore was under the process of being written off.

2.2.2 Organisational set up

The assessment and collection of sales tax is administered by the Commissioner of Commercial Taxes (CCT) Orissa who is assisted by Commercial Tax Officer (CTO) and Additional Commercial Tax Officers (Addl. CTO) working in various circles. The Asst. Commissioner of Commercial Taxes (ACCT) and Additional Asst. Commissioner of Commercial Taxes (Addl.ACCT) posted in the ranges also carry out assessments in course of disposal of appeals. However, the function of collection of arrears rest with the CTOs and Addl.CTOs. The assessing officers also act as Tax Recovery Officers (TRO).

2.2.3 Scope of audit

With a view to evaluating the efficacy of the departmental machinery for collection of Sales Tax arrears, records pertaining to 7* out of 29 assessment Circles, 4** out of 9 Ranges and office of the CCT were test checked in audit during the period from August 1999 to March 2000. The records of twelve certificate officers*** of the Revenue Department were also test checked in connection with the certificate cases.

2.2.4 Highlights

❖ Test check of seven circles revealed improper maintenance of records leading to under reporting of arrears of Rs.18.30 crore.

{Para-2.2.6}

❖ Arrears amounting to Rs.26.58 crore were pending for collection in 7,198 cases under Tax Recovery proceedings for periods ranging from one year to twenty two years.

{Para-2.2.7.1}

* Bhubaneswar-I, Bhubaneswar-II, Cuttack-II, Ganjam-III, Keonjhar, Koraput-I, and Sambalpur-I.

** Cuttack-II, Ganjam, Koraput and Sambalpur.

*** Barbil, Berhampur, Bhubaneswar, Champua, Chatrapur, Jeypore, Kendrapara, Koraput, Malkangiri, Nawarangpur, Parlakhemundi and Sambalpur.

❖ Arrears amounting to Rs.10.07 crore in 1,302 cases were pending collection under third party notices for 1 to 23 years and reasons for delay in collection were attributed to pressure of work in the department.

{Para 2.2.7.4}

❖ Arrears amounting to Rs.49.76 crore in 12,854 cases were pending collection under show cause notices for 1 to 27 years.

{Para 2.2.7.5}

❖ Collection of arrears of Rs.58.06 crore in 4,578 cases was held up due to stay granted by departmental officers of which arrears of Rs.15.37 crore in 2,278 cases were held up for more than three years due to non-vacation of stay orders granted by departmental authorities.

{Para 2.2.8}

❖ Non-adherence to extant instructions regarding disposal of appeals within prescribed time frame led to non-settlement of appeal cases involving demand of Rs.389.46 crore.

{Para 2.2.9(a)}

❖ Non-initiation of collection proceedings and inaction/improper action of the assessing officers resulted in loss of revenue of Rs.88 lakh.

{Para 2.2.10(a)}

2.2.5 Estimates of Arrears and Actual Collection

Position of arrears at the beginning of the year, collection of arrears estimated by the CCT Orissa and actual collection of arrears as reported by the CCT Orissa for the year 1995-96 to 1999-2000 are as follows:

(Rupees in crore)

Year	Arrears at the beginning of the year	Collection of arrears estimated by the CCT, Orissa in the Budget Estimates	Percentage of Col. 3 to Col. 2	Actual collection of arrears	(-)Shortfall (+)Excess	% age of shortfall/excess in collection col.6 to 3
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1995-96	566.45	37.75	6.66	16.41	(-)21.34	(-)56.53
1996-97	722.36	37.00	5.12	63.64	(+)26.64	(+)72.00
1997-98	786.42	48.00	6.10	14.74	(-)33.26	(-)69.29
1998-99	971.92	19.20	1.98	18.05	(-)1.15	(-)5.99
1999-2000	865.38	19.69	2.28	15.19	(-)4.50	(-)22.85

It would be seen that though the collections during a year were estimated at a low 1.98 per cent to 6.66 per cent of the arrears at the beginning of the year, the actual collection of arrears was even less with the shortfall ranging from 5.99 per cent to 69.29 per cent.

2.2.6(a) Improper maintenance of records

The dues remaining unpaid at the end of a year are carried forward to the Extract Demand and Collection Registers which form the basic record to show the position of pendency and collection of arrears. Subsidiary registers are also required to be maintained to watch disposal of different proceedings initiated to collect the arrears. Standing orders of CCT (July 1962) required that concerned assessing officers should review these registers every month with a view to ensuring their correctness. Scrutiny of the records maintained in the seven circles test checked disclosed that details in most of the cases of penalties levied, interest charged, proceedings initiated to collect the arrears, collections made etc. were not posted in the Extract Demand and Collection Registers and subsidiary registers to reflect the current position of the arrears. The Registers were neither closed regularly nor reviewed by the assessing officer every month so as to reflect a true position of the arrears in the monthly progress report (MPR) submitted by the circle officers to the CCT, Orissa.

(b) Under-reporting of arrears

Check of subsidiary registers of seven circles with their Monthly Progress Reports (MPRs) submitted to the CCT, Orissa disclosed that the arrears reported in the MPRs differed widely from the position borne in the relevant registers* as on 31 March 1999. This resulted in under-reporting of arrears to the tune of Rs.18.30 crore as shown under.

(Rupees in crore)

Name of the circle	Arrears as per registers of the circles	Arrears as reported in the MPRs	Difference (Arrears short reported) (+) Excess reporting (-) Short reporting
Bhubaneswar-I	24.53	19.66	(-) 4.87
Bhubaneswar-II	39.54	26.48	(-) 13.06
Cuttack-II	21.89	16.82	(-) 5.07
Ganjam-III	6.24	4.96	(-) 1.28
Keonjhar	7.06	9.47	(+) 2.41
Koraput-I	32.00	34.70	(+) 2.70
Sambalpur-I	13.23	14.10	(+) 0.87
Total	144.49	126.19	(-) 18.30

* Register under Section-13(5) of the OST Act, Register under Rule-16(2) of the CST(O) Rules, Register under Section-13-A(1) of the OST Act, Register of Stay cases and Register of Tax Recovery Proceedings to watch the collection of arrears lying at various stages.

2.2.7 Pendency of arrears at various stages

2.2.7.1 Collection of arrears through Tax Recovery Procedure

Tax or any other amount due under the OST/CST Act remaining unpaid after the due date in pursuance to notice is recoverable in accordance with the schedule for Procedure for Recovery of Tax, 1976. The assessing officer is required to issue a certificate in Form-I specifying the amount due from the assessee or any other person. The TRO on receipt of certificate, serves upon the defaulter a notice in Form-2 requiring the defaulter to pay the amount within the period specified in the notice failing which the TRO shall proceed to realise the amount by attachment and sale of the defaulter's movable/immovable property or by arrest of the defaulter and his detention.

Test check of Tax Recovery case registers of seven circles revealed that tax, penalty and interest amounting to Rs.26.58 crore were pending for collection as on 31.3.1999 due to non-disposal of 7,198 recovery proceedings as detailed below :-

(Rupees in crore)			
Name of the Circle	Period of pendency	No. of proceedings	Amount of arrears involved
Bhubaneswar-I	1977-78 to 1998-99	504	4.30
Bhubaneswar-II	1977-78 to 1998-99	731	5.81
Cuttack-II	1976-77 to 1998-99	2943	7.19
Ganjam-III	1977-78 to 1998-99	1073	1.40
Keonjhar	1977-78 to 1998-99	476	1.07
Koraput-I	1977-78 to 1998-99	378	1.45
Sambalpur-I	1977-78 to 1998-99	1093	5.36
Total		7198	26.58

The period of pendency ranged from 1 to 22 years. Out of the above, 66.39 per cent of the cases (4,779 cases) involving Rs.10.67 crore were pending for more than five years, 7.89 per cent of the cases (568 cases) involving Rs.2.28 crore for more than three years and 14.96 per cent of the cases (1077 cases) involving Rs.5.93 crore were pending for more than one year.

On being pointed out in audit, the CTO, Cuttack-II circle attributed (September 1999) the reasons to pre-occupation of the officers with achievement of targets for collection of revenue, completion of assessments nearing time bar and non-availability of property particulars of the defaulters. The CTO, Bhubaneswar-I circle attributed the pendency of the proceedings to closure of business and shifting of dealers to other States. The replies in other cases have not been received. The reasons attributed for the pendency are not tenable as collection of arrears are part of the normal duties of the assessing officers.

A few illustrative cases where the assessing officers have not taken adequate action for recovery of revenue are as under:

(a) In Sambalpur-I circle, a company which was declared sick in 1987 was allowed incorrect deferment of tax and surcharge amounting to Rs.1.14 crore (tax Rs.1.11 crore and surcharge Rs.0.03 crore) for three years from 1 September 1990 to 31 August 1993 by the assessing officer as no notification to that effect as required under the OST Act was issued by the Government. Scrutiny of assessment records revealed that the company collected tax amounting to Rs.1.52 crore (excluding surcharge which was not collectable) during the period of deferment against which an amount of Rs.0.41 crore was repaid (between January 1994 and June 1994). The company stopped its operation in May 1997 and its registration certificate was cancelled in April 1998. The tax recovery proceedings for Rs.1.03 crore to attach the property worth Rs. 1.15 crore were initiated (February 1996) without consent of Board of Industrial and Financial Reconstruction (BIFR). The action of the department was challenged by the company in the Orissa High Court. The High Court restrained (March 1996) the assessing officer from passing final orders for sale of property and BIFR also ordered (April 1996) to suspend all coercive action and vacation of attachment orders. It was observed in audit that the incorrect deferment allowed by the assessing officer without Government notification led to non-recovery of Rs.1.14 crore. Had the deferment not been granted, the revenue could have been recovered from the company since it was in operation till May 1997.

(b) In Keonjhar circle, a dealer who was granted Registration Certificate in March 1988 purchased paper either tax free or at concessional rate of tax during 1988-89 to 1992-93 for the manufacture and sale of exercise books. During the course of departmental investigation, it was found that the dealer had resold the material as such without going into manufacturing process and the registration of the dealer was cancelled in September 1992. The dealer was assessed between October 1992 and February 1996 to tax and penalty of Rs.14.22 lakh (tax Rs.14.17 lakh and penalty Rs.0.05 lakh) for the year 1988-89 to 1992-93 which was not paid by the dealer. The interest of Rs.9.87 lakh was payable upto December 1996. The notice under tax recovery procedure had not been served. As per report (December 1998) received from the CTO, Koraput-II circle, the dealer was carrying on business but no steps have been taken to recover the amount of Rs.24.09 lakh.

(c) Test check of Tax Recovery records in 3 circles (Cuttack-II, Koraput-I and Sambalpur-I) revealed that arrears amounting to Rs.59.72 lakh pertaining to the period from August 1980 to February 1997 were outstanding in 4 cases. Despite availability of information in the registration and collection records in the CTO offices as to possession of movable/immovable property by the defaulters, no action was taken to recover the dues by attachment and sale of the property even after a lapse of period ranging from 2 to 19 years.

(d) Similarly, test check of records of Bhubaneswar-II, Ganjam-III and Keonjhar circles revealed non-collection of arrears amounting to Rs.35.76 lakh for the period from May 1995 to November 1997 in 4 cases though the details of the place of business of all the defaulting

dealers were available in the registration and collection records in the office of the concerned CTOs.

(e) Test check of Tax Recovery cases in six circles⁺ disclosed that Tax Recovery notices were issued (between January 1988 and December 1999) in 12 cases to collect arrears of Rs.4.20 crore. Thereafter, the TROs did not pursue the cases to enforce the recovery measures by attaching the movable and immovable property. Arrears of Rs.4.20 crore thus remained uncollected for the period from March 1986 to February 1999.

2.2.7.2 Non-initiation of tax recovery proceedings

In two circles (Cuttack-II and Ganjam-III), tax recovery proceedings were not even initiated to recover arrears of Rs.31 lakh in respect of three dealers though the demands fell into arrears between October 1992 and July 1997. Notices for penalty were issued only in two out of the three cases. No justification was available on record for non-initiation of the recovery proceedings.

2.2.7.3 Collection of arrears held under certificate proceedings

The OST Act provides that sales tax dues remaining unpaid shall be recoverable with interest as arrears of public demand. With the introduction of the departmental tax recovery scheme from 1976, the certificate procedure under the OPDR Act, 1962 is rarely resorted to by the sales tax department for recovery of arrear demands except in cases of defaulters shifted to other States where requisitions and certificates are filed with the concerned District Collectors for arranging recovery of the arrears under the provisions of the Revenue Recovery Act, 1890.

Test check of records of Koraput-I-circle disclosed that a dealer was assessed to tax and penalty amounting to Rs.7.11 lakh between December 1988 and March 1992. The assessing officer filed (October 1993) a requisition with the Collector, Koraput, for recovery of the dues under the provisions of the Revenue Recovery Act, 1890, while the application of the dealer for stay of recovery was under consideration with CCT Orissa. The Collector, Koraput moved (July 1994) the Collector, Jalore, Rajasthan for further action in the matter. The dealer challenged the action of the Collector, Koraput in the Orissa High Court who directed (August 1995) the dealer to produce the stay orders of the CCT Orissa before the Collector, Koraput, for passing necessary orders in the case. The CCT Orissa granted conditional stay orders in July and November 1995. In compliance of orders of the Hon. Court, the Collector, Koraput, requested his counterpart in Rajasthan not to proceed further in the matter. The Collector, Jalore returned (December 1995) the certificate documents to Collector, Koraput. The assessing officer, however, did not inform the Collector, Koraput about the

⁺ Bhubaneswar-I, Bhubaneswar-II, Cuttack-II, Keonjhar, Koraput-I, and Sambalpur-I.

non-compliance of the condition of stay orders granted by the CCT (November 1995) and also did not move the Collector, Koraput for revival of the certificate proceedings. Thus, lack of effective pursuance of the case resulted in arrears of Rs.6.91 lakh (the dealer paid Rs.0.20 lakh in February, 1996) remaining uncollected.

2.2.7.4 Pendency of arrears under third party notices

The OST Act, 1947, provides that if a dealer fails to pay the demand the assessing officer may, by a notice, require any person (i.e. third party) from whom money is due to the dealer to pay into the Government treasury the amount specified in the notice. Any person failing to comply with the notice shall be personally liable to the State Government and the amount remaining so unpaid shall be recovered as arrears of public demand or under the tax recovery procedure.

Check of records of seven circles disclosed that arrears to the extent of Rs.10.07 crore were pending for recovery under third party notices in 1,302 cases for period ranging from 1 year to 23 years as on 31.3.1999. The circle wise position of pendency is given below:

(Rupees in crore)			
Name of circle	Period of pendency	Number of cases	Amount of arrears involved
Bhubaneswar-I	1986-87 to 1998-99	212	1.29
Bhubaneswar-II	1985-86 to 1998-99	128	2.98
Cutack-II	1979-80 to 1998-99	197	0.76
Ganjam-III	1986-87 to 1998-99	135	1.67
Keonjhar	1987-88 to 1998-99	221	0.84
Koraput-I	1975-76 to 1998-99	345	1.75
Sambalpur-I	1983-84 to 1998-99	64	0.78
Total		1302	10.07

Out of the above, 67.89 per cent of cases (884 cases) involving Rs.3.04 crore were pending for more than 5 years, 13.13 per cent of the cases (171 cases) involving Rs.3.11 crore for more than 3 years and 11.36 per cent cases (148 cases) involving Rs.2.59 crore for more than one year as on 31.3.1999.

The assessing officers did not enquire into the reasons for non-payment of the dues by the third parties in compliance of the notices served and failed to take action as per law for discharge of liability by the third party.

On this being pointed out in audit, the CTOs of the concerned circles stated (between August 1999 and March 2000) that compliance would be furnished after verification of records and that the delays had occurred due to pressure of work.

2.2.7.5 Non-disposal of show cause notices

The OST Act, 1947, and CST (Orissa) Rules, 1957, empowered the CCT Orissa to direct a dealer to pay by way of penalty a sum not exceeding one-half of the total amount due in addition to the amount demanded if the payment is not made within the period stipulated in the notice. Show cause notices issued for penal action in a quarter should be finalised in the next quarter as per extant departmental instructions.

Test check of records of 7 circles disclosed that 12,854 cases of show cause notices issued between 1971-72 and 1998-99 involving collection of arrears of Rs.49.76 crore were pending as on 31.3.1999 without levy of penalty or otherwise. The circle-wise position of pendency is given below:

(Rupees in crore)

Name of circle	Period of pendency	Number of cases	Amount of arrears involved
Bhubaneswar-I	1986-87 to 1998-99	2306	13.31
Bhubaneswar-II	1986-87 to 1998-99	2099	17.47
Cuttack-II	1978-79 to 1998-99	3136	10.99
Ganjam-III	1976-77 to 1998-99	1228	2.52
Keonjhar	1980-81 to 1998-99	1300	1.82
Koraput-I	1971-72 to 1998-99	1170	1.83
Sambalpur-I	1978-79 to 1998-99	1615	1.82
Total		12854	49.76

Out of the above, 47.86 per cent of the cases (6,153 cases) involving Rs.9.29 crore were pending for more than five years, 16.71 per cent of cases (2,148 cases) involving Rs.3.77 crore for more than three years and 20.06 per cent of cases (2,579 cases) involving Rs.23.94 crore for more than one year as on 31.3.1999.

It is observed in audit that the lack of any statutory time frame for disposal of show cause notices and non-imposition of penalty in large number of cases for long periods has rendered the penal provisions ineffective since it does not serve as a deterrent to dealers not paying the demands.

2.2.8 Pendency of arrears under stay orders of departmental authorities

The Asst. Commissioners and Addl. Asst. Commissioners at the range levels are the first appellate authorities who hear appeals against orders passed by the assessing officers raising the demands and issue stay orders for recovery of the disputed demands. The CCT Orissa also grants stay orders as the revisioning authority when appellants file petitions before him for stay being aggrieved by the orders of the first appellate authority. According to instructions issued by the CCT, appeal cases should be disposed of within three months.

Test check of records of stay cases of 7 circles disclosed that collection of arrears of Rs.58.06 crore was held up in 4,578 cases as on 31.3.1999 due to stay orders granted by departmental

officers between 1975-76 and 1998-99 as detailed below. The stay orders were yet to be vacated by disposing of the related appeal cases:

(Rupees in crore)

Name of the circle	Period of pendency	No. of pending cases	Amount of arrears involved	Cases pending for more than three years	
				No. of cases	Amount of arrears involved
Bhubaneswar-I	1977-78 to 1998-99	966	5.62	605	1.03
Bhubaneswar-II	1986-87 to 1998-99	612	13.27	193	3.15
Cuttack-II	1976-77 to 1998-99	530	2.94	355	0.46
Ganjam-III	1981-82 to 1998-99	347	0.66	71	0.33
Keonjhar	1977-78 to 1998-99	348	3.34	213	0.54
Koraput-I	1986-87 to 1998-99	542	26.96	235	8.11
Sambalpur-I	1975-76 to 1998-99	1233	5.27	606	1.75
Total		4578	58.06	2278	15.37

Though the pending cases included 2,278 cases involving arrears of Rs.15.37 crore held under stay for more than three to twenty six years, no verification of the cases had been made by the circle officers with records of the range officers to ensure that the cases were actually pending for such long periods.

On being pointed out in audit, the CTOs admitted (between August 1999 and March 2000) the non-verification of cases. The Range Officer, Koraput range stated (December 1999) that out of the 542 pending stay cases, 54 cases involving arrears of Rs.5.11 crore were pending with the State Sales Tax Tribunal. The pendency at range level of the remaining cases were attributed (December 1999) to the vacancies in the cadre of Range Officers and Addl. Asst. Commissioner of Commercial Taxes. The Range Officer, Ganjam Range attributed (January 2000) the pendency to disposal on priority of appeal cases involving high money value.

2.2.9(a) Cases pending in appeals

Review report of CCT(O) revealed that 1,11,161 appeal cases involving demand of Rs.389.46 crore remained unsettled as on 31.3.1999 for the entire State despite instructions requiring disposal of such appeal cases within 3 months of their filing. Out of the above, 30,102 cases are pending for more than 3 years. Further detailed year-wise analysis was not available in the department. Although recovery measures are enforceable in law in respect of cases pending in appeal, unless the demands are stayed, action taken by the department could not be ascertained in audit due to non-maintenance of any record.

2.2.9(b) Shortfall in disposal of first appeal cases

As per norms fixed by the CCT vide order dated 23 January 1991, the Asst. Commissioner of Commercial Taxes in-charge of the range should write 10 substantive appeal orders per

month and the Addl. Asst. Commissioners should write 40 substantive appeal orders per month exclusive of appeal and other miscellaneous orders passed under different Acts administered by the department. The disposal of appeals as disclosed in the review reports when compared with the cases due for disposal as per the norms showed that there was heavy shortfall in disposal of appeals by the first appellate authorities as depicted below:

Year	No. of appellate authorities in position			No. of appeals to be disposed of as per norms	No. of appeals disposed of	Shortfall as per norms	Percentage of shortfall
	ACCT	Addl. ACCT	Total				
1995-96	09	23	32	12120	10442	1678	13.84
1996-97	08	19	27	10080	7913	2167	21.50
1997-98	09	16	25	8760	5093	3667	41.86
1998-99	09	23	32	12120	3994	8126	67.05

Though the shortfall in disposal of appeals by the appellate authorities increased from 13.84 per cent in 1995-96 to 67.05 per cent in 1998-99, no steps were taken to clear the accumulation of arrears except for repeated instructions to expedite disposals.

2.2.10 Loss of revenue due to time barred cases

(a) The OST Act, 1947, provides that no collection proceedings for recovery of any dues shall be initiated after expiry of 12 years from the date of assessment. Test check of records of two circles disclosed that a sum of Rs.88 lakh in 40 cases could not be recovered as the cases had become time barred as shown under:

Sl. No.	Name of the circle/date of assessment	No. of cases	Amount including interest [Rs. in lakh]	Remarks
1	Koraput-I/ between December 1985 and December 1987	1	86.00	The assessing officer requested (September 1992) Collector, Koraput to initiate certificate proceeding against the dealer but the requisite information regarding whereabouts of the dealer and particulars of the property though called for by the Collector in 1993 were not furnished by the assessing officer. So the Collector returned the documents in January 1995 and February 1996. No action was taken by the assessing officer thereafter. Hence, the demand became time barred between December 1997 and December 1999.
2	Sambalpur-I/ (Not available)	39	2.00	The certificate cases instituted between 1968 and 1978 were cancelled by the Certificate Officer between June 1995 and August 1999 for want of information such as whereabouts of the dealers and property particulars not furnished by the assessing officer in time. Hence, the cases became time barred.
Total		40	88.00	

(b) Test check of records of seven circles[#] disclosed that no certificate/tax recovery proceedings were initiated to collect the demands amounting to Rs.48 lakh in 232 cases assessed between November 1969 and March 1987. Consequently, the demands became time barred which resulted in loss of revenue of Rs.48 lakh.

2.2.11 Monitoring

(a) Non fixation of target under tax recovery scheme

Observing that the ward officers had not been attaching importance to recovery of arrears through tax recovery procedures, the CCT Orissa ordered (August 1990) that range officers should fix ward-wise and month-wise targets keeping in view the position of arrears. Test check of records of the CTOs and range officers revealed that no targets had been fixed for the ward officers for collection of arrears.

(b) Non-review of performance reports

After vesting of powers of Tax Recovery Officer (TRO) with the assessing officers (February 1985), the CCT Orissa issued orders (July 1985) for submission of monthly performance report by the CTOs to the Range Officers and quarterly performance report by the Range Officers to the CCT for review.

Test check of records of the Range Officers and the CCT Orissa disclosed that neither the monthly nor the quarterly review of the performance of the TROs were being conducted from 1992-93 onwards. Due to this lack of monitoring, the scheme of tax recovery has failed to achieve the desired results and cases are pending for long periods.

(c) Non-verification of records of certificate cases

According to provisions of the Commercial Tax Manual and instructions issued by the Board of Revenue (BOR) under the Orissa Public Demands Recovery Act, 1962, the requisitioning officers are required to cross verify the certificate cases (Register No. IX) with the case registers maintained by the Certificate Officers (Register No. X) every month to ensure the correctness and up to date maintenance of the registers. Test check of registers of three circles (Ganjam-III, Keonjhar and Sambalpur-I) disclosed that cross verification of these records were not done for periods ranging from 2 to 10 years. In the absence of such cross verification of records, the actual amount of arrears held under certificate cases was not ascertainable. Reasons for non-verification were not furnished to audit.

Bhubaneswar-I, Bhubaneswar-II, Cuttack-II, Ganjam-III, Keonjhar, Koraput-I and Sambalpur-I.

(d) Pendency of second appeal cases

Under the provisions of the OST Act, 1947, any dealer or the State Government, dissatisfied with an appellate order of the first appellate authority may within 60 days from the date of receipt of such order prefer an appeal to the OST Tribunal against such order. It was seen from the records of the CCT Orissa that the position of pendency of second appeal cases at the end of the year from 1995-96 to 1998-99 was as follows:

Year	No. of appeal cases pending
1995-96	22796
1996-97	23081
1997-98	23801
1998-99	23265

The age-wise analysis of the pending cases was not available. However, the pendency of large number of cases at the end of each year indicated that no effective steps were being taken to ensure speedy clearance of the pending cases. The actual amount of demand involved in second appeal was not furnished by the CCT.

(e) Write off of irrecoverable revenue

In order to write off irrecoverable revenue, Government empowered (January 1979) the CCT Orissa, the range officers and the CTOs to write off irrecoverable revenue according to delegated powers. For this purpose, committees were to be formed at the range levels and circle levels to recommend write off proposals. An amount of Rs.4.05 crore of irrecoverable revenue was pending for write off as at the end of 31.3.2000. Circle officers could not produce any record of irrecoverable demands proposed to be written off. No write-off committees were formed by the range officers except in Ganjam range where though formed, the Committee did not function.

2.2.12 Conclusion

Despite existence of enforceable provisions in the OST Act and rules made thereunder to recover dues of Government, the department failed to take effective and meaningful action to recover arrears of Government revenue. Non-adherence to existing instructions by the revenue collecting authorities, improper maintenance of basic records, failure to invoke penal and coercive provisions in tax recovery proceedings where clearly called for, failure to adhere to time frame for disposal of cases and non-fixation of any statutory time frame led to non-recovery of Government dues amounting to Rs.164.51 crore.

Government stated (August 2000) that the details of outstanding arrears had been sent to concerned CTOs for specific comments along with steps to be taken for realisation of outstanding arrear dues which was awaited (November 2000).

2.3 Short levy of tax due to application of incorrect rate of tax

Under the provision of Orissa Sales Tax (OST) Act, 1947, different rates of tax are applicable in respect of different commodities. In 6 cases pertaining to 4 circles, application of incorrect rate of tax resulted in short levy of tax amounting to Rs.81.34 lakh as detailed below:

(Rupees in lakh)

Sl. No	Name of Circle	Assessment Year/Month and year of assessment	Name of commodity	Taxable turnover	Rate of tax leviable/ rate of tax levied	Short levy of tax ⁺	Remarks
1	Cuttack-I (West)	1994-95/ December 1997	Voter's Photo Identity Card	459.24	$\frac{12}{4}$	66.39	Government replied (August 2000) that extra demand of Rs.86.60 lakh had been raised against the dealer. The dealer had paid Rs.43.28 lakh and the balance has been stayed by the Commissioner of Sales Tax (Orissa).
2	Cuttack-I (West)	1996-97 and 1997-98/ October 1997 and July 1998	Spare parts of Cycle and Cycle Rickshaw	61.70	$\frac{12}{4}$	5.43	Government replied (August 2000) that reassessment proceedings had been completed (March 2000) raising extra demand of Rs.6.23 lakh. Report on realisation was awaited.
3	Cuttack-II	1995-96 to 1997-98/ August 1996, September 1997 and March 1999	Pan Masala (without tobacco)	42.59	$\frac{12}{4}$	3.75	Government replied (August 2000) that reassessment proceedings had been completed (May 2000) raising extra demand of Rs.3.78 lakh for the years 1995-96 to 1997-98. Report on realisation was awaited.
4	Cuttack-II	1996-97/ December 1997	Repair of Electrical Transformer (Works Contract)	53.12	$\frac{8}{4}$	2.34	The assessing officer stated that the concessional rate was applied relying on Court decision. This is not tenable since the judgement is not applicable in this case as the dealer did not purchase any goods against the prescribed form. Rather the dealer has

⁺ Including surcharge.

* Kalinga Builders (P) Ltd. and another Vrs. C.C.T (O) and another [1999]-115 STC-81(Orissa).

(Rupees in lakh)

Sl. No	Name of Circle	Assessment Year/Month and year of assessment	Name of commodity	Taxable turnover	Rate of tax leviable/ rate of tax levied	Short levy of tax *	Remarks
							undertaken repair work which was included in the definition of works contract and it was hence taxable at the rate prescribed in the Act for works contract. Government replied (August 2000) that the matter was under examination of the department.
5	Bhubaneswar-II	1997-98/ August 1998	Repair of Electrical Transformer (Works Contract)	44.75	$\frac{8}{4}$	1.97	Government replied (August 2000) that a demand of Rs.1.97 lakh has been raised. The dealer had preferred appeal in the High Court against the order of assessment.
6	Dhenkanal	1996-97/ February 1998	India made foreign liquor (IMFL)	22.18	$\frac{10}{4}$	1.46	Government replied (August 2000) that the assessing officer raised the demand (August 1998). Report on the realisation was awaited.
Total						81.34	

2.4 Incorrect grant of exemption/deferment

The DST Act 1947 read with Industrial Policy Resolutions (IPR) of the State provides as follows:

- (a) Sale of finished products of a new SSI unit shall be exempted from tax for a period of seven years from the date of commercial production under IPR 1986 and 1989;
- (b) Sale of finished products to the extent of increased commercial production of an existing SSI unit over and above the existing installed capacity shall be exempted from tax for a period of seven years from the date of commercial production provided that the additional capital investment is more than 25 per cent of the capital investment of the unit and the expansion/modernisation/diversification (E/M/D) were

undertaken on the basis of a separate project report duly appraised by a financial institution under IPR 1989; and

- (c) Sale of finished products of SSI units whose management has been transferred shall be exempted from tax under IPR 1992 to the extent and for the period as certified by the concerned DIC except in the cases of units not eligible for tax exemption under IPR 1986 and 1989.

Audit scrutiny revealed (between September 1998 and January 2000) short levy of tax of Rs.1.53 crore due to incorrect grant of exemption to SSI units as tabulated below:

(Rupees in lakh)							
Sl. No.	Name of the circle	Assessment year/ month of assessment	Commodity	Rate of tax OST CST	Turnover exempted	Short levy of tax	Nature of irregularities
1	2	3	4	5	6	7	8
1	Puri-II	1997-98/ March 1999	Groundnut (Kernel)	4/8	1129.08	62.90	An oil mill set up under IPR 1986, an ineligible industry was allowed exemption under IPR 1989 after change of ownership.
			Edible oil	4/10			
			Soap stock	4/12			
2	Bolangir-I	1996-97 and 1997-98/ January 1998 and March 1999	Molasses	16	188.19	33.80	Waste/by-products are not tax free under the OST Act. The exemption was allowed on the basis of exemption certificate issued by Director of Industries (DI) Orissa including molasses as a finished product along with sugar. The DI has admitted (August 2000) that molasses is a by-product.
3	Cuttack-II	1991-92 to 1997-98/ between February 1993 and August 1998	Lozenge	12	152.00	20.00	A Confectionery unit, an ineligible industry, set up under IPR 1980 availing benefit as a continuing unit under IPR 1989 was allowed exemption of tax on sale of finished products which was irregular.
4	Cuttack-I (Central)	1995-96 (OST and CST)/ March 1999	Refractories		Excess deferment	11.62	The unit was eligible for deferment of tax on sale of 4373.46 MT of Refractories which comes to Rs.13.13 lakh. But the assessing officer allowed deferment of tax of Rs.23.48 lakh and surcharge of Rs.1.27 lakh resulting in excess deferment.
5	Cuttack-II	1995-96/ January 1999	Detergent	12	71.84	9.48	Verification of records of DIC revealed that E/M/D was irregularly allowed when the additional capital investment was less than 25 per cent of the capital investment made for the original unit. The DIC admitted the fact (January 2000). Therefore exemption of tax on sale of finished products over and above the installed capacity of 750 MT was irregular.
6	Rourkela-II	1993-94 to 1996-97/ December 1997	Refractories	4	194.09	8.54	The unit was transferred unit of IPR 1992. The DIC certified exemption of tax of Rs.29.42 lakh (May 1995). The assessing officer allowed exemption of tax on sale value of finished product worth Rs.376.09 lakh calculated at concessional rate of 4 per cent. Exemption of tax was to be calculated at the rate of 16 per cent for sale of finished product valued at Rs.182.00 lakh so as to allow exemption of tax upto Rs.29.12 lakh. The tax on balance sale turnover of Rs.194.09 lakh was to be calculated at the rate of 4 per cent as the sale is covered by Form-IV.
7	Balasore	1996-97 and 1997-98/ November 1998	Repair of transformers (works contract)	8	71.11	6.26	Amount received towards repair of transformers was treated as sale of finished product of the SSI unit and irregularly exempted from tax instead of taxing at the rate applicable to works contract.
Total						152.60	

On this being pointed out in audit (between September 1998 and January 2000), the assessing officers re-opened (between September 1998 and January 2000) the assessments except in respect of cases at serial nos. 2, 3 and 4. In case of sl.no.3, the assessing officer stated that "Lozenge" was not a confectionery. In respect of sl.no.2 the assessing officer reopened the case (September 1998) for 1996-97 but did not agree to reopen the case for 1997-98 stating that the exemption was granted on the certificate issued by Director of Industries.

The reply of the assessing officers were not tenable since (i) Molasses is a by-product of sugar and is not exempted from tax under the OST Act and (ii) "Lozenge" is a confectionery of sugar as per judicial pronouncement[@].

The matter was reported to Government (between March 2000 and June 2000); their final reply has not been received (November 2000).

2.5 Short levy of tax due to escapement of taxable turnover

(a) Under the OST Act, 1947, "voter's photo identity card" is taxable at the rate of 12 per cent as an unspecified item.

In course of audit of Bhubaneswar-I and Cuttack-I (Central) circle, it was noticed (August 1999) that a registered dealer had disclosed receipt of Rs.931.76 lakh instead of Rs.1005.23 lakh during 1994-95 to 1997-98 while another dealer did not disclose the receipt of Rs.39.16 lakh during the year 1995-96 from Chief Electoral Officer, Orissa, on account of supply of voter's photo identity cards. This resulted in short levy of tax of Rs.14.87 lakh including surcharge on account of escapement of taxable turnover.

On this being pointed out in audit (August 1999), the assessing officer agreed (August 1999) to reopen the case. Further developments are awaited (November 2000).

(b) Under the OST Act, 1947, and rules made thereunder, every registered dealer shall keep a true account of the value of goods bought and sold by him and maintain an annual stock account of goods. While finalising the assessment, if the assessing officer finds any concealment of purchases or sales, he shall reject the books of accounts of the dealer and complete the assessment to the best of his judgement. To arrive at the uniform retail sale price of IMFL, the license fee or consideration money paid to the Excise Department is to be included in the retail sale price of IMFL.

[@] 35-STC- 127 in the case of M/s Annapurna Biscuits (Mfg.) Co. Vs. State of U.P.

In course of audit of Cuttack-II circle, it was noticed (December 1999) that an IMFL dealer purchased IMFL worth Rs.150.93 lakh during the year 1994-95 without payment of tax on the strength of statutory declaration but disclosed purchase turnover of Rs.130.18 lakh leading to concealment of purchases to the tune of Rs.20.75 lakh. The escapement of taxable turnover worked out to Rs.35.44 lakh after taking into account consideration money paid to the Excise Department and profit margin of 10 *per cent* thereon. This resulted in short levy of tax amounting to Rs.1.56 lakh inclusive of surcharge.

On this being pointed out in audit (December 1999) the assessing officer re-opened (January 2000) the case.

Government stated (August 2000) that reassessment proceedings had been completed (March 2000) raising an extra demand of Rs.2.80 lakh (including penalty of Rs.1.96 lakh). Report on realisation was awaited (November 2000).

2.6. Short levy of tax due to misclassification

(a) Under the OST Act, 1947, taxable turnover in respect of works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract less the amount of labour charges and service charges incurred for the execution of the contract and shall be taxable at the rate of 8 *per cent*. It was judicially* held that contract for supply of chips and stones was a contract for sale of goods and not for works and labour and that tax shall be levied on such transactions at the appropriate rate applicable to sale of such goods which is 12 *per cent*.

In course of audit of Puri-II Circle, Jatni, it was noticed (May 1999) that a registered dealer executed a contract with the Railways during the year 1995-96 for supply and delivery of stacks of 50 mm hard granite stones and received payment of Rs.92.61 lakh in the same year. The assessing officer, while assessing the dealer, allowed (March 1997) a deduction of Rs.50.94 lakh towards labour and service charges and the balance amount of Rs.41.67 lakh was taxed at the rate of 8 *per cent* applicable to works contract instead of taxing the entire sale turnover (Rs.92.61 lakh) at the rate of 12 *per cent*. This resulted in short levy of tax of Rs.8.83 lakh including surcharge.

On this being pointed out in audit (May 1999), the assessing officer agreed (May 1999) to re-open the case.

1 State of Orissa Vs. Utkal Distributors Ltd. (1974) 34 STC-347 (Orissa).

2 Anamolou Shesagiri & Co. Vs. State of Andhra Pradesh (1988) 45 STC-388.

Government stated (August 2000) that the re-assessment proceedings had been completed (January 2000) raising an extra demand of Rs.8.83 lakh and the dealer has paid Rs.0.50 lakh (March 2000). Report on realisation was awaited (November 2000).

(b) Under the OST Act, 1947, mill made fabrics of certain varieties as described in column 3 of the first Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957, are exempted from tax. High Density Poly Ethylene (HDPE) sacks made out of HDPE fabrics, being not covered under the above description and as also judicially** held as plastic products, are taxable at the rate of 12 *per cent* under the above Act as well as under the Central Sales Tax (CST) Act.

During the course of audit of Bhadrak circle, it was noticed (December 1999) that while assessing a dealer (engaged in manufacture and sale of HDPE fabrics) for the year 1997-98, the assessing officer exempted (February 1999) tax on sales turnover of HDPE fabrics worth Rs.53.32 lakh (Rs.34.44 lakh under OST assessment and Rs.18.88 lakh under CST assessment) classifying the same as mill made fabrics instead of plastic goods. This led to short levy of tax of Rs.7.12 lakh including surcharge.

On this being pointed out in audit (December 1999), the assessing officer replied (January 2000) that action was being taken to examine the facts brought out in audit.

Government stated (August 2000) that the assessing officer had re-opened the proceedings. Further reply was awaited (November 2000).

2.7 Non-assessment of unregistered dealer

Under the OST Act, 1947, a dealer shall be liable to pay tax with effect from the month immediately following a period not exceeding 12 months during which his gross turnover exceeded Rs.1 lakh. The dealer who becomes liable to pay tax is also liable for registration under the Act. The Act further provides that if the Commissioner is satisfied that the dealer is liable to pay tax under the Act but failed to get himself registered, the Commissioner may assess the tax due from the dealer and impose penalty subject to the conditions stipulated in the Act. The Orissa Commercial Tax Manual also provides for conducting survey in order to detect new tax payers.

During the course of audit of income tax assessment in the office of the Income Tax Officer (ITO), Jharsuguda, it was noticed (December 1997) that an income tax assessee disclosed (March 1996) income of Rs.26.24 lakh towards executing works contract and supply of stone

** M/s Soosree Plastic Industry (P) Ltd. Vrs. Union of India, vide OJC No.2755 of 1988 (Orissa)

chips in his profit and loss account for the year ending 31 March 1995. As the payment received during a year exceeded the prescribed non-taxable limit, the dealer was liable to pay tax and get himself registered under the Act *ibid*.

Cross verification of records of Rourkela-II circle revealed (December 1997) that neither was the dealer registered under the Sales Tax Act nor did the department detect the dealer by way of survey to bring the dealer under tax net. Failure of the department to conduct effective survey resulted in escapement of tax of Rs.1.53 lakh.

On this being pointed out (December 1997), the assessing officer assessed (September 1998) the dealer and raised demand of Rs.1.36 lakh including penalty.

Government stated (August 2000) that the re-assessment proceedings was completed raising a demand of Rs.1.36 lakh and attachment order under section 13A(i) of the Act has been issued to the contractee for recovery of the dues. Report on realisation was awaited (November 2000).

2.8 Short levy of tax due to incorrect deduction

Under the OST Act, 1947, the taxable turnover (TTO) in respect of works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract less the amount of labour and service charges for execution of the contract. The Government in Works Department have also prescribed fixed percentage of labour and service charges for execution of different types of works. It was judicially[®] held that tax paid declared goods when used in works contract, was a different and distinct commercial commodity after their transformation and can be taxed again. As per the above Act and clarifications issued by the Commissioner of Commercial Taxes (CCT), Orissa, (July 1988) hire charges of goods is taxable at the rate applicable to the goods hired out. Under the Act, deduction towards turnover on account of return of goods within the prescribed period of one month is admissible.

Audit scrutiny (between March 1999 and December 1999) revealed short levy of tax of Rs.99.07 lakh due to incorrect deductions as summarised below:

® M/s. Mosaic Manufacturing Association Vs. State of Tamil Nadu (1995)-97-STC-503

							(Rupees in lakh)
Sl. No	Name of the circle	Assessment period/ month of assessment	Commodity	Rate of tax	Escaped taxable turnover	Short levy of tax	Remarks
1	Bhubaneswar-I	1996-97/ December 1997 1997-98/ August 1998	Execution of works contract.	8	965.58	84.97	(i) The assessing officer allowed labour and service charges of Rs.1858.80 lakh instead of admissible amount of Rs.1097.60 lakh as per agreed terms and condition of works contract and orders of Government in Works Department. (ii) The assessing officer under determined the TTO by Rs.167.24 lakh due to error in computation. (iii) The assessing officer incorrectly allowed deduction of Rs.37.14 lakh towards tax paid declared goods which had suffered tax and utilised in the works contract after conversion.
2	Bhubaneswar-II	1996-97 and 1997-98/ October 1998	Hire charges of machinery.	16	59.34	10.44	The assessing officer allowed the deduction of Rs.59.34 lakh received by the dealer towards hire charges of machinery on the ground that such machinery were purchased on payment of tax at first point. This was not correct in view of the fact that "sale and hiring out" of goods are two different transactions for the purpose of taxation.
3	Cuttack-II	1993-94/ March 1997	Sale of motor parts.	12	27.71	3.66	The assessing officer while assessing the dealer ex-parte allowed deduction towards credit notes without verification of the fact whether the goods returned were within the prescribed time limit of one month.
Total						99.07	

On these being pointed out in audit (March 1998 and December 1999), the assessing officers re-opened (between March 1998 and December 1999) the cases at sl.nos. 1 and 2 for re-assessment while the extra demand of Rs.4.33 lakh (including penalty of Rs.20,000) was raised (January 1999) by the assessing officer in respect of case at sl.no. 3.

Government stated (August 2000) that the assessing officers had re-opened the case for both the years. As the dealer had preferred an appeal for the year 1997-98, the assessing officer had forwarded the objection to the Asst. Commissioner of Sales Tax for consideration.

In respect of case at sl.no.2, the reassessment proceedings was pending while in respect of sl.no.3, the dealer had paid Rs.1.20 lakh and preferred an appeal to the Sales Tax Tribunal whose decision was awaited.

2.9 Non/short levy of tax for contravention of declaration

Under the OST Act, 1947, where goods specified in the certificate of registration are purchased by a registered dealer free of tax after furnishing a declaration for re-sale in Orissa in a manner that such resale shall be subject to tax under the Act but are utilised by him for any other purpose, the price of the goods so purchased shall be included in the taxable turnover of the purchasing dealer.

(a) During the course of audit of Sambalpur-III circle, Jharsuguda, it was noticed (December 1999) that a registered dealer purchased electrodes worth Rs.34.26 lakh during the year 1996-97 without payment of tax by furnishing the prescribed declaration forms. Out of the above, the dealer resold electrodes taxable at the rate of 12 *per cent* worth Rs.20.75 lakh (after deducting 5 *per cent* profit margin from sale price of Rs.21.79 lakh) in course of inter-State trade or commerce. Hence, the corresponding purchase value of Rs.20.75 lakh was to be included in the taxable turnover of the dealer. This resulted in non-levy of tax of Rs.2.74 lakh including surcharge.

On this being pointed out in audit (December 1999) the assessing officer re-opened (January 2000) the case.

Government stated (August 2000) that re-assessment proceedings had been completed (March 2000) raising extra demand of Rs.2.06 lakh. Report on realisation was awaited (November 2000).

(b) During the course of audit of Rourkela-I Circle, it was noticed (February 1998) that a dealer who purchased iron and steel taxable at the rate of 4 *per cent* for manufacturing agricultural implements, furniture etc. on the basis of declaration had resold the goods as such in contravention of the declaration which resulted in non-levy of tax of Rs.33.59 lakh for the period from 1992-93 to 1995-96. The assessing officer reopened the case. Further, audit scrutiny revealed (January 2000) a further non-levy of tax amounting to Rs.4.92 lakh relating to the year 1996-97 though the registration certificate of the dealer had since been cancelled (September 1996) and the Additional Commissioner of Commercial Taxes had ordered (April 1997) further enquiry. This resulted in total non-levy of tax amounting to Rs.38.51 lakh for the period from 1992-93 to 1996-97.

On this being pointed out by audit, the assessing officer reopened the case for 1996-97 also for reassessment. Result of re-assessment is awaited (November 2000).

Government stated (August 2000) that the concerned assessing officer had been asked to submit compliance. Further reply was awaited (November 2000).

CHAPTER-3 : TAXES ON MOTOR VEHICLES

3.1 Results of Audit

Test check of records relating to assessment, collection and refunds of motor vehicles tax in the office of the State Transport Authority, Orissa, and the Regional Transport Offices conducted during 1999-2000 revealed under-assessment of tax and losses of revenue amounting to Rs.31.94 crore in 16,036 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1	Short realisation/short levy of motor vehicles tax/additional tax	729	1.30
2	Non-levy/non-realisation of motor vehicles tax/additional tax	6207	12.90
3	Non/short realisation of compounding fees	342	0.08
4	Non-realisation of composite tax	8151	0.89
5	Short realisation of Trade Certificate fees/taxes	160	0.03
6	Loss due to other irregularities	446	0.35
7	Review on "Arrears of Motor Vehicles Tax"	1	16.39
Total		16036	31.94

During the course of the year 1999-2000, the department accepted under-assessment etc. of tax amounting to Rs.2.83 crore in 2,843 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.13.91 crore and findings of a review on "Arrears of Motor Vehicles Tax" involving Rs.16.39 crore are mentioned in the following paragraphs.

3.2 Arrears of Motor Vehicles Tax

3.2.1 Introduction

The Orissa Motor Vehicles Taxation Act, 1975 was introduced with effect from October 1975 and the Orissa Motor Vehicles Taxation (Amendment Act) which introduced additional tax came into operation from 18 October 1985. The Act and rules made thereunder provide for (a) levy of tax on motor vehicles and (b) levy of penalty for contravention of the Act. Failure or refusal to pay fees and taxes on the due dates constitute arrears which are to be recovered after institution of certificate cases.

Motor Vehicles Tax including additional tax, being 9.54 *per cent* to 10.31 *per cent* of the tax revenue of the State during last 6 years i.e. 1994-95 to 1999-2000, constitutes one of the principal sources of revenue of the State. The total arrears outstanding as on 31 March 2000 was Rs.43.12 crore which constituted 27.72 *per cent* of the actual collection of Rs.155.53 crore made during 1999-2000.

3.2.2 Organisational Set-up

The Transport Commissioner of Orissa, being head of the department, is assisted by 18 Regional Transport Officers (RTO) functioning at the regional level and is responsible for enforcing the provisions of the Acts and Rules for assessment of motor vehicles tax and to ensure regular collection thereof.

3.2.3 Scope of audit

The records of the Transport Commissioner, Orissa, and seven* Regional Transport Officers were selected and taken up for review out of eighteen regions in the State.

Review on arrears of motor vehicles tax was included in para 3.2 of the Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India relating to the Government of Orissa for the years 1977-78 and 1989-90. A further review of these arrears for the period from 1994-95 to 1998-99 was conducted from October 1999 to March 2000 with a view to examining the efficacy of the machinery entrusted with the collection of arrears of motor vehicles tax.

* Balasore, Cuttack, Dhenkanal Ganjam, Phulbani, Puri and Sambalpur.

3.2.4 Highlights

❖ No effective action was taken on recommendations of PAC which led to continued growth in arrears from Rs.19.23 crore in 1994-95 to Rs. 43.12 crore in 1999-2000.

{Para-3.2.5}

❖ Basic records like Demand, Collection and Balance Register and Register of Registration Certificates were not properly maintained. Consequently, there was lack of effective monitoring of arrears as well as hindrances in their effective pursuance and realisation.

{Para-3.2.7}

❖ Demand notices were not issued in 675 cases involving arrears of tax and penalty amounting to Rs.7.08 crore.

{Para-3.2.9}

❖ Provisions of MVT Act and Rules for speedy realisation of arrear tax were not enforced leading to non-realisation of arrear tax and penalty amounting to Rs.11.20 lakh.

{Para-3.2.10}

❖ 318 certificate cases having money value of Rs.1.14 crore could not be sustained due to improper maintenance of records and lack of diligence on the part of assessing officers.

{Para-3.2.11 (A)}

❖ 1,936 certificate cases relating to seven regions involving arrear tax of Rs.8.06 crore remained undisposed off as on 31 March 1999.

{Para-3.2.11(A) & (B)}

3.2.5 Recommendations of the Public Accounts Committee

The Audit Reports referred to in para 3.2.3 were discussed by the Public Accounts Committee (PAC) in March 1987 (9th Assembly) and November 1993 (10th Assembly). The recommendations made by PAC in their 31st Report (1987-88) and 33rd Report (1993-94) are summarised as follows:

- (a) The Department should take drastic steps to realise the monies due and submit a report;
- (b) RTOs should give up lethargy and notices should be issued and recovery proceedings instituted in all cases;

- (c) Department should not be liberal in dealing with violation of permit conditions. For visible lapses, the concerned RTOs should be warned and the Committee's displeasure entered into their confidential character rolls; and
- (d) Balance dues should be recovered and compliance reported to the committee.

No Action Taken Note has been submitted by the Department till date (November 2000).

Despite the observations of PAC, the arrears had increased from Rs.19.23 crore in 1994-95 to Rs.43.12 crore in 1999-2000 as shown under:

(Rupees in crore)

Year	From private vehicle owners	From OSRTC	Total	Percentage of Arrears due from OSRTC to the total
1994-95	9.43	9.80	19.23	50.96
1995-96	10.95	17.39	28.34	61.36
1996-97	10.37	19.23	29.60	64.97
1997-98	16.28	25.30	41.58	60.85
1998-99	18.23	24.45	42.68	57.29
1999-2000	17.10	26.02	43.12	60.34

The amount of arrears from the private vehicle owners has increased by 81.34 per cent from Rs.9.43 crore to Rs.17.10 crore during the years from 1994-95 to 1999-2000 while in the case of Orissa State Road Transport Corporation (OSRTC) the arrears increased by 165.51 per cent from Rs.9.80 crore to Rs.26.02 crore during the same period. Out of the total arrears, the amount recoverable from OSRTC is 60.34 per cent up to 1999-2000.

3.2.6 Trend of Revenue

Collection of Motor Vehicle Tax vis-à-vis budget estimates from the year 1994-95 to 1999-2000 is given in the following table.

(Rupees in crore)

Year	No. of vehicles on road	Budget estimate	Collection	(-) Shortfall (+) Excess	Percentage of variation (-) Shortfall (+) Excess
1994-95	451441	90.98	95.12	(+) 04.14	(+) 04.55
1995-96	499950	114.00	107.50	(-) 06.50	(-) 05.70
1996-97	562973	127.68	128.25	(+) 00.57	(+) 00.45
1997-98	625747	160.00	141.78	(-) 18.22	(-) 11.39
1998-99	694425	175.00	143.18	(-) 31.82	(-) 18.18
1999-2000	778791	196.00	155.53	(-) 40.47	(-) 20.65

In the budget proposals forwarded by the State Transport Authority to Finance Department, recoverable arrear taxes are not shown separately. In response to an audit query (May 2000), STA stated (May 2000) that the Budget proposal is based on growth rate while the Finance

Department stated (April 2000) that the target of collection is fixed taking into account the normal average growth rate of the last three years and the collection from possible ARM (Additional Resource Mobilisation) and arrears if any.

3.2.7 Position of Arrears of Tax

The position of arrear tax at the end of 31st March each year from 1994-95 to 1999-2000 as reported by STA with respect to the seven regions is as below:

(Rupees in crore)

Year	Arrears in respect of private vehicles	Arrears in respect of OSRTC Vehicles	Total
1994-95	05.48	08.90	14.38
1995-96	07.98	14.67	22.65
1996-97	07.56	14.54	22.10
1997-98	10.11	19.32	29.43
1998-99	10.50	20.44	30.94
1999-2000	10.07	21.09	31.16

Despite increasing arrears, the department had not undertaken any drive or evolved any action plan to recover the arrears of tax up to March 1999. The Joint Commissioner (Taxation) stated (March 2000) that special instructions were issued from time to time to the RTOs for collection of arrear of tax. It was evident that these instructions had not yielded any positive result on the face of increasing trend of arrears from year to year.

It was also noticed in audit (October 1999 to January 2000) that the Demand, Collection and Balance (DCB) register required to be maintained under executive orders of the Transport Commissioner (1970) to ascertain the arrear position of tax was not being maintained by any of the regions selected for review. Hence, the department was not able to work out the correct arrear position of motor vehicles tax in respect of any vehicle. The register of registration certificates maintained for the purpose by the regions did not have any year-wise and item-wise breakup. It was observed in audit that the above register was not adequate to monitor the collection of arrears as it does not depict the collection particulars *vis-à-vis* demands.

To an audit enquiry, the Regional Transport Officers, except Ganjam could not intimate the amount of arrears collected during the years under review. However, they stated (October 1999 to January 2000) that action would be taken to recover the arrears in respect of private vehicles by issuing demand notices or by instituting certificate cases. In respect of OSRTC vehicles, it was stated (August 2000) by the STA, Orissa, Cuttack that about Rs.25 crore is locked up with the OSRTC both as taxes and penalty since a long time and despite efforts made by the Transport Department nothing could be collected.

3.2.8 Delay in transmission of intimation for payment of tax

The vehicle owners can pay tax in any region other than the region where the vehicle is registered. The Transport Commissioner ordered (March 1986) the RTOs concerned to intimate the tax paid to the region where the vehicle is registered by 10th of the succeeding month. It was however, noticed that the particulars of the tax paid were not furnished to the concerned RTOs* where the vehicle was registered. The delay ranged from 1 month to 56 months and as a result the actual payment made and the correct amount of tax outstanding against each vehicle was not ascertainable.

3.2.9 Non-issue of demand notices for realisation of MV tax/additional tax resulting in arrears

The Orissa Motor Vehicles Taxation Rules, 1976, prescribes due dates for payment of motor vehicle tax/additional tax. The Transport Commissioner had earlier issued (February 1966) instructions to all the taxation authorities to issue demand notices for arrear taxes within 30 days from the expiry of the grace period of 15 days from the due date of payment.

It was noticed that in seven regions the demand notices were not issued in respect of 675 vehicles though they were not covered by off-road declaration as shown below:

(Rupees in crore)

Sl. No.	Region	In respect of private vehicles			In respect of OSRTC vehicles			Total	
		No. of vehicles	Tax	Penalty	No. of vehicles	Tax	Penalty	No. of vehicles	Amount
1	Balasore	78	0.10	0.21	6	0.06	0.13	84	0.50
2	Cuttack	60	0.17	0.34	37	0.55	1.10	97	2.16
3	Dhenkanal	63	0.12	0.25	-	-	-	63	0.37
4	Ganjam	146	0.31	0.62	32	0.39	0.78	178	2.10
5	Phulbani	117	0.13	0.26	5	0.06	0.11	122	0.56
6	Puri	63	0.22	0.43	6	0.09	0.18	69	0.92
7	Sambalpur	59	0.11	0.21	3	0.05	0.10	62	0.47
Total		586	1.16	2.32	89	1.20	2.40	675	7.08

The demands related to the period from April 1994 to March 1999. The tax implication including penalty in these cases amounted to Rs.7.08 crore.

On this being pointed out (between November 1999 and February 2000), the RTOs stated (between November 1999 and February 2000) that steps would be taken to issue demand notices to realise the arrear dues.

* Balasore, Cuttack, Dhenkanal, Ganjam, Phulbani, Puri and Sambalpur.

3.2.10 Omission to follow special provisions for speedy recovery of arrears

In addition to the normal procedure for recovery of arrear taxes, the Act and Rules also stipulate tax clearance before issue of no objection certificates (NOC) and realisation of arrear taxes before acceptance of off-road declarations, issuance of permits etc. to facilitate recovery of the arrears.

It was, however, observed that due to non-observance of the provisions of the Act/Rules, tax and penalty amounting to Rs.11.20 lakh remained unrealised during the period between July 1989 and October 1998 as detailed below:

(Rupees in lakh)

Sl. No.	Nature of Irregularity	No. of vehicles	Period between	Tax	Penalty	Total	Remarks
1	Issue of no objection certificate/tax clearance certificate without realising arrears of motor vehicles tax.	36	July 1989 and May 1998	1.60	3.10	4.70	Noticed in all 7 regions test checked. Arrear tax related to the period from July 1989 to May 1998.
2	Acceptance of off-road undertaking of vehicles without realisation of arrear tax.	14	March 1993 and January 1999	1.20	2.80	4.00	Noticed in 5* regions. Arrear tax related to the period from February 1994 to October 1998.
3	Issue of temporary permit without clearance of vehicle check report.	1	April 1994 to January 1995	0.50	1.00	1.50	Noticed in Phulbani region. Arrear tax related to the period April 1994 to January 1995.
4	Issue of temporary permits without realisation of arrears of motor vehicles tax.	6	January 1994 and January 1995	0.30	0.70	1.00	Noticed in Sambalpur region. Arrear tax related to the period from April 1994 to January 1995.
Total		57		3.60	7.60	11.20	

3.2.11 Recovery of arrear motor vehicle taxes as arrears of land revenue

(A) Booked under Orissa Public Demand Recovery Act (OPDR Act 1962)

Unpaid motor vehicles tax can be recovered by certificate procedure as arrears of land revenue by sending a requisition to the Certificate Officer. The Orissa Public Demand Recovery Act (OPDR) 1962, and the rules made thereunder stipulate that the requisitioning officer is responsible for furnishing the required information regarding correct whereabouts

* Cuttack, Ganjam, Phulbani, Puri and Sambalpur

of the certificate debtors, statement of property proposed to be attached, etc. and that he should also be diligent in complying with the objections raised by the Certificate Officer. Otherwise, the certificate case would fail.

A mention was made in para 3.2.8 of Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India for the year 1989-90 that 57 cases involving Rs.8.08 lakh were dropped between November 1975 and May 1987 due to want of list of immovable properties and whereabouts of the certificate debtors. A further test check revealed that 1,173 certificate cases involving an amount of Rs.6.88 crore were instituted during the years from 1963-64 to 1993-94 in seven regions. Out of the above, 318 cases involving an amount of Rs.1.14 crore were dropped between March 1989 and April 1998 by various certificate courts as on 31 March 1999 as the information regarding address, particulars of the movable/immovable properties were not available either with the certificate holders or with the Tahasildars or the requisitioning officers were not diligent in complying with the objections raised by the Certificate Officers.

Further, 655 cases involving an amount of Rs.1.89 crore relating to the period from 1963-64 to 1996-97 were still pending in various certificate courts as on 31 March 1999. Department had taken no action to expedite these long pending cases.

(B) Certificate cases pending with Tax Recovery Officer

Regional Transport Officers have been authorised to exercise the powers of Tax Recovery Officers (Certificate Officers) with effect from June 1993 under Schedule-II of the OMVT Act. However, there is no time limit for finalisation of certificate cases in the Act. Recovery of arrears of Rs.6.17 crore in 1,281 certificate cases booked in seven regions were pending with TROs as on 31 March 1999 as depicted below:

(Rupees in lakh)

Year		Balasore	Cuttack	Dhenkanal	Ganjam	Phulbani [▲]	Puri	Sambalpur
1993-94	No. of cases	-	29	-	125		34	-
	Amount	-	8.90	-	24.10	-	13.70	-
1994-95	No. of cases	41	2	90	84	-	20	-
	Amount	2.90	2.40	30.50	76.70	-	8.50	-
1995-96	No. of cases	99	15	1	-	-	19	91
	Amount	6.90	19.90	0.10	-	-	14.90	22.50
1996-97	No. of cases	-	6	14	7	-	29	49
	Amount	-	7.20	2.10	0.70	-	3.20	18.70

▲ Year-wise break up in respect of Phulbani region was not made available

(Rupees in lakh)

Year		Balasore	Cuttack	Dhenkanal	Ganjam	Phulbani [▲]	Puri	Sambalpur
1997-98	No. of cases	35	7	200	30	-	-	-
	Amount	1.70	1.30	156.00	3.80	-	-	-
1998-99	No. of cases	-	-	-	190	-	-	-
	Amount	-	-	-	162.70	-	-	-
Total	No. of cases	175	59	305	436	64	102	140
	Amount	11.50	39.70	188.70	268.00	27.90	40.30	41.20

RTO, Cuttack stated (May 2000) that the pendency was due to shortage of experienced staff.

3.2.12 Conclusion

Despite previous observations in Audit Reports and recommendations of PAC requiring toning up of the revenue collection machinery, no effective steps were taken by the department to arrest the growth of arrears which consequently rose by leaps and bounds during the period under review. Basic records required for effective monitoring of recovery were neither maintained nor was any time limit prescribed for completion of recovery proceedings and realisation of Government dues. Stipulations aimed at collection of arrear dues before issue of permits were ignored and certificate cases could not be sustained due to improper maintenance of requisite records. Consequently, arrears amounting to Rs.16.39 crore which constituted 38.40 *per cent* of the total accumulated arrears remained uncollected for reasons directly attributable to avoidable departmental lapses and inaction.

The matter was reported to Government (May 2000); their reply is awaited (November 2000).

3.3 Non/short realisation of motor vehicles tax and additional tax in respect of stage carriages

Under the Orissa Motor Vehicles Taxation (OMVT) Act, 1975, monthly tax payable in respect of a stage carriage is determined on the basis of the number of passengers (including standees) which the vehicle is permitted to carry and the total distance permitted to be covered in a day as per the permit. In the event of non-payment of tax within the specified period, the vehicle owner shall be liable to pay penalty of 200 *per cent* of the tax due when the delay is more than two months.

▲ Year-wise break up in respect of Phulbani region was not made available

A test check of records (between August 1999 and March 2000) in 12[#] regions revealed non/short realisation of motor vehicles tax/additional tax amounting to Rs.59.87 lakh in respect of 407 vehicles for the period between April 1994 and March 1999 due to non-compliance of the above provisions. In addition, penalty of Rs.1.20 crore was also leviable.

On this being pointed out in audit (between August 1999 and March 2000), all the taxing officers agreed (between August 1999 and April 2000) to issue demand notices for realisation of dues except taxing officer, Cuttack and Rourkela, who stated (September 1999 and March 2000) that the matter was to be verified.

Government stated (August 2000) that Rs.0.23 lakh has been realised in 2 cases and demand notices for Rs.50.12 lakh issued in 95 cases in respect of 8[▲] regions. Further compliance is awaited (November 2000).

3.4 Non/short realisation of motor vehicles tax in respect of vehicles plying unauthorisedly

Under the OMVT Act, 1975, any motor vehicle covered by an undertaking of temporary discontinuance of use during the period of off-road declaration is detected plying on the road or not found at the declared place shall be deemed to have been used through out such period and the owner of the vehicle shall be liable to pay tax for the said period. Further, if any stage carriage is detected plying without a valid permit, the tax payable is to be determined attracting the highest rate of tax as per taxation schedule.

During the course of audit of 12 regions it was noticed (between August 1999 and March 2000) that there was non/short levy of motor vehicles tax amounting to Rs.33.05 lakh in 142 cases besides penalty at the rate of 200 *per cent* amounting to Rs.66.21 lakh as per details given below:

(Rupees in lakh)

Sl. No	Number of regions	No. of vehicles	Non-levy of tax	Short levy of tax	Total	Penalty leviable	Nature of irregularities
1	8 ^A	42	7.76	--	7.76	15.52	Motor vehicles violated off-road declaration
2	11 ^B	100	17.90	7.39	25.29	50.69	Stage carriages plying without valid route permit
Total		142	25.66	7.39	33.05	66.21	

Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Kalahandi, Phulbani, Rayagada, Rourkela, Sambalpur and Sundargarh

▲ Balasore, Bargarh, Chandikhol, Cuttack, Ganjam, Phulbani, Rayagada and Sundargarh.

A Bargarh, Cuttack, Ganjam, Kalahandi, Rayagada, Rourkela, Sambalpur and Sundargarh.

B Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Kalahandi, Phulbani, Rourkela, Sambalpur and Sundargarh.

On this being pointed out in audit (between August 1999 and March 2000), all the taxing officers agreed (between August 1999 and April 2000) to realise the dues except the taxing officers, Cuttack and Rourkela, who stated (between September 1999 and March 2000) that the amount would be realised after verification.

Government stated (August 2000) that demand notices for Rs.20.23 lakh have been issued in 66 cases in respect of 8* regions. Further compliance is awaited (November 2000).

3.5 Non-realisation of taxes

Under the OMVT Act, 1975, tax due on motor vehicles should be paid in advance within the prescribed period at the rates specified in the taxation schedule unless exemption from payment of such tax is allowed for the period for which necessary undertaking of temporary discontinuance of use of the vehicle is delivered by the owner of the vehicle to the taxing officer on or before expiry of the term for which tax has been paid. Further, according to the instructions issued (February 1966) by the Transport Commissioner, Orissa, demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of the grace period (15 days) for payment of tax.

A test check of daily collection register and registration certificate of vehicles of 12# regions (between August 1999 and March 2000) revealed that tax in respect of 4,115 vehicles was not paid during the years 1997-98 and 1998-99 and in respect of another 254 vehicles, tax was not paid for different periods falling between October 1994 and March 1999 though these vehicles were neither covered by off-road declarations nor had they intimated the deposit of tax in any other region. This resulted in non-realisation of tax amounting to Rs.3.08 crore. In addition, penalty at the rate of 200 *per cent* amounting to Rs.6.17 crore was also leviable.

On this being pointed out in audit (between August 1999 and March 2000), all the taxing officers agreed (between August 1999 and April 2000) to issue demand notices for realisation of dues. Further progress of realisation was awaited (November 2000).

Government stated (August 2000) that Rs.0.10 lakh has been realised in one case and demand notices for Rs.1.12 crore issued in 448 cases in respect of 4* regions. Further compliance is awaited (November 2000).

* Balasore, Bargarh, Chandikhol, Cuttack, Ganjam, Phulbani, Rayagada and Sundargarh.

Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Kalahandi, Phulbani, Rayagada, Rourkela, Sambalpur and Sundargarh.

* Chandikhol, Cuttack, Ganjam and Sundargarh.

3.6 Non/short levy of penalty for belated payment of motor vehicles tax/additional tax

Under the OMVT Act, 1975, and rules made thereunder, penalty shall be leviable if a vehicle owner has not paid tax/additional tax in respect of motor vehicles within the specified period. In case of delay, the vehicle owner shall be liable to pay penalty ranging from 25 per cent to 200 per cent of the tax/additional tax due depending upon the period of delay.

During the course of audit of 12 regions (between August 1999 and March 2000) it was noticed that there was non/short levy of penalty amounting to Rs.22.52 lakh in 248 cases as per details given below:

(Rupees in lakh)

Sl. No.	Number of regions	Number of vehicles	Amount of penalty		
			Not levied	Short levied	Total
1	12 ^(A)	158 (Owned by private operators)	15.52	-	15.52
2	11 ^(B)	82 (Owned by private operators)	-	5.61	5.61
3	1 (Rourkela)	8 (Owned by OSRTC)	1.39	-	1.39
Total		248	16.91	5.61	22.52

On this being pointed out in audit (between August 1999 and March 2000) all the Taxing officers agreed (between August 1999 and April 2000) to realise the dues except the Taxing officer, Cuttack who stated (September 1999) that demand notices would be issued for realisation, if due.

Government stated (August 2000) that Rs.0.76 lakh has been realised in 18 cases and demand notices for Rs.13.55 lakh issued in 169 cases in respect of 8⁺ regions. Further compliance is awaited (November 2000).

3.7 Non-realisation of motor vehicles tax in respect of contract carriages

Under the OMVT Act, 1975 and rules made thereunder, motor vehicles tax in respect of contract carriages is to be realised as per the rates specified in the Act on the basis of number of passengers permitted to be carried as per the permit.

(A) Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Kalahandi, Phulbani, Rayagada, Rourkela, Sambalpur and Sundargarh.

(B) Balasore, Bargarh, Bhubaneswar, Cuttack, Ganjam, Kalahandi, Phulbani, Rayagada, Rourkela, Sambalpur and Sundargarh.

† Balasore, Bargarh, Chandikhol, Cuttack, Ganjam, Phulbani, Rayagada and Sundargarh.

During the course of audit of 9[#] regions, it was revealed (between August 1999 and March 2000) that motor vehicles tax and additional tax in respect of 469 contract carriages were not realised for various periods (between August 1995 and March 1999) even though these contract carriages were issued with valid permanent (5 years) permits and were not covered by an off-road undertaking. This resulted in non-realisation of tax and additional tax amounting to Rs.23.14 lakh. Besides, penalty at the rate 200 *per cent* amounting to Rs.46.28 lakh was leviable.

On this being pointed out in audit (between August 1999 and March 2000) the taxing officers concerned agreed (between August 1999 and March 2000) to realise the dues by issue of demand notices.

Government stated (August 2000) that Rs.0.20 lakh has been realised in 2 cases and demand notices for Rs.18.46 lakh issued in 131 cases in respect of 2⁺ regions. Further compliance is awaited (November 2000).

3.8 Short realisation of tax in respect of stage carriages used as contract carriages

Under the OMVT Act, 1975 as amended from time to time, when a motor vehicle in respect of which tax for any period has been paid as per registration is proposed to be used in a manner for which higher rate of tax is payable, the owner of the vehicle is liable to pay the differential tax. In determining such differential tax, any broken period in a month is to be considered as a full month.

During the course of audit of 11^{*} regions it was revealed (between August 1999 and March 2000) that 96 stage carriages were permitted for different periods between April 1997 and March 1999 to ply temporarily as contract carriages for which higher rate of tax was leviable but not realised. This resulted in short realisation of tax amounting to Rs.3.22 lakh. In addition, penalty at the rate of 200 *per cent* amounting to Rs.6.48 lakh was also leviable.

On this being pointed out in audit (between August 1999 and March 2000), all the taxing officers agreed (between August 1999 and April 2000) to realise the dues after issue of demand notices.

Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Phulbani, Rourkela and Sambalpur

+ Chandikhol and Ganjam.

* Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Kalahandi, Phulbani, Rayagada, Rourkela and Sambalpur

Government stated (August 2000) that Rs.0.26 lakh has been realised and demand notices for Rs.1.01 lakh issued in 26 cases in respect of 4⁺ regions. Further compliance is awaited (November 2000).

3.9 Short realisation of composite tax under National Permit Scheme

As per Government of Orissa notification (April 1998), composite tax in respect of goods carriage belonging to other States/Union Territories plying in Orissa under National Permit Scheme shall be payable at the rate of Rs.5,000/- per annum on or before 15 March every year in advance.

In course of test check of records of the State Transport Authority (STA), Orissa it was noticed (March 2000) that composite tax in respect of 1,814 vehicles was short realised for the year 1998-99 during which the vehicles of other States were authorised to ply in Orissa under National Permit Scheme as the vehicle owners had paid composite tax either at incorrect rates or paid for part of the year in quarterly/half yearly instalments. This resulted in short realisation of composite tax of Rs.48.40 lakh.

On this being pointed out in audit (March 2000) the State Transport Authority, Orissa stated (March 2000) that action would be taken to realise the dues.

Government stated (August 2000) that the Transport Commissioner had been asked to furnish compliance. Further compliance is awaited (November 2000).

3.10 Non/short realisation of motor vehicles tax/additional tax on stage carriages under reciprocal agreement

Where in pursuance of any agreement between the Government of Orissa and the Government of any other State, a stage carriage plies on a route partly within the State of Orissa and partly within another State, such stage carriage is liable to pay tax/additional tax calculated on the total distance covered by it on such route in the State of Orissa at the rates and in the manner specified under the OMVT Act, 1975 and rules made thereunder.

During the course of audit of STA, Orissa and 4^{*} regions it was noticed (between August 1999 and February 2000) that tax/additional tax amounting to Rs.7.43 lakh for the

† Balasore, Bargarh, Chandikhol and Phulbani.

* Balasore, Cuttack, Ganjam and Phulbani.

period from June 1997 to March 1999 in respect of 34 stage carriages was not/short realised. Further, a penalty at the rate of 200 *per cent* amounting to Rs.14.86 lakh was also leviable.

On this being pointed out in audit (between August 1999 and February 2000), the STA, Orissa and all taxing officers agreed (between September 1999 and February 2000) to realise the dues on issue of demand notices excepting the taxing officer, Cuttack who stated (September 1999) that the dues would be realised after verification.

Government stated (August 2000) that demand notices for Rs.10.90 lakh have been issued in 16 cases in respect of Ganjam region. Further compliance is awaited (November 2000).

3.11 Non-realisation of composite tax in respect of goods vehicles under reciprocal agreement

Under the provisions of the Orissa Motor Vehicles Taxation Act, 1975 when a goods vehicle enters the State of Orissa under the terms of any agreement between the Government of Orissa and Government of any other State, it is liable to pay additional tax for each entry into the State at the prescribed rates. In respect of goods vehicles belonging to the State of Andhra Pradesh authorised to ply in the State of Orissa under reciprocal agreement, Government of Orissa decided (August 1986) to levy Rs.1500/- annually on each vehicle as composite tax in lieu of the additional tax payable for each entry with effect from July 1986. The tax was payable in advance in lump sum on or before 15 April every year by crossed bank drafts to the State Transport Authority, Andhra Pradesh, for onward transmission to the State Transport Authority, Orissa. In case of delay in payment, penalty of Rs.100/- for each calendar month or part thereof is also leviable in addition to the composite tax.

During the course of audit of the State Transport Authority, Orissa, it was noticed (September 1999) that out of 900 goods vehicles belonging to the State of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement during the year 1998-99, composite tax in respect of 128 goods vehicles amounting to Rs.1.92 lakh was not realised. In addition, penalty of Rs.1.54 lakh calculated upto March 1999 was also leviable but not levied although the dues amounting to Rs.13.50 lakh in respect of Orissa vehicles plying in Andhra Pradesh in the corresponding period has been paid in toto.

On this being pointed out in audit (September 1999), the State Transport Authority, Orissa, stated (September 1999) that action would be taken to realise the dues.

Government stated (August 2000) that the Transport Commissioner had been asked to furnish compliance. Further compliance is awaited (November 2000).

3.12 Short realisation of motor vehicles tax due to application of incorrect rates

Under the provisions of the Orissa Motor Vehicles Taxation Act, 1975, and rules made thereunder, motor vehicles tax/additional tax payable in respect of goods carriages of other States depends upon the periodicity of operation of the vehicles in Orissa and the registered laden weight of the vehicle. In respect of home State vehicles, the tax is dependent on the registered laden weight of such vehicles. Motor vehicles tax/additional tax in respect of goods vehicles of other States plying in Orissa is required to be collected by the home State and remitted to State Transport Authority, Orissa, by means of crossed bank drafts.

During the course of audit of the State Transport Authority Orissa and 10^o regions, it was noticed (between August 1999 and March 2000) that motor vehicles tax/additional tax amounting to Rs.0.94 lakh in respect of 164 goods carriages belonging to the State of Madhya Pradesh and Rs.1.92 lakh in respect of 88 goods carriages of home State was short realised due to incorrect computation and non-application of revised rates. In addition, penalty at the rate of 200 *per cent* amounting to Rs.5.71 lakh was also leviable.

On this being pointed out in audit (between August 1999 and March 2000), the State Transport Authority, Orissa, and all the taxing officers agreed (between August 1999 and April 2000) to realise the dues except the taxing officers, Bargarh and Cuttack who stated (between September 1999 and October 1999) that the amount would be realised after verification.

Government stated (August 2000) that demand notices for Rs.0.40 lakh have been issued in 6 cases in respect of 3^e regions. Further compliance is awaited (November 2000).

3.13 Non-realisation of tax/fees on trade certificate

Under the OMVT Act, 1975, read with Central M.V. Rules 1989, manufacturers or dealers in motor vehicles are required to obtain a trade certificate by paying the requisite tax/fees annually in advance from the registering authority within whose area they have their place of business. Under the Motor Vehicles Act, 1988 a dealer includes a person who is engaged in the manufacture of motor vehicles or in building bodies for attachment to the chassis or in the business of hypothecation, leasing or hire purchase of motor vehicles.

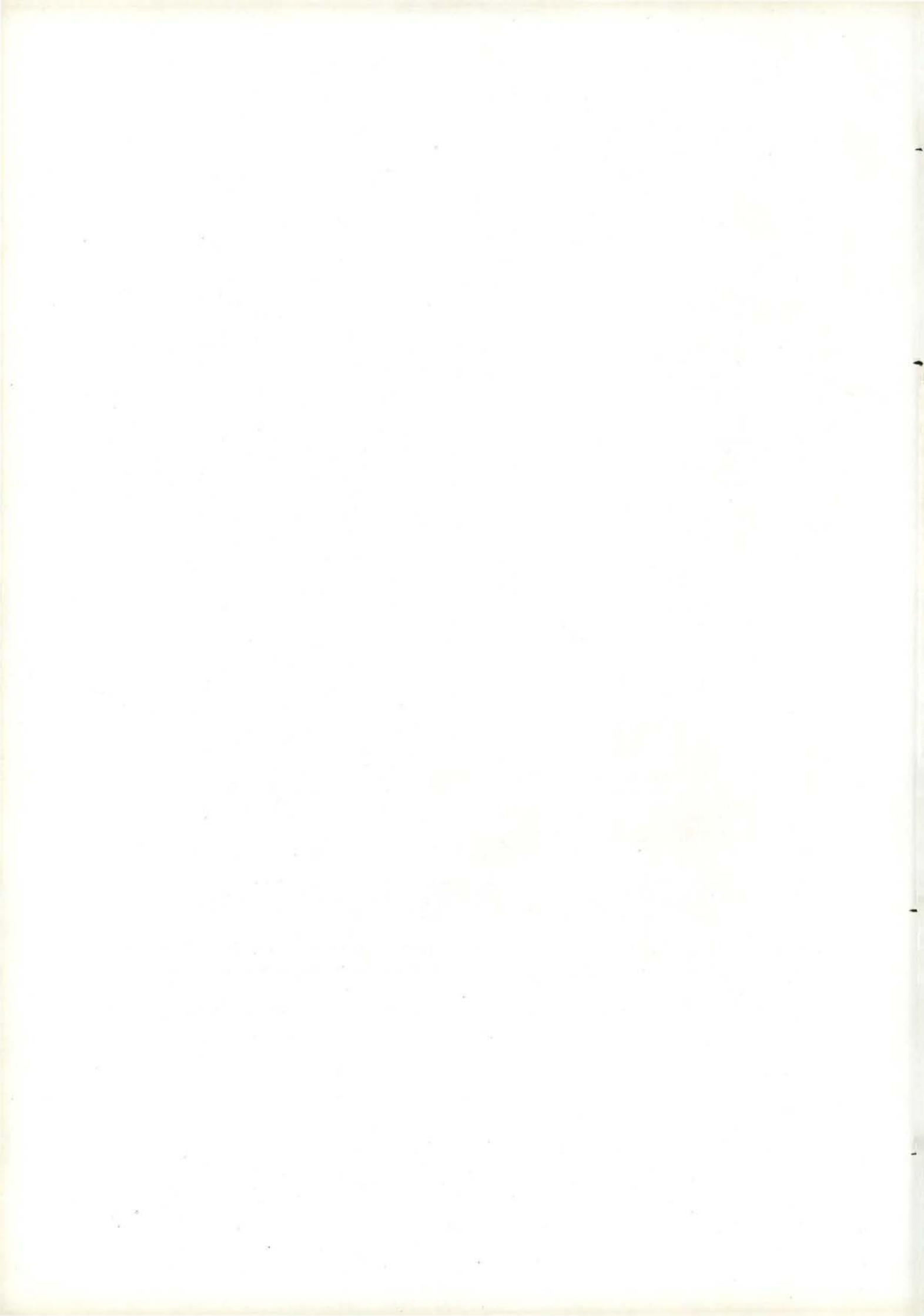
⊗ Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Ganjam, Kalahandi, Rourkela, Sambalpur and Sundergarh.
■ Chandikhol, Cuttack and Ganjam.

During the course of audit of 6♦ regions, it was noticed (between August 1999 and March 2000) that trade certificate tax (Rs.1.42 lakh) and fees (Rs.1.36 lakh) were not collected during the period between April 1997 and March 1999 from 119 motor vehicle dealers resulting in non-realisation of revenue amounting to Rs.2.78 lakh.

On this being pointed out in audit (between August 1999 and March 2000), all the taxing officers stated (between August 1999 and March 2000) that demand notices would be issued for realisation of dues.

Government stated (August 2000) that demand notices for Rs.0.48 lakh have been issued in 17 cases in respect of Chandikhol region. Further compliance is awaited (November 2000).

♦ Bargarh, Bhubaneswar, Chandikhol, Cuttack, Rourkela and Sambalpur



CHAPTER-4 : LAND REVENUE

4.1 Results of Audit

Test check of records relating to assessment and collection of Land Revenue conducted during the year 1999-2000 revealed non/under-assessment, and non-realisation of revenue amounting to Rs.32.12 crore in 35,267 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non-collection of premium etc. from land occupied by local bodies/private parties etc.	36	16.07
2	Non/short assessment and short collection of water rates.	53	10.40
3	Non/short realisation of royalty on minor minerals.	62	0.24
4	Non-lease/incorrect lease of sairat sources.	184	0.07
5	Blockade of Government revenue due to non-finalisation of OLR cases.	2551	1.92
6	Non-realisation of revenue due to delay in finalisation of OEA cases.	32,084	1.90
7	Other irregularities	297	1.52
Total		35,267	32.12

During the course of the year 1999-2000, the department accepted under-assessment etc. of Rs.1.13 crore in 965 cases which had been pointed out by audit in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.76.71 lakh are mentioned in the following paragraphs.

4.2 Non/short realisation of water rate

Government of Orissa in Revenue and Excise Department Notification dated July 1998 revised the rate of water charges with effect from 18 July 1998 for supply of water for industrial, commercial and domestic purposes. Prior to that, water rates were levied as prescribed in the Orissa Irrigation (Amendment) Rules, 1994. Board of Revenue ordered (November 1998) that the assessment for collection of water rate from the industries and commercial organisation should be completed by the end of November 1998 and compliance be reported by 15th December 1998.

During the course of audit (between May 1999 and January 2000) of three Tahasils it was revealed that water rate amounting to Rs.66.79 lakh were not realised from the units which drew water from Government sources as detailed below:

(Rupees in Lakh)							
Sl. No.	Tahasil	No. of cases	Period	Purpose	Water rate due	Water rate paid	Balance
1	Betnoti	8	April 1996 to March 1999	Industrial/commercial	1.43	-	1.43
2	Chatrapur	2	October 1994 to March 1999	Industrial	51.81	-	51.81
3	Tangi Choudwar	2	April 1998 to March 1999	Domestic and industrial/commercial	14.05	0.50	13.55
Total		12			67.29	0.50	66.79

Of the above amount, Rs.63.10 lakh were due from three companies alone viz: (i) M/s. Indian Rare Earth, Chatrapur (Rs.46.55 lakh) (ii) M/s. Jayashree Chemicals Ltd., Ganjam (Rs.5.26 lakh), (iii) M/s. Orissa Textiles Mills, Choudwar (Rs.11.29 lakh). Further, interest payable for delay in payment was charged in only 2 cases. Interest in the balance 10 cases could not be raised as the Tahsildars had failed to assess the demand and issue demands notices in the form prescribed in the Amendment Rules 1994 which stipulate levy of interest at the rate of 2 per cent compounded monthly after expiry of the date specified in the demand notice.

On this being pointed out in audit (between May 1999 and January 2000), the Tahasildar Betnoti stated (August 1999) that steps would be taken to realise the dues after examination of the cases and the Tahasildar Chatrapur stated (January 2000) that steps would be taken to issue demand notice at the revised rates while the Tahasildar Tangi-Choudwar stated (May 1999) that the cases were pending in his court and the amount would be recovered on finalisation of the same.

The matter was reported to Government (April 2000); their reply was awaited (November 2000).

4.3 Non/short realisation of premium and ground rent for conversion of agricultural land

Under the Orissa Land Reforms Act 1960, a raiyat is liable to eviction if he has used agricultural land for any purpose other than agriculture. Under the Orissa Land Reforms (Amendment) Act 1993 and the rules made thereunder, such land can on an application made by him in the prescribed form, be re-settled on lease basis on payment of premium at the rate prescribed in the amended Act plus ground rent at 1 *per cent* of the premium. Such land is deemed to be settled on lease basis on payment of premium at the rate equal to fifty *per cent* of the prescribed rate if the conversion is made prior to the commencement (1 July 1994) of the amended Act.

During the course of audit of 3 Tahasils, it was noticed (between June 1999 and January 2000) that Revenue Inspectors reported (between April 1980 and October 1998) that agricultural land measuring 46.08 acres was used for purposes other than agriculture. Based on these reports, the cases were booked and notices were issued (between June 1980 and November 1998) to the defaulting raiyats to appear before the Tahasildar for hearing. However, the cases have not been disposed of so far (April 2000). This resulted in non/short realisation of revenue amounting to Rs.9.92 lakh as detailed below:

Sl. No.	Tahasil	Area in acres (No. of cases)	Purpose	Year of conversion	(Rupees in lakh)		
					Premium	Ground rent	Total
1	Chatrapur	13.83 (2)	Poultry	1995-96	6.40	0.27	6.67
2	Nandapur	28.25 (5)	Homstead and factory	1980-81 to 1998-99	1.97	0.07	2.04
3	Sukinda	4.00 (1)	Industrial	1998-99	1.20	0.01	1.21
Total		46.08 (8)			9.57	0.35	9.92

On this being pointed out in audit (between May 1999 and January 2000), the Tahasildars stated (between June 1999 and January 2000) that steps were being taken to realise the dues. Further report on recovery was awaited (November 2000).

The matter was reported to Government (between March 2000 and April 2000); their reply was awaited (November 2000).



CHAPTER-5 : STATE EXCISE

5.1 Results of Audit

Test check of the records maintained in the offices of the Superintendent of Excise conducted during the year 1999-2000 revealed non/short realisation and loss of revenue etc. amounting to Rs.14.80 crore in 1,052 cases which may broadly be categorised as under:

(Rupees in crore)

Sl. No	Category	No.of cases	Amount
1	Non/short realisation of duty/license fee	294	11.98
2	Loss of revenue due to delay in granting of license	352	0.87
3	Other irregularities	406	1.95
Total		1052	14.80

During the year 1999-2000, the department accepted under-assessment etc. of Rs.76 lakh involved in 54 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.8.72 crore are mentioned in the following paragraphs.

5.2 Sub-normal yield of spirit from molasses

Under the Board's Excise Rules, 1965, samples of raw materials used in distilleries for manufacture of spirit and spirit manufactured therefrom shall be sent to the Chemical Examiner for examination once in July and again in December each year and at other times, if required, to determine the output of spirit for the purpose of levy of duty.

Loss of revenue arising out of shortfall in production in a distillery under the control of Superintendent of Excise, Ganjam, when compared to the report of the Chemical Examiner was commented in Para 5.2 of the Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India for the years 1998 and 1999. However, no action was taken to either raise the demand or prevent the loss of revenue.

During the course of audit (July 1999) of the records of the distillery, it was noticed that 6,342.295 metric tonne (MT) molasses was used in the distillery during 1998-99 for manufacture of spirit. The samples of molasses were sent to the Chemical Examiner during July 1998 and March 1999. Based on the reports of the Chemical Examiner, the outturn of spirit from 6,342.295 MT molasses should have been 36,41,740.934 London Proof Litre (LPL) at the rate of 574.199 LPL per tonne of molasses against the actual yield of 27,54,463 LPL. This resulted in shortfall in production of 8,87,277.934 LPL and consequential loss of revenue of Rs.7.99 crore in the shape of excise duty.

On this being pointed out in audit (July 1999), the Superintendent of Excise, Ganjam, raised (May 2000), the demand for Rs.7.99 crore against the distillery.

The matter was reported to Government (March 2000); their reply is awaited (November 2000).

5.3 Loss of revenue due to non-maintenance of minimum stock in warehouse

Under Rule 64 of the Board's Excise Rules, 1965, a licensee is required to maintain a minimum stock of spirit as may be fixed by the Collector at the beginning of the year. As and when the stock of spirit falls below the minimum so prescribed, the licensee shall replenish the stock up to the prescribed minimum and in the event of his failing to do so, the Collector may procure the quantity of spirit required from any source to restore the minimum stock. The licensee shall be liable to compensate any loss to Government revenue which may have occurred due to his failure to maintain an adequate stock.

During the course of audit of records for 1998-99 of one spirit warehouse^{*} under the jurisdiction of Superintendent of Excise, Ganjam, it was noticed (July 1999) that the licensee allowed the stock of rectified spirit to go dry during the period from 13 January to 03 February 1999 as against the prescribed minimum stock of 50,000 Bulk litre (BL) of spirit fixed by the Collector, Ganjam, despite the fact that there had been a demand for rectified spirit to the extent of 1,07,500 BL during the corresponding period in the previous year. However, the department failed to initiate any action to restore it to the prescribed minimum stock. Based on average daily sales (calculated on the basis of average sales per day during the preceding 92 days), the loss of revenue worked out to Rs.63.61 lakh.

On this being pointed out in audit (July 1999), the Superintendent of Excise, Ganjam stated that action would be taken for realisation of the dues from the licensee.

The matter was reported to Government (March 2000); their reply is awaited (November 2000).

5.4 Loss of revenue due to delay in confirmation of settlement of outstill shop

According to Bihar and Orissa Excise Act, 1915, read with rules made thereunder license for the wholesale or retail outlets of intoxicants may be granted for each year from 1 April to 31 March. The Excise Policy announced (21 March 1997) by the Government for the year 1997-98 envisaged that all types of excise shops should be renewed from 1 April 1997 to 31 May 1997 on the existing terms and conditions and for the period from 1 June 1997 to 31 March 1998, settlement of shops should be completed through auction-cum-tender-cum-negotiation.

During the course of audit of Superintendent of Excise, Sambalpur, it was noticed (September 1999) that out of the 33 outstill shops provisionally settled (May 1997) by the Collector, Sambalpur, Government approved (May 1997) settlement of 32 shops and settlement of one shop at P. Niktimal was withheld on the ground of a complaint lodged by an MLA^{**} for which the Collector was required to submit a report. As the copy of the complaint was not made available, the Collector requested (May 1997, June 1997 and November 1997) to supply a copy of the complaint to examine the facts. The copy of the complaint was made available in December 1997 and the Collector found it to be without any substance. Accordingly, Collector requested (January 1998) the Government to take a decision in view of his references as noted above. The Government finally approved (March 1998) the settlement of the shop for the remaining period of 1997-98. Delay on the

* Aska Co-operative Sugar Industry.

** Member of Legislative Assembly.

part of the Government in furnishing the copy of the complaint and further taking decision on the report (January 1998) of the Collector, the Government was deprived of revenue of Rs.8.20 lakh calculated on the basis of consideration money at the rate of Rs.0.83 lakh per month for the period from 1 June 1997 to 27 March 1998.

On being pointed out (April 2000), the Government stated (May 2000) that the delay had occurred due to time taken in verification of facts of the complaint and that it was the prerogative of the Government to grant license. The reply was not tenable in view of the facts explained above.

5.5 Non/short realisation of cost of establishment charges

As per rule 34(2) of the Board's Excise Rules, 1965, licensees of bonded foreign liquor warehouses including the warehouses of foreign liquor manufacturing and bottling plants are required to pay to Government (at the end of each month) fees for deployment of excise staff engaged in supervision of the operations carried on in such warehouses and plants.

During the course of audit of five District Excise Offices (Ganjam, Jagatsinghpur, Rayagada, Sambalpur and Sundargarh), it was noticed (between July and December 1999) that the concerned Superintendent of Excise failed to demand an amount of Rs.2.07 lakh (including Rs.1.15 lakh on account of revision of pay and allowances) towards cost of establishment charges for the period from 1995-96 to 1998-99 from 5* private bottling plants and consequently the revenue remained unrealised.

On this being pointed out in audit (between July 1999 and December 1999), all the Superintendents of Excise concerned stated (between July 1999 and December 1999) that action would be taken to realise the amount.

The matter was reported to Government (April 2000); their reply is awaited (November 2000).

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- * 1. M/s Poonam Distillery, Gopalpur
2. M/s East Coast Breweries and distillery Ltd., Paradeep.
3. M/s Castle Bottling, blending and compounding Plant, Suidihi.
4. M/s J.S.C.O., Rayagada.
5. M/s Hi-Tech Bottling Plant, Sambalpur.

CHAPTER-6 : FOREST RECEIPTS

6.1 Results of Audit

Test check of records maintained in various Forest Divisions conducted during the year 1999-2000 revealed non/short levy of dues and loss of revenue etc. amounting to Rs.43.40 crore in 2,967 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non/short levy of interest on belated payment of royalty	780	0.37
2	Non-realisation of compensation	202	7.53
3	Non-realisation of royalty	70	1.24
4	Loss of revenue due to short delivery/shortage of forest produce	1020	6.89
5	Other irregularities	894	16.39
6	Review on "Collection of Arrears of Forest Receipts"	1	10.98
Total		2967	43.40

During the course of the year 1999-2000, the department accepted under-assessment etc. of Rs.9.74 crore involved in 172 cases which had been pointed out in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.59.83 lakh and findings of review on "Collection of arrears of Forest Receipts" involving Rs.10.98 crore are mentioned in the following paragraphs.

6.2 Collection of Arrears of Forest Receipts

6.2.1 Introduction

The administration and exploitation of forest produce in Orissa is governed by the Orissa Forest Act, 1972 (Act), the Orissa Forest Department Code (Code) and rules made thereunder. The Act and Rules require the State Government (Forest and Environment Department) to annually assess and collect the forest revenue and to take adequate and prompt action including coercive measures where the dues have fallen into arrears on account of sale/disposal of various forest produce.

Exploitation of forest produce was nationalised from 1972-73 onwards. The Orissa Forest Development Corporation (OFDC), a Government of Orissa undertaking, was entrusted with the operation of major forest produce (timber, bamboo, sal seed, *kendu leaves*, etc.) of the State. Apart from the OFDC, the Orissa Tribal Development Co-operative Corporation (TDCC) and other Tribal Co-operative Societies are also allowed to operate the lease of minor forest produce particularly in predominantly tribal areas on payment of royalty at rates fixed by the Government. Private parties are permitted to take the lease of Minor Forest Produce (MFP) only.

6.2.2 Organisational Set Up

The Forest Department is headed by the Principal Chief Conservator of Forest (PCCF) and assisted by the Assistant Chief Conservator of Forest (ACCF) at the headquarters; Conservators of Forest (CF) at the circle level and Divisional Forest Officers (DFO) at the division level. There are 4 territorial forest circles and 27 territorial forest divisions in the State.

6.2.3 Scope of Audit

With a view to evaluate the efficiency of the department in ensuring collection of forest receipts, a test check of records in the offices of the PCCF, Orissa, all the 4 Forest circles*, 9 Territorial forest divisions** (out of 27 divisions) and the Forest and Environment (F&E) Department was undertaken during the period from October 1999 to April 2000. The results of the test check are discussed in the succeeding paragraphs.

* Angul, Berhampur, Koraput and Sambalpur.

** Angul, Baripada, Dhenkanal, Jeypore, Karanjia, Keonjhar, Nayagarh, Parlakhemundi and Puri.

6.2.4 Highlights

❖ Improper maintenance of essential records led to under-reporting of arrears of Rs.5.12 crore to the Government.

{para 6.2.6}

❖ Arrears of Rs.2.85 crore were pending for want of details of properties, addresses etc., of defaulters in 580 cases, lack of pursuance with certificate courts in 527 cases and non-institution of certificate proceedings in one case.

{para 6.2.7(A)(a,b,c & d)}

❖ Steps were not taken by the department to recover arrears of Rs.55.66 crore pending from OFDC.

{para 6.2.7 (B)(i)}

❖ Non-finalisation of rate of royalty on sal seed for the years 1992 to 1994 resulted in increase of arrears of Rs.89 lakh against OFDC.

{para 6.2.7 (B)(iii)}

6.2.5 Trend of Collection of Forest Receipts

Forest revenue is derived mainly from sale of timber, bamboo, sal seed, *kendu leaves* and other MFP items. In addition, compensation, fines and forfeitures are charged for unauthorised and illicit felling of trees belonging to the department.

The trend of collection of forest revenue vis-à-vis the budget estimates during the last 6 years (1994-95 to 1999-2000) was as under:

(Rupees in crore)				
Year	Budget Estimate	Revenue realised	Variations	Percentage of variation
1994-95	127.21	118.80	(-) 8.41	(-) 6.61
1995-96	132.21	68.26	(-) 63.95	(-) 48.37
1996-97	120.00	76.21	(-) 43.79	(-) 36.49
1997-98	105.00	73.29	(-) 31.71	(-) 30.20
1998-99	115.00	87.30	(-) 27.70	(-) 24.09
1999-2000	110.00	95.39	(-) 14.61	(-) 13.28

As would be seen from the above, the shortfall in collection of revenue varied from 6.61 to 48.37 per cent during the years 1994-95 to 1999-2000.

The PCCF attributed (December 1999) the shortfall in collection of revenue to irregular payment of dues by the OFDC/TDCC and other agencies.

As reported by the PCCF (December 1999), the target of collection of arrears and actual collection thereagainst (excluding *kendu leaves*) during the years 1994-95 to 1998-99 was as under:

(Rupees in crore)

Year	Arrears estimated for collection	Actual collection of arrears	Percentage of collection to arrears
1994-95	40.69	2.92	7
1995-96	39.96	5.19	13
1996-97	47.68	2.76	6
1997-98	58.43	12.92	22
1998-99	49.50	2.48	5

It would be seen from above that the percentage of collection of arrears was very minimal i.e. ranging between 5 and 22 *per cent* during the period 1994-95 to 1998-99.

Government attributed (September 2000) the increase in uncollected revenue to non-payment of royalty by OFDC and TDCC. It was stated that departmental action was being taken to review the progress of collection of arrears.

6.2.6 Under-reporting of Arrears

Under the provisions of Orissa Forest Department Code, an abstract of outstanding Demand, Collection and Balance (DCB) is required to be submitted quarterly by the DFOs to the CF. The CF is required to review the position and send the same to the PCCF who in turn shall submit the figures to the Government.

Scrutiny of the DCB statement furnished by the PCCF (October 1999) revealed that the total outstanding forest revenue up to the end of March 1999 was Rs.60.34 crore. However, the year-wise breakup of these outstanding revenue was not furnished to audit. Test check of records of 4 CsF (March 2000) revealed that the total arrear dues against various agencies as on 31 March 1999 were Rs.65.46 crore resulting in under-reporting of arrears of Rs.5.12 crore by the PCCF to the Government. Further, scrutiny of records in 9 DFOs test checked, 4 CsF and PCCF revealed as under:

(Rupees in crore)

Name of the Division	Divisional figures	CF figures	PCCF figures
Angul	1.95	1.95	2.28
Baripada	1.20	1.20	1.17
Dhenkanal	1.48	1.48	1.48
Jeypore	9.17	9.09	8.44
Keonjhar	1.16	1.16	1.14
Karanjia	2.13	2.13	2.56
Nayagarh	1.04	1.04	1.04
Parlakhemundi	1.40	1.40	1.44
Puri	1.99	1.99	1.98
Total	21.52	21.44	21.53

There was variation in the figures of arrears reported between the DCB statement compiled by the PCCF and compiled statements furnished by the CsF in respect of seven[▲] out of 9 divisions. Further, in Jeypore division, there was a discrepancy of Rs.8 lakh between the divisional figure and CF figure due to under-reporting of arrear of Rs.8 lakh under sal seed and bamboo by the DFO, Jeypore to the CF, Koraput.

In response to an audit enquiry, PCCF stated (August 2000) that such discrepancies arose due to non-intimation of correct figures by the divisions concerned and that steps would be taken to reconcile the discrepancies after obtaining the revised figures from the divisions. The DCB register of the PCCF was also not made up-to-date beyond March 1997. As a result, the authenticity of the figures could not be vouched in audit.

6.2.7 Analysis of Arrears

The PCCF/Forest and Environment Department did not furnish the year wise/agency-wise details of the uncollected forest receipts (Rs.60.34 crore) as on 31 March 1999. However, information compiled by audit in respect of 4 CsF revealed as under:

(Rupees in crore)

Name of the Agencies	More than 10 years	Period of Pendency			Grand Total
		Less than 10 years			
		5-10 years	3-5 years	1-3 years	
Contractual Agencies	2.78* (2403 cases)	0.26 (49 cases)	0.08 (21 cases)	0.04 (21 cases)	3.16 (2494 cases)
OFDC	3.51	15.33	6.28	30.54	55.66
TDCC	0.67	1.69	0.73	0.63	3.72
Other Tribal Co-op. Societies	0.02	0.05	0.02	0.06	0.15
Other Government Departments	0.51	0.05	0.03	0.16	0.75
Paper Mills	2.02 (2 cases)	--			2.02 (2 cases)
Total	9.51	17.38	7.14	31.43	65.46

Out of 2,494 cases involving revenue of Rs.3.16 crore pertaining to contractual agencies, 1,548 cases involving Rs.1.19 crore were pending in different certificate courts for recovery as arrears of land revenue and the balance 946 cases involving Rs.1.97 crore were pending with the departmental authorities without any action for want of correct address and property statements of the defaulting contractors. Further, OFDC also accounted for 85 per cent of the total dues.

▲ Angul, Baripada, Jeypore, Keonjhar, Karanjia, Parlakhemundi and Puri.

1778 cases involving Rs.1.30 crore were between 20 to 30 years and above old and 625 cases involving Rs.1.48 crore were between 10 to 20 years old.

Failure of the department to realise Government dues by invoking recovery proceedings and other modes resulted in accumulation of arrears. A few illustrative cases are given below.

(A) Contractual Agencies

(a) Time barred cases pending with the Department

In terms of erstwhile Forest, Fisheries and Animal Husbandry Department Notification No.11145 dated 12 August 1972, all arrears of forest revenue should be realised from the defaulting contractors within 30 years by instituting certificate cases as per provisions of the Orissa Public Demand Recovery (OPDR) Act. Non-institution of certificate cases within 30 years is barred by limitations under Article 112 of Orissa Limitations Act, 1963.

Test check of 8 forest divisions[#] revealed that certificate cases were not instituted within the prescribed period of 30 years in 136 cases relating to period from 1947-48 to 1968-69 involving revenue of Rs.7.29 lakh and interest of Rs.15.94 lakh due to want of correct address and property statement of the defaulting contractors.

Government accepted (September 2000) the audit observation and confirmed that certificate cases were not instituted due to non-availability of property details of the defaulting contractors.

(b) Collection of arrears held under certificate proceedings

Under Section-87 of Orissa Forest Act 1972, Government revenue may be realised as arrears of land revenue through certificate proceedings. Test check of records of 9 forest divisions revealed that out of 1107 cases, 527 cases involving arrear dues of Rs.27.31 lakh and interest of Rs.59.19 lakh pertaining to the period from 1946-47 to 1996-97 were pending in different certificate courts for realisation. This resulted in non-realisation of arrears of Rs.86.50 lakh.

Government while accepting (September 2000) the audit observations attributed the delay to factors like death of the defaulting contractors and transfer of their property to their legal heirs, shifting of defaulters to outside State, etc. It was added that action was being taken for time-bound disposal of such cases.

(c) Cases pending with the departmental authorities

It was noticed that 444 cases involving Government revenue of Rs 45.76 lakh and interest of Rs.48.28 lakh pertaining to the period between 1969-70 and 1998-99 were pending with the

[#] Angul, Baripada, Dhenkanal, Keonjhar, Karanjia, Nayagarh, Paralakhemundi and Puri.

DFOs without institution of certificate cases for want of correct address and property statement of the defaulting contractors resulting in blockage of Government revenue.

Government stated (September 2000) that the DFOs were being instructed to institute certificate cases where these were still within the time limit after collecting requisite information or to submit proposals for write-off.

(d) Non-collection of revenue from a private firm

A private firm was appointed by Government as an agent for collection and utilisation of MFP items in the State for a period of 10 years from 1 October 1990 to 30 September 2000. An agreement was executed (April 1992) with the firm with the stipulation that the firm should pay 50 per cent of the minimum royalty at the beginning of the lease year and balance 50 per cent by 31 March.

Scrutiny of records of the PCCF Orissa revealed (February 2000) that the firm became a defaulter in making payment of royalty. Barring a few occasions, it could not pay the royalty on the due dates and failed to clear the dues from 1993-94 onwards. Even 50 per cent of the minimum royalty could not be cleared up from 1995-96 onwards and the quantum of non-payment increased from 1996-97 onwards. Consequently the agreement with the firm was terminated (October 1998). However, certificate proceedings were not instituted for recovery of the outstanding dues of Rs.73.14 lakh out of total dues of Rs.213.87 lakh and interest of Rs.8.44 lakh (up to September 1998) at the rate of 6.25 per cent per annum from 1993-94. Even after termination of the agreement, the security deposit of Rs.5.32 lakh deposited by the firm in shape of promissory notes had not been revoked.

On this being pointed out (February 2000) in audit, the PCCF stated (February 2000) that the DFO, Sambalpur had been authorised (February 2000) to initiate certificate proceedings against the firm for realisation of outstanding dues alongwith interest.

(B) Orissa Forest Development Corporation

(i) Pendency of arrears due to lack of proper action by the department

Under Section-3 (9)(iv) of the Orissa Forest Produce (Control of Trade) Rules, 1983, any Government dues if not paid within 15 days from the date of notice of the DFO is recoverable as a public demand under the provisions of the Orissa Public Demand Recovery Act, 1962.

It was noticed that arrear dues of Rs.55.66 crore up to the end of March 1999 (85 per cent of the total dues) had remained unpaid by the Corporation for periods ranging from more than 10 years to 1 year.

On this being pointed out the PCCF and Government stated (September 2000) that departmental action was being taken to review the progress of collection of arrears. Further report is awaited (November 2000).

(ii) Non-realisation of interest

Under Rule 42 of the Orissa Forest Contract Rules, 1966 read with Government (F&E Department) order of February 1977, the OFDC is liable to pay interest at the rate 6.25 per cent per annum, if it fails to pay the royalty within the stipulated period. The TDCC is also liable to pay interest at the above rate on MFP items.

Test check of records of 9 divisions revealed (between October 1999 and March 2000) that against the interest of Rs.1.40 crore leviable on the arrear dues of Rs.5.72 crore against OFDC/TDCC for the period from 1978-79 to 1998-99, interest of Rs.19 lakh only was levied by the department. No interest had been paid so far. This resulted in non-realisation of interest of Rs.19 lakh besides under-assessment of interest of Rs.1.21 crore.

On being pointed out, the Government stated (September 2000) that action was being taken to collect the dues. Further report on recovery is awaited (November 2000).

(iii) Non-finalisation of rate of royalty on sal seed

Under the provisions of the Orissa Forest Produce (Control of Trade) Act, 1981, the OFDC had been appointed as an agent for collection of and trade in sal seed in the State on payment of royalty as fixed by the Government from year to year.

Scrutiny of records of the PCCF (December 1999) revealed that the OFDC collected 88316.685 metric ton of sal seed during 1992 to 1994. The rate of royalty for the same was however not finalised by Government. The OFDC had represented to Government for fixation of rate of royalty at reduced rate as they had sustained heavy loss in sal seed trade in these years. Accordingly, Government sought (March 1998) certain information such as total quantity of sal seed collected, cost of collection, disposal of stock etc. from the OFDC which was furnished in July 1999. The PCCF had thereafter assessed the rate of royalty for these years as detailed below:

(Rupees in crore)					
Year	Quantity Collected (in MT)	Rate (in rupees) per MT (proposed by the PCCF)	Total amount payable	Amount paid by the OFDC (provisionally)	Balance to be paid
1992/1993	65505.804	152.66	1.00	1.00	--
1994	22810.881	389.01	0.89	--	0.89
Total	88316.685		1.89	1.00	0.89

Thus, non-finalisation of rates of royalty led to blockage of Government revenue of Rs.89 lakh resulting in increase of arrears.

On being pointed out, the Government stated (September 2000) that the matter was pending for decision.

(iv) Blockade of revenue with OFDC

As per Rule 240 of the Orissa Forest Department Code, no lease should be granted to OFDC without prior fixation of royalty. The Orissa Forest Contract Rules, 1966 envisage that a contractor shall be responsible for losses by reason of any wrongful act by a third party or natural calamity and shall not claim reduction of the sums payable under the contract.

Scrutiny of records of CF, Koraput (March 2000) revealed that Government revenue of Rs.71.70 lakh was pending with OFDC as disputed demand for periods ranging from 4 to 10 years or more. This included (i) Rs.20 lakh being royalty on 1212 units of timber lifted by OFDC during the year 1993-94 pending finalisation of rates of royalty at Government level; (ii) Rs.3 lakh being royalty on 16,052 cft of timber lifted by OFDC during the year 1995-96 which remained unpaid by OFDC due to disagreement over rates of royalty and (iii) Rs.33 lakh under Kalahandi division and Rs.16 lakh under Nawarangpur division towards royalty on timber etc. not lifted by OFDC on plea of non-availability of the same on the site as detailed below:

Name of the Division	Year	Quantity offered (in cft)	Quantity lifted (in cft)	Balance not lifted (in cft)	Royalty payable (Rupees in lakh)
Kalahandi	Up to 1989-90	19228 3143 units	5031	14197 3143 units	25.00
	1990-91	1501	790	711	0.40
	1991-92	51086	42916	8170	5.20
	1992-93	719	301	418	0.60
	1993-94	3787 1212 units	413 1212 units	3374	22.10
	1995-96	16052	16052	--	2.90
Nawarangpur	Up to 1989-90	12176	3322	8854	6.80
	1990-91	10690	7229	3461	4.60
	1991-92	3420	430	2990	2.80
	1992-93	844	--	844	1.30
Total		119503 4355 units	76484 1212 units	43019 3143 units	71.70

Note: - In case of standing trees, volume of timber is estimated on 'unit' basis, whereas, in case of felled trees, actual volume of timber is quantified on cubic feet (cft) basis.

On being pointed out, the Government stated (September 2000) that OFDC was liable to pay royalty as finalised by the Government along with interest for belated payment and responsible for not lifting of timber in Kalahandi and Nawarangpur Divisions.

6.2.8 Conclusion

Failure on the part of the Government to realise the arrear dues from OFDC, non-finalisation of certificate cases against the private contractors and improper maintenance of records led to loss or non-realisation of Government dues of Rs.10.98 crore which constituted 18 per cent of the total accumulated arrears of Rs.60.34 crore. Further, lack of effective centralised machinery for efficient monitoring of receipts of royalty and progress of exploitation operations in the field worsened the position of arrears.

Government stated (September 2000) that based on the audit observations the PCCF had suggested creation of a recovery cell and that necessary action was being taken to monitor recovery of arrear dues in a systematic manner so as to minimise arrears of revenue.

6.3 Blockade of revenue due to non-disposal of timber seized in undetected forest offence cases

Government instructed (July 1989) for early disposal of timber seized in undetected (UD) forest offence cases either by prompt delivery to the Orissa Forest Development Corporation (OFDC) or by public auction in order to avoid loss of revenue due to deterioration in quality and value of such goods. Under the provision of Orissa Forest Act, 1972, the timber seized in other forest offence cases which were under process of prosecution could be disposed of under interim orders of the Magistrate.

During the course of audit of 6 forest divisions, it was noticed (between May 1999 and September 1999) that 12,780.20 cft of timber valued at Rs.41 lakh on the basis of rates prescribed by the department for the year 1998-99, salvaged in 443 UD offence cases between 1990-91 and 1998-99 was not disposed of till the date of audit as detailed below:

(Rupees in lakh)

Sl. No.	Name of the Division	No. of UD cases and year					Total	Quantity of timber in cft pending disposal	Value of timber
		1990-91	1995-96	1996-97	1997-98	1998-99			
1	Angul	-	-	-	-	165	165	8246	31.50
2	Dhenkanal	-	2	8	14	47	71	1015	1.80
3	Ghumsur(s)	-	-	12	5	22	39	348	0.50
4	Keonjhar	2	1	7	15	43	68	1264	1.80
5	Nayagarh	-	-	-	3	56	59	1473	4.10
6	Sambalpur	-	-	10	6	25	41	434	1.30
Total		2	3	37	43	358	443	12780	41.00

On this being pointed out in audit, the concerned DFOs (except Sambalpur) stated that 7573 cft of timber (170 cases) valued at Rs.28.30 lakh have been delivered to OFDC for disposal and timber 947 cft (60 cases) valued at Rs.1.40 lakh was sold through auction realising an amount of Rs.1.30 lakh. Disposal of balance quantity of 4260 cft in 213 cases was yet to be done.

The matter was reported to Government (May 2000); their reply is awaited (November 2000).

6.4 Non-levy of interest on belated payment of royalty

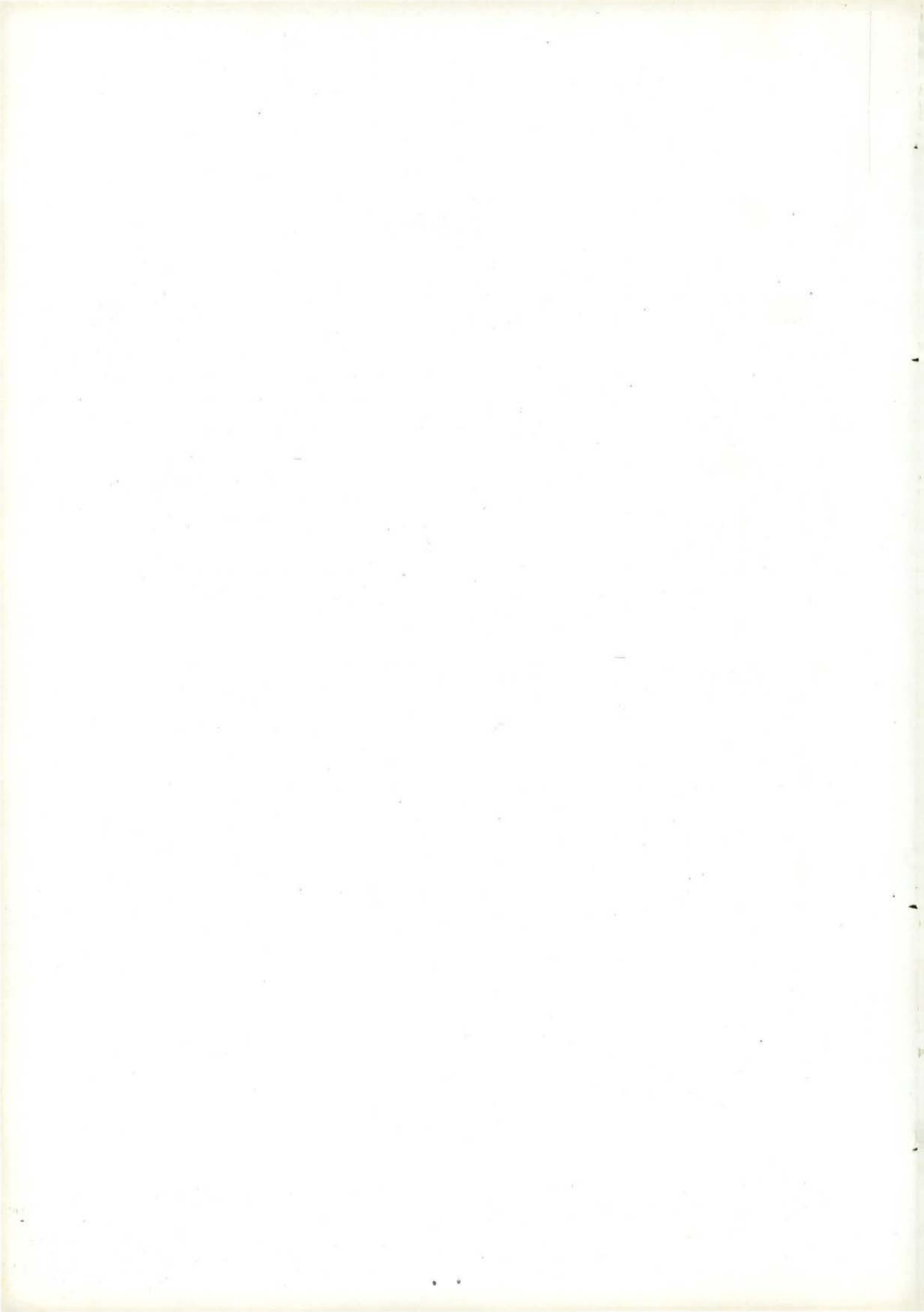
Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of consideration money for sale of forest coupe(s) by the due date, he is liable to pay interest at the rate of 6.25 *per cent* per annum on the instalments in default. These provisions were also applicable to Orissa Forest Development Corporation who acts as a contractor.

During the course of audit of 10* forest divisions (between July 1999 and January 2000), it was noticed that the OFDC had defaulted in payment of royalty of Rs.2.06 crore in case of 402 divisional lots relating to the years 1986-87 to 1997-98, but interest amounting to Rs.18.83 lakh was not levied.

On this being pointed out in audit (between July 1999 to January 2000), the Divisional Forest Officer (DFO), Athagarh raised (September 1999) demand of Rs.0.42 lakh while other DFOs stated (July 1999 to January 2000) that action would be taken to raise the demand.

The matter was reported to Government (May 2000); their reply is awaited (November 2000).

* Athagarh, Athamallick, Bamra, Bonai, Bolangir, Deogarh, Jeypore, Karanjia, Sambalpur and Sundargarh.



CHAPTER-7 : MINING RECEIPTS

7.1 Results of Audit

Test check of records maintained in the mining offices conducted during the year 1999-2000 revealed non/short levy, non/short realisation of royalty, non/short-recovery of interest and others amounting to Rs.6.62 crore in 248 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non/short levy of royalty/surface rent/dead rent	06	1.26
2	Non/short realisation of surface rent/royalty	20	1.30
3	Non/short recovery of interest	15	0.58
4	Miscellaneous	207	3.48
Total		248	6.62

During the course of the year 1999-2000, the department accepted under-assessment of Rs.0.72 crore in 28 cases which had been pointed out by audit in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.2.00 crore are mentioned in the following paragraphs.

7.2 Short levy of royalty due to beneficiation/processing of ore

Under section 9 of the Mines and Minerals (Regulation and Development) Act, 1957, the holder of a mining lease is liable to pay royalty in respect of any minerals removed or consumed from the leasehold area at the rates specified in the Act. No loss or wastage is admissible during the process of beneficiation of the ore under the Act *ibid*. As per the extant provisions, a lessee carrying on beneficiation of minerals is required to file monthly returns in Form A(1) and submit the results of beneficiation including quantity issued for beneficiation on which royalty is leviable at specified rate.

(a) During the course of audit of Joda mining circle, it was noticed (between December 1999 and May 2000) from the A(1) returns that 8 lessees had fed 46,54,659.160 MT of high grade lump iron ore to the beneficiation/processing plant for sizing and recovered therefrom 45,30,716.120 MT of lump and fine ores of different grades during the period from 1992-93 to 1998-99 and the lessees deposited the royalty on the quantity recovered after processing the iron ore instead on the quantity (of respective grades) removed from the seam. However, the assessing authority failed to detect the short payment. This resulted in short realisation of royalty of Rs.1.07 crore calculated at the differential quantity and rate.

On this being pointed out (May 2000), the Government stated (August 2000) that the demand of Rs.1.07 crore had been raised against the lessees.

(b) During the course of audit of 4 mining circles (Baripada, Joda, Koira and Rourkela), it was noticed (between July 1999 and February 2000) that 7 lessees had paid royalty on 40,70,924.350 MT of processed ore* during the period from April 1993 to March 1999 instead of royalty on 43,37,889.719 MT of unprocessed ore in contravention of the provisions of the Act which resulted in non-levy of royalty of Rs.33.59 lakh.

On this being pointed out (May 2000), Government stated (August 2000) that Rs.9.08 lakh had been realised and action was taken to realise the balance amount of Rs.24.51 lakh. Further reply is awaited (November 2000).

7.3 Non-levy of interest

(i) As per Cess and Other Taxes on Minerals (Validation) Act (16 of 1992), the levy of cess on minerals remained in force up to 4 April 1991. In accordance with the provisions of the Validation Act, the State Government instructed the concerned assessing officers (between November 1992 and May 1994) to recover the outstanding amount of cess dues in

* China clay, iron, limestone and dolomite.

instalments from the lessees with the condition that the principal amount of cess would carry interest as specified in section 12 of the Orissa Cess Act, 1962. Further it was judicially held[⊗] that the levy of cess up to 4 April 1991 was valid and lawful.

During the course of audit of Sambalpur and Talcher mining circles, it was noticed (between October 1999 and January 2000) that interest amounting to Rs.42.82 lakh (at the rate of 6 *per cent* per annum up to 26 November 1992 and at 12 *per cent* per annum thereafter) on belated payment of cess on mining dues during the period 1992-93 to 1998-99 was not levied on 3 lessees viz. M/s Industrial Development Corporation Ltd. (Rs.40.24 lakh), M/s Ferro Alloys Corporation Ltd. (Rs.2.49 lakh) and M/s Orissa Mining Corporation Ltd. (Rs.0.09 lakh). The delay ranged between 1 and 7 years.

On this being pointed out (January 2000) in audit, Government stated (August 2000) that a demand of Rs.42.82 lakh had been raised against the lessees. Report on realisation is awaited (November 2000).

(ii) In terms of the Mineral Concession Rules, 1960 as amended in 1991, in case of belated payment of dead rent, royalty or other Government dues, simple interest at the rate of 24 *per cent* per annum on the amount in default shall be charged from the sixtieth day of the expiry of the due date till the default continues.

During the course of audit of four mining circles (Baripada, Keonjhar, Koira and Talcher), it was noticed (between August 1999 and March 2000) that interest amounting to Rs.14.75 lakh on belated payment of royalty was not levied from 8 lessees for the period from 1994-95 to 1998-99.

On this being pointed out in audit (May 2000), Government stated (August 2000) that Rs.6.74 lakh had been realised and for the balance amount of Rs.8.01 lakh was under process of recovery. Report on realisation is awaited (November 2000).

7.4 Non-realisation of surface rent

As per the Coal Bearing Areas (Acquisition and Development) Act, 1957 and Mineral Concession Rules, 1960, companies who are lessees of the State Government in respect of collieries operated by them are liable to pay surface rent fixed by Government from time to time alongwith interest.

⊗ Judgement of Hon'ble Supreme Court in civil Appeal No.9847 in case of P. Kannadasan Vs. State of Tamilnadu dt.26.07.96-AIR-1996.S.C.2560.

During the course of audit of two mining circles (Rourkela and Talcher), it was noticed (January 2000) that a sum of Rs.1.78 lakh (surface rent Rs.1.57 lakh and interest Rs.0.21 lakh) for the period April 1998 to March 1999 was not realised from the lessee (M/s Mahanadi Coalfields Ltd.) in respect of mines operated by them.

On this being pointed out the Government stated (August 2000) that the demand of Rs.1.78 lakh had been raised against the lessee. Report on realisation is awaited (November 2000).

CHAPTER-8 : OTHER DEPARTMENTAL RECEIPTS

8.1 Results of Audit

Test check of assessment records and other connected documents pertaining to departmental receipts in the Departments of Food, Supplies and Consumer Welfare, Co-operation, Energy, General Administration, Commerce and Transport, Welfare, Textile and Handloom alongwith Department of Finance revealed non/short levy/loss of duties/fees etc. amounting to Rs.91.07 crore in 3,45,704 cases which may broadly be categorised as under:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Loss of revenue	3,42,101	0.43
2	Non/short levy of revenue	1,048	28.56
3	Other irregularities	2,554	30.70
4	Review on "Assessment and Collection of Electricity Duty"	1	31.38
Total		3,45,704	91.07

During the course of the year 1999-2000, the concerned departments accepted short/non-levy and loss of revenue etc. of Rs.10.53 crore in 24,152 cases out of which 9 cases involving Rs.0.30 lakh were pointed out during the year 1999-2000 and the rest in earlier years.

A few illustrative cases highlighting important audit observations involving Rs.6.71 crore and findings of a review on "Assessment and Collection of Electricity Duty" involving Rs.31.38 crore are mentioned in the following paragraphs.

8.2 Assessment and Collection of Electricity Duty

8.2.1 Introductory

Levy and collection of Electricity Duty (ED) on consumption of energy in Orissa is regulated by the Orissa Electricity (Duty) Act, 1961 (OED Act) and rules made thereunder. Accordingly, the Orissa State Electricity Board (OSEB) and every licensee in the non-captive¹ sector and licensees generating energy for their own consumption in the captive² sector have the statutory obligation to collect ED from the consumers or itself at the prescribed rates alongwith its own monthly charges for energy supplied, consumed and deposit the same into Government account within thirty days of the expiry of the month in which the ED has been realised and furnish monthly returns in the prescribed form.

8.2.2 Organisational set up

The Chief Electrical Inspector (CEI) who functions under the Energy Department is responsible for administering the Act and ensuring that ED is levied and collected as per the provisions of the Act. He is assisted by three Electrical Inspectors at Zonal³ level and Inspecting Officers posted at headquarters alongwith 43 Executive Engineers heading the Electrical Divisions. Levy and collection of ED in the non-captive sector was done by the erstwhile OSEB through its forty three Electrical Divisions upto March 1996 and this function was taken over by the Grid Corporation of Orissa (GRIDCO). Later GRIDCO transferred (April/September 1999) the functions of distribution of energy to four⁴ private distribution companies which are now responsible for levy and collection of ED through the same forty three Electrical Divisions.

8.2.3 Scope of Audit

A review was conducted during the period from November 1999 to February 2000 to evaluate the efficiency and effectiveness of collection of ED as per the provisions of the OED Act and the rules made thereunder for the period from 1994-95 to 1998-99 in the office of the CEI, three zonal offices, GRIDCO and eight⁵ out of 43 electrical divisions.

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- 1 Non-captive sector means the sector which distributed energy to the consumers, collects ED from the consumers and remit the same to the Government.
 - 2 Captive sector means the sector who generated energy for his own use and consumption and pays ED direct to the Government.
 - 3 Berhampur, Bhubaneswar and Rourkela.
 - 4 Central, Northern, Southern, and Western Electricity Supply Company.
 - 5 Berhampur, Cuttack, Dhenkanal, Jeypore, Rajgangpur, Rourkela, Rayagada and Talcher.

8.2.4 Highlights

❖ Certificate cases were not initiated for realisation of Electricity Duty of Rs.9.70 crore from consumers whose power supply was disconnected.

{Para 8.2.7.1}

❖ Government was deprived of revenue of Rs.5.34 crore due to failure of the GRIDCO to adjust Electricity Duty as per the provisions of the OED Act out of collection from consumers.

{Para 8.2.7.3}

❖ Arrears of Electricity Duty of Rs.1.44 crore were pending for a period ranging from 2 years to 11 years due to lackadaisical approach of the department.

{Para 8.2.7.4}

❖ There was loss of revenue of Rs.17.17 crore on account of incorrect grant of exemption.

{Para 8.2.7.7(i)(ii)}

8.2.5 Trend of revenue

Receipts from Electricity Duty during the last six years ending March 2000 vis-à-vis the Budget Estimates were as under :

(Rupees in crore)

Year	Budget Estimates			Amount collected and deposited into Govt. account			Variations Increase(+) Shortfall (-)		Percentage of variation	
	Non-captive	Captive	Total	Non-captive	Captive	Total	Non-captive	Captive	Non-captive	Captive
1994-95	84.42	44.62	129.04	46.92	52.11	99.03	(-)37.50	(+)07.49	(-)44.42	(+)16.78
1995-96	88.64	46.85	135.49	62.84	55.21	118.05	(-)25.80	(+)08.36	(-)29.10	(+)17.84
1996-97	113.93	49.19	163.12	56.88	61.56	118.44	(-)57.05	(+)12.37	(-)50.07	(+)25.14
1997-98	77.17	60.00	137.17	62.39	63.33	125.72	(-)14.78	(+)03.33	(-)19.15	(+)05.55
1998-99	73.39	65.50	138.89	53.68	54.56	108.24	(-)19.71	(-)10.94	(-)26.85	(-)16.70
1999-2000	81.12	68.77	149.89	49.24	76.61	125.85	(-)31.88	(+)07.84	(-)39.29	(+)11.40

It would be seen from the above that the shortfall in collection of ED with reference to Budget Estimates (BE) was mainly under non-captive sector. The CEI stated (November 1999) that the target in the BE in the non-captive sector was fixed taking into account fifty *per cent* of the accumulated arrears of previous year plus the projected demand during the year. However, break up of figures of collection against age-wise arrears and

current demand was not available with the Department. Delay in adjustment/remittance of ED by GRIDCO out of the collections made from the consumers also contributed for the shortfall in collections vis-à-vis the revenue forecast in the budget estimate as discussed subsequently in this review.

8.2.6 Arrears of Electricity Duty

The position of arrears of ED pending for collection in non-captive and captive sectors as at the end of 1994-95 to 1998-99 was as under:

(Rupees in crore)			
Year	Non-Captive	Captive	Total
1994-95	70.41	16.54	86.95
1995-96	72.41	26.17	98.58
1996-97	82.77	09.48	92.25
1997-98	94.43	09.12	103.55
1998-99	104.16	10.51	114.67

The CEI has not maintained the records in support of year wise analysis of the arrears and hence the age-wise analysis of arrears could not be ascertained.

Test check of records of CEI revealed that Rs.118.82 crore was due from GRIDCO as on 31 March 1999. However, GRIDCO reported the outstanding ED due for collection as only Rs.104.16 crore on that date. Thus, there is a difference of Rs.14.66 crore in two sets of accounts maintained by the CEI and the GRIDCO.

On this being pointed out (May 2000), Government stated (June 2000) that the reconciliation of ED accounts relating to non-captive sector upto 1997-98 had since been made. Reconciliation for the year 1998-99 was yet to be done.

8.2.7 Analysis of collection of ED in Non-Captive Sector

The position of assessment and collection of ED by GRIDCO (erstwhile OSEB) during the last five years in respect of non-captive sector was as under:

(Rupees in crore)							
Year	Arrears outstanding with consumers at the beginning of the year	Assessment during the year	Refund by adjustment	Total amount due for collection	ED collected	Amount outstanding at the end of the year	Percentage of collection
1994-95	57.08	59.83	2.09	114.82	44.41	70.41	38.67
1995-96	70.41	64.94	4.64	130.71	58.30	72.41	44.60
1996-97	72.41	68.06	0.64	139.83	57.06	82.77	40.80
1997-98	82.77	73.49	0.92	155.34	60.91	94.43	39.21
1998-99	94.43	78.07*	NA	172.50	53.68	118.82	31.11

* As reported by CEI in July 1999.

It would be seen from above that the percentage of collection against the demand had steadily decreased from 44.60 *per cent* in 1995-96 to 31.11 *per cent* in 1998-99 and the arrears pending for collection increased from Rs.70.41 crore to Rs.118.82 crore representing a 68.75 *per cent* increase during the five years from 1994-95 to 1998-99.

The shortfall in collection of arrears was mainly on account of relaxations allowed to the consumers viz. non-disconnection of power supply despite non-payment/part-payment of the monthly dues and lackadaisical approach in taking firm and conclusive action under Orissa Public Demand Recovery Act, 1962 (OPDR Act).

8.2.7.1 Non-institution of certificate cases

Under Section 5(3) of the OED Act, where any consumer fails or neglects to pay ED due from him within the prescribed time, the licensee shall disconnect the power supply of the consumer. Further under Section 10 of the OED Act and rules made thereunder, the CEI shall inspect the books of account and returns submitted by a licensee, apply a detailed test regarding the levy of ED and send written requisitions to the certificate officer for realisation of arrears of ED under the provisions of the OPDR Act.

Cross verification of records of CEI with GRIDCO revealed that power supply was disconnected by the GRIDCO for non-payment of ED of Rs.8.09 crore pending for collection as of March 1997. Test check of records in 67 cases involving arrears of ED of Rs.1.61 crore revealed that though GRIDCO disconnected the power supply as of March 1999, action was not taken by the CEI for instituting certificate cases for recovery of the outstanding dues from the defaulting consumers as depicted below:

(Rupees in crore)

No. of consumers	Month of disconnection	Amount of ED outstanding
20	March 1998	0.81
6	October 1998	0.22
26	November 1998	0.49
15	March 1999	0.09
Total		1.61

On this being pointed out, Government stated (June 2000) that initiation of certificate proceedings by the CEI does not arise as distribution companies are responsible for collection of ED. The reply of the Government is not tenable since the OED Act and rules made thereunder empowered the CEI to recover the arrears of ED by instituting certificate cases against defaulting consumers.

8.2.7.2 Non-disconnection of power supply despite arrears

Test check of demand and collection register revealed that though progressive arrears aggregating Rs.391.29 lakh as of March 1999 were pending for realisation in respect of

36 consumers (having contract demand of 100 KW and above) their power supply was not disconnected. The arrear dues against them ranged between Rs.0.95 lakh and Rs.28.79 lakh. Detailed check of month of March 1999 revealed that while the demands for the month varied from Rs.0.03 lakh to Rs.12.33 lakh, the corresponding realisation ranged upto Rs.6.31 lakh. However, the CEI on receipt of monthly returns had neither analysed the position of demand and collection of ED from the consumers nor directed GRIDCO for disconnection of power supply of the defaulting consumers.

8.2.7.3 Non-adjustment/remittance of ED

Under Section 5(2) of the OED Act, the ED and the interest, if any, shall be the first charge on the amount recoverable by the licensee for the energy supplied by him and shall be a debt due by him to the State Government. Further Section 11(c) of the OED Act provides that if any person contravenes any rules under the Act, he shall be guilty of an offence triable by a Magistrate and on conviction shall be liable to punishment with imprisonment or with fine or with both. The OSEB (General Supply) Regulations, 1995, provide for adjustment of proportionate share of ED in case of part payment by the consumer.

Scrutiny of register of demand and collection in respect of 341 consumers having contract demand of 100 KW and above for the month of March 1998, October 1998, November 1998 and March 1999 revealed non-payment of ED of Rs.5.34 crore by the GRIDCO in the following cases:

(Rupees in crore)

No. of divisions	No. of consumers	Arrear demand		Amount collected and adjusted		ED recoverable/adjustable	ED short adjusted/remitted
		EC	ED	EC	ED		
33	245	121.75	4.46	18.45	Nil	3.54	3.54
31	62	45.81	6.54	26.73	1.32	3.01	1.69
7	34	1.88	0.11	1.99	Nil	0.11	0.11
Total	341						5.34

On this being pointed out in audit, the CEI stated (November 1999) that though GRIDCO had not acted as per the provisions of the OED Act, no coercive action could be taken. The reply was not tenable as no action to take recourse to the penal action of the OED Act as mentioned above had been instituted for recovery of dues.

8.2.7.4 Lackadaisical approach in realisation of ED from the defaulters

Review of records of GRIDCO revealed that the Corporation has neither maintained the details of demands outstanding party-wise and age-wise nor pursued the collection of ED in individual high value cases pending for collection. While certifying the accounts (1997-98) of GRIDCO, the non-maintenance of records showing age-wise and party-wise details had been commented upon by the statutory auditors.

Details of cases test checked (January 2000 to February 2000) in audit where arrears of ED were pending for more than two years to eleven years and reasons therefor are mentioned below:

Sl.No.	Name of the Electrical Division	Name of the Consumer	Period of Dues	Amount [Rs. in lakh]	Remarks
1	RED, Rayagada	Jeypore Sugar Company Limited	April 1993 to May 1996	50.50	Power supply was disconnected in May 1996 and certificate case was not initiated even after a lapse of four years.
2	KED, Khurda	Utkal Weavers Co-op. Spinning Mill	1992-93 to 1997-98	32.80	Power supply was disconnected in March 1998 after a lapse of 6 years of default. No action taken for recovery of the dues.
3	CED, Cuttack	Titagarh Paper Mill	November 1988 to September 1992	17.80	The Unit was taken over by another company (i.e. BILT) in April 1991 but no action was taken to realise the dues from the new company.
4	CED, Cuttack	Indian Charge Chrome Limited	March 1990 to January 1996	17.70	Power supply was not disconnected even after non-payment of dues for more than ten years.
5	RED, Rairangpur	Indian Carbide and Chemicals	Upto March 1995	9.60	Power supply was disconnected in March 1995. Certificate case was not instituted even after five years.
6	JED, Jeypore	Hanuman Works Private Limited	Upto January 1993	5.10	Power supply was disconnected in January 1993. But certificate case was not instituted even after 7 years.
7	JED, Jeypore	BTW Industries	Upto October 1997	3.50	Power supply disconnected by October 1997 in two cases. But certificate case was not instituted even after 3 years.
8	JED, Jeypore	Executive Engineer, Andhra Pradesh Power House	Upto September 1996	3.30	Power supply was disconnected in June 1996. But certificate case was not instituted even after four years.
9	DED, Dhenkanal	S.N. Corporation Limited	June 1997 to November 1998	2.50	Unit was closed in November 1998 and power supply was disconnected in December 1998. Certificate case was not instituted for recovery of dues even after a lapse of two years.
10	JED, Jeypore	Utkal Cement Private Limited	Upto September 1995	0.80	Power supply was disconnected in September 1995. But certificate case was not instituted even after five years.
Total				143.60	

8.2.7.5 Non-realisation of ED for want of timely action

Test check of records revealed that Rs.831.19 lakh pertaining to the period from April 1985 to October 1997 was pending for collection against a unit (M/s Utkal Electrocasting Private Limited) towards energy charges (EC) which included ED of Rs.41.62 lakh. The unit was taken over (September 1997) by the Industrial Promotion Investment Corporation Limited (IPICOL) and the power supply was disconnected by GRIDCO in November 1997 i.e. after a lapse of 12 years from the date of default of payment of the dues.

GRIDCO collected an amount of Rs.72.61 lakh from the unit during the period between April 1985 and April 1996 and the entire amount was adjusted towards EC though Rs. 41.62 lakh was to be allocated towards ED and paid to Government. The CEI on receipt of monthly returns indicating the adjustment of the amount paid by the unit towards EC failed to take any action to direct GRIDCO for payment of the ED outstanding against the unit. It was further noticed that GRIDCO requested (July 1998) IPICOL to make payment of the dues from the sale proceeds of the seized assets of the unit. To an audit query (August 2000) IPICOL stated that the seized assets could not be disposed of in absence of competitive offer.

Thus, failure on the part of the CEI and GRIDCO to realise the EC and ED in time and non-disconnection of power supply by GRIDCO for a period of 12 years led to non-realisation of the dues.

8.2.7.6 Arrears under dispute

As per Section 8 of the OED Act and rules made thereunder, the Electrical Inspector (EI) is empowered to decide a dispute relating to the liability of a consumer for payment of ED. During the course of review, it was noticed that though ED amounting to Rs.28.30 crore and Rs.33.36 crore were in dispute as on 31 March 1996 and 31 March 1997 respectively, no action was taken by the CEI to ascertain the nature of disputes so as to initiate action for settlement.

In case of M/s Jayashree Chemical Ltd., Ganjam, it was noticed that there were dues of Rs.7.87 crore (EC Rs.7.01 crore and ED Rs.86 lakh) outstanding against the unit for the period upto March 1981. Out of the above dues, EC of Rs.1.20 crore was undisputed and the unit was allowed to pay the undisputed amount in four equal instalments. The balance amount of Rs.6.67 crore (including ED of Rs.86 lakh) was referred (1981) by Government to Board of Arbitrators for adjudication as the unit disputed the levy of delayed payment surcharge on EC. Though a period of 19 years had elapsed, the matter has not been decided so far. Reasons for non-finalisation of arbitration proceedings were not made available to audit. As there was no dispute regarding the levy of ED, tagging of ED with the dispute of delayed payment of surcharge on EC was not in order. Thus, failure of the CEI to de-link the dues on account of ED from the dues of EC and settle the same under the provisions of OED Act resulted in non-realisation of ED of Rs.86 lakh.

8.2.7.7 Loss of revenue on account of incorrect exemption

(i) Under section 3(1) of OED Act and rules made thereunder, ED shall be levied and collected on the energy consumed by the consumers at the rate applicable to the category to which the consumer belongs. ICCL commissioned (February 1989) Captive Power Plant (CPP) to use energy for its own requirement and was availing 50 per cent exemption of ED vide notification (July 1987) of the Government. ICCL and IMFAL were registered under the

Companies Act, 1956, as two separate companies. The Government had held (September 1992) that CPP of ICCL was not of IMFAL as the latter does not own it. IMFAL was thus liable to pay ED on the energy consumed by it at the rate applicable to Power Intensive Industries category.

During the course of audit, it was noticed (January 2000) that IMFAL had consumed 232.17 crore units (ICCL 200.89 crore units and GRIDCO 31.28 crore units) of energy through the transmission lines of OSEB/GRIDCO for the period from February 1989 to August 1998. Out of the above ED payable on energy generated from CPP of ICCL was worked out at the concessional rate of 6 paise per unit as per orders (June 1998) of the Government instead of at the rate applicable to Power Intensive Industries. Since the CPP did not belong to IMFAL, allowance of concessional rate was against the provisions of the OED Act. This had resulted in loss of ED of Rs.16.36 crore calculated at the differential rate of ED after adjustment of demand of Rs.20.26 crore proposed to be raised by GRIDCO.

(ii) Under section 3(5) of the OED Act, the State Government may exempt any Industry which has started production at any time on or after 31 July 1980 from payment of ED to such extent and for such period as may be specified in the notification. Government vide notification of April 1999 exempted a unit (M/s Jayashree Chemicals Limited) from payment of ED for a period of 5 years with effect from 5 September 1998.

It was noticed in audit that the unit started production from 4 August 1967. As the date of starting production by the industry was earlier to 31 July 1980, the exemption so allowed by the Government was incorrect and resulted in loss of revenue of Rs.81 lakh towards ED for the period from September 1998 to December 1999 besides recurring loss for the remaining period (January 2000 to August 2003).

On this being pointed out, Government stated (April 2000) that the exemption was granted on approval by the Council of Ministers (November 1998). The reply was not tenable as the grant of exemption was not in conformity with the OED Act.

8.2.8 Non-payment of ED by units in the Captive Sector

Under Section 5 of the OED Act and rules made thereunder, units generating energy shall pay ED at the prescribed rate to the State Government within 30 days of its consumption. Failure to pay the dues within the prescribed period attracts levy of interest at the rate of 18 per cent per annum. Government by a notification (July 1987) exempted industrial units who have commissioned CPP on or after April 1986 with a total capacity of 30 MVA from payment of ED for a period of 10 years.

It was noticed that ED of Rs.63.40 lakh payable by 3 units after expiry of validity period of exemption was not paid by these units as per the following details:

(Rupees in lakh)

Sl. No.	Name of the unit	Date of installation	Period of exemption (upto)	Period for which ED was payable	ED	Interest	Total
1	M/s J.K. Paper Mills, Rayagada	February 1989	January 1999	February 1999 to November 1999	4.30	-	4.30
2	M/s Mangalam Timber Product Ltd.	November 1988	November 1998	December 1998 to November 1999	1.80	0.30	2.10
3	M/s Orient Paper Mills, Brajarajnagar	1987	1997	June 1998 to December 1998	48.00	9.00	57.00
Total							63.40

However, the CEI has not initiated any action to recover the ED from the units so far.

On being pointed out (May 2000), Government stated (June 2000) that special attention was being given for collection of ED arrears. However, Government did not indicate any specific or time-bound steps to eliminate the arrears.

8.2.9 Monitoring and Evaluation

According to provisions of Section-6 of OED Act 1961, the electrical divisions were required to maintain basic records showing details of units of energy generated, units supplied to consumers, amount of ED payable thereon, recovery made and other relevant information. Since records were not properly maintained at the electrical divisions, the CEI reiterated these requirements and instructed (September 1996) the divisions to submit monthly returns to him. However, it was observed in audit that neither the relevant records were properly maintained nor periodical returns submitted regularly. The position of maintenance of records and furnishing of periodical returns had not improved in the absence of adequate further monitoring by the CEI at the apex level and Electrical Inspectors at the zonal levels.

8.2.10 Conclusion

In the absence of meaningful steps taken by the department to monitor and check non-payment/delay in payment of ED by the consumers from time to time, the arrears of ED increased steadily from Rs.70.41 crore (1994-95) to Rs.118.82 crore (1998-99) in the non-captive sector and from Rs.9.12 crore (1997-98) to Rs.10.51 crore (1998-99) in the captive sector.

8.3 Non-realisation of guarantee fee

Government of Orissa, Finance Department, issued (April 1980) guidelines providing for guarantees by the State Government for repayment of borrowings (loans, bonds, etc.) together with interest thereon by local bodies, co-operative institutions, companies, corporations etc. which are usually raised to meet their capital needs. For such service rendered and contingent liability undertaken, a "Guarantee Fee" shall be levied by the State as per the rates indicated in the guidelines.

As per agreements entered into by the State Government with the debtor institutions, Government has the right to recover the amount due as a "Public Demand" under the Orissa Public Demand Recovery Act, 1962 in case of default in payment of fees. The Act provides that interest at the rate of 12.5 per cent per annum may be levied from the date of signing of the certificate upto the date of realisation of the dues.

A mention was made in para 8.2 of the Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India relating to Government of Orissa for the year ended March 1999 regarding pendency of arrear demands amounting to Rs.24.71 crore in the Departments of Energy, Industry and Housing and Urban Development. A test check (March 2000) of records of another four departments viz. Textiles & Handloom, Commerce and Transport, Co-operation, Welfare along with further check of Energy Department for the period 1981-82 to 1998-99 revealed non-levy and non-realisation of Government dues amounting to Rs.6.71 crore as on March 2000 due to failure of Government to invoke the above mentioned provisions. The details of the outstanding dues are as follows:

(Rupees in lakh)

Sl. No.	Department	Debtor/Loanee	Period	Amount of Guarantee	Guarantee Fee			
					Due	Paid	Balance	Period of payment
1	COMMERCE AND TRANSPORT							
	I	Orissa State Road Transport Corporation	1981-82 to 1997-98	5746.00	179.55	12.12	167.43	January 1986 and March 1987
	II	Orissa State Commercial Transport Corporation	1991-92	60.00	2.40	Nil	2.40	-
2	CO-OPERATION							
	I	Orissa State Consumer Marketing Federation	1985-86 to 1988-89	2400.00	34.50	Nil	34.50	-
	II	Baramba Co-op. Sugar Industry Ltd.	1987-88	630.00	18.90	Nil	18.90	-
	III	Orissa State Warehousing Corporation	1983-84 to 1987-88	286.56	19.92	16.25	3.67	May 1984 to December 1998
	IV	Baragarh Co-op. Sugar Mills	1998-99	1065.00	2.66	Nil	2.66	-
	V	Orissa State Co-op. Bank Ltd.	1991-92	686.93	0.55	Nil	0.55	-

(Rupees in lakh)

Sl. No.	Department	Debtor/ Loanee	Period	Amount of Guarantee	Guarantee Fee			
					Due	Paid	Balance	Period of payment
3	ENERGY							
		GRID Corporation of Orissa (GRIDCO)	1997-98 and 1998-99	20134.00	198.54	Nil	198.54	-
4	TEXTILES AND HANDLOOM							
	I	Orissa Textiles Mills Ltd.	1981-82 to 1996-97	2122.13	109.23	6.75	102.48	May 1995 and November 1995
	II	Utkal W.C.S.Mills, Khurda	1982-83 to 1994-95	766.73	21.80	Nil	21.80	-
	III	Orissa State Handloom Development Corporation Ltd.	1989-90 to 1996-97	1701.11	20.58	Nil	20.58	-
	IV	Shree Jagannath W.C.S. Mills, Nuapatna	1982-83 and 1987-88	452.00	18.69	Nil	18.69	-
	V	Shree Sarala W.C.S. Mills, Tirtol	1984-85	480.00	18.00	Nil	18.00	-
	VI	Shree Gopinath W.C.S. Mills, Baliapal	1989-90	595.00	14.88	Nil	14.88	-
	VII	Gangpur W.C.S. Mills, Sundargarh	1983-84	450.00	13.50	Nil	13.50	-
	VIII	Orissa Weaving Co-op Spinning Mills, Baragarh	1989-90	220.00	5.50	Nil	5.50	-
	IX	Orissa State Co-op. Bank Ltd.	1995-96 and 1998-99	6000.00	2.40	Nil	2.40	-
	X	Kalinga W.C.S. Mills, Dhenkanal	1993-94 and 1996-97	473.38	3.55	1.73	1.82	May 1995 and March 1997
5	WELFARE							
	I	Tribal Development Co-op. Corporation of Orissa Ltd.	1991-92	850.00	17.00	Nil	17.00	-
	II	OBC Finance and Dev. Co-op. Corporation Ltd.	1994-95	444.85	5.56	0.44	5.12	Between May 1995 and March 2000
	III	Orissa SC ST Dev. Finance Co-operative Corporation Ltd.	1992-93 and 1998-99	900.00	8.25	7.20	1.05	Between May 1993 and March 2000
Total				46463.69	715.96	44.49	671.47	-

While accepting the fact of delay in realisation of guarantee fees, Government stated (August 2000) that the amount of guarantee fees outstanding for collection was Rs.8.03 crore. The details though called for were awaited (November 2000).

Bhubaneswar

Dated :

28 MAR 2001

R. K. Ghose

(R.K.GHOSE)

Accountant General (Audit)-II
Orissa

Countersigned

V. K. Shunglu

New Delhi

Dated :

10 APR 2001

(V.K.SHUNGLU)

Comptroller and Auditor General of India



