

**Report of the  
Comptroller and Auditor General of India**

**on**

**Revenue Sector**

**for the year ended 31 March 2017**

**Government of West Bengal**

*Report No. 3 of the year 2018*



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## PREFACE

This Report for the year ended March 2017 has been prepared for submission to the Governor of West Bengal under Article 151 of the Constitution of India.

The Report contains significant results of the performance audit and compliance audit of the Departments of the Government of West Bengal under the Revenue Services, including Finance Department, Excise Department, Land and Land Reforms Department and Transport Department. However, Departments relating to Economic Sector as well as General and Social Sector are excluded and covered in separate reports.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the period 2016-17 as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2016-17 have also been included, wherever necessary.

Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.





# OVERVIEW



## OVERVIEW

### I. General

This Report contains 29 paragraphs besides one Performance Audit on “Land Revenue Receipts in West Bengal” and two detailed compliance audits. The topics of the detailed compliance audits are “Outsourcing in Transport Department” and “Assessment and Collection of Electricity Duty”. Overall, these findings relate to under-assessment/ non-realisation/ loss of revenue etc., of ₹ 594 crore.

- **Trend of revenue receipts**

Total receipts of the Government for the year 2016-17 increased to ₹ 1,17,832.45 crore from ₹ 1,09,732.21 crore in the previous year. Forty one *per cent* of the total revenue collected in 2016-17 was raised by the Government through tax revenue (₹ 45,466.46 crore) and non-tax revenue (₹ 2,949.86 crore). The balance 59 *per cent* was received from the Government of India as State’s share of net proceeds of divisible Union taxes (₹ 44,625.16 crore) and Grants-in-aid (₹ 24,790.97 crore).

(Paragraph 1.1.1)

- **Pendency of inspection reports**

As on 30 June 2017, 945 inspection reports issued up to December 2016 containing 5,239 audit observations involving ₹ 3,092.90 crore were outstanding for want of response or final action by the concerned departments.

(Paragraph 1.6.1)

- **Response of the Departments to the draft audit paragraphs**

Twenty-nine Draft Paragraphs (DPs) besides one Performance Audit (PA) and two detailed compliance audits were sent to the Principal Secretaries/Secretaries of the respective Departments between March and September 2017. Replies are awaited for 26 DPs, as such, those have been included in this Report without their response. However, responses of the heads of the audited units, wherever available, have been taken into account.

(Paragraph 1.6.3)

- **Follow up actions of Audit Reports**

Audit Reports were not being laid before the Legislature in a timely manner as Audit Reports pertaining to the years 2011-12 and 2012-13 were laid together in July 2014. Similarly, Audit Reports of 2013-14 and 2014-15 were laid together in July 2016. The pattern indicates that in violation of the Constitutional and Legislative provisions, the State Government had made the laying of Audit Report, a biennial exercise.

The action taken explanatory notes on 14 sub-paragraphs/paragraphs in respect of Audit Reports for years 2010-2011 to 2014-2015 were received with an average

delay of 16 months. Action taken explanatory notes in respect of the remaining paragraphs from five departments<sup>1</sup> have not been received so far (February 2018).

**(Paragraph 1.6.4)**

- **Position of local audit conducted during the year**

Test check of records of (i) Sales Tax/Value Added Tax, (ii) Land Revenue, (iii) Motor Vehicles Tax, (iv) State Excise, (v) Stamp Duty and Registration Fees, (vi) Profession Tax, (vii) Electricity Duty, (viii) Amusement/Entertainment Tax and (ix) other tax and non-tax receipts were conducted during the year 2016-17. This indicated under-assessment/ short levy/ loss of revenue amounting to ₹ 1,117.79 crore in 1,770 audit observations. During the course of the year, departments accepted 966 audit observations involving ₹ 352.04 crore. The departments recovered ₹ 16.98 crore at the instance of audit.

**(Paragraph 1.10.1)**

- **Arrears of revenue**

The arrears of revenue as on 31 March 2017 in respect of taxes administered by Directorate of Agricultural Income Tax, State Excise and taxes and duties on Electricity amounted to ₹ 182.23 crore. Out of these arrears, ₹ 123.33 crore was outstanding for more than five years.

Other principal revenue generating Departments/Directorates, viz., (i) Directorate of Commercial Taxes, (ii) Directorate of Registration and Stamp Revenue, (iii) Land and Land Reforms Department and (iv) Transport Department did not furnish the figures of arrears of revenue (February 2018).

**(Paragraph 1.2)**

## **II. Performance Audit on “Land Revenue Receipts in West Bengal”**

A Performance Audit on “Land Revenue Receipts in West Bengal” involving money value of ₹ 127.33 crore was conducted during the period from January 2017 to July 2017. It covered the period from 2011-12 to 2015-16. “e-Bhuchitra” an internet-based web-application was introduced in December 2014. The irregularities pointed out include the following:

- The department failed to realise the transfer value of the Government land amounting to ₹ 31.33 crore due to non-completion of the process of settlement/transfer. This was due to absence of time limit for transfer of land.

**(Paragraph 3.4.8.2)**

- The department failed to realise land rent, cess, surcharge and lease rent amounting to ₹ 42.71 crore due to non-initiation of certificate proceedings.

**(Paragraph 3.4.8.3)**

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<sup>1</sup> Departments of Finance; Commerce and Industries; Transport; Home and Land & Land Reforms.

- e-Bhuchitra is an internet based application introduced in December 2014 to manage day to day activities of Land and Land Reforms (L&LR) Department at block level in real time. e-Bhuchitra was integrated with another software called e-Nathikaran, used by Stamps and Registration Department. The L&LR Department did not provide access to the dump data entered in the “e-Bhuchitra” software. As such, Audit could not comment on the efficacy of the IT system in accurate maintenance and updation of land records in the State. Audit endeavoured to assess the deficiencies through the limited access provided at the Block Land and Land Revenue (BL&LR) offices. Some shortcomings in this application are mentioned below:
  - The Department failed to estimate the land revenue in the absence of data<sup>2</sup> relating to tenants and rent due in e-Bhuchitra.
 

**(Paragraph 3.4.9.1)**
  - The Department failed to realise the arrears of land revenue in the absence of required data<sup>3</sup> in the application.
 

**(Paragraph 3.4.9.2)**
  - Quantum of Government land was not monitored properly as old pattas were not recorded in e-Bhuchitra.
 

**(Paragraph 3.4.9.5)**
- Revenue of ₹ 73.90 crore was not realised due to failure to settle<sup>4</sup> the land with unauthorised occupants.
 

**(Paragraph 3.4.10.2)**
- Lease rent of ₹ 1.07 crore was not realised due to inaction of the Department to renew expired leases.
 

**(Paragraph 3.4.10.5)**
- Commercial rent of ₹ 1.14 crore for commercial use of land was not realised from different development authorities.
 

**(Paragraph 3.4.10.8)**
- Defective integration of e-Nathikaran and e-Bhuchitra resulted in non-achievement of citizen centric works like hassle free mutation of properties.
 

**(Paragraph 3.4.10.10)**
- The Department failed to detect unauthorised occupation of Government land of 26.96 acres by a private company.
 

**(Paragraph 3.4.10.14)**

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<sup>2</sup> Earlier it was maintained in Register-I which was a Revenue/Rent Roll that contained the names of the tenants, their status, land revenue including rent, surcharge/cess payable by them and the area included in the Records of Right.

<sup>3</sup> Earlier, Tenants’ Ledger also known as Register-II, was maintained that consisted of tenant-wise information of demand, collection and arrears of land revenue.

<sup>4</sup> To give government land on lease or transfer by collecting appropriate charges.

Hence, this Performance Audit has pointed out the system deficiencies in IT application “e-Bhuchitra”. Non-compliance of the existing rules/ regulations have also been noticed, which resulted in loss/non-collection of revenue.

### **III. Detailed compliance audit on “Outsourcing in Transport Department”**

A detailed compliance audit on “Outsourcing in Transport Department” involving money value of ₹ 2.19 crore was conducted between February 2017 and July 2017. It covered the outsourcing activities with regard to fixation of High Security Registration Plate (HSRP), issue of smart Driver’s Licence and issue of Pollution under Control certificate by private vendors for the period from April 2011 to March 2016. The irregularities pointed out include the following:

- West Bengal Transport Infrastructure Development Corporation Limited (WBTIDC) was authorised to implement the HSRP scheme in the State. Royalty of ₹ 3.81 crore collected from vendors was retained by WBTIDC. This was due to absence of provision for sharing revenue with the State exchequer.

**(Paragraph 4.4.3.10)**

- West Bengal Financial Rules provided for following open tenders for placing orders for procurement. Vendors for issuing Driving Licences and Registration Certificates in the form of Smart Cards were selected without tendering.

**(Paragraph 4.4.4.1)**

- Emission tests of vehicles were carried out by Centres whose authorisation had lapsed.

**(Paragraph 4.4.5.1)**

- Due to absence of relevant provisions, Government was deprived of any share of fee, collected from issue of Pollution Under Control Certificate.

**(Paragraph 4.4.5.4)**

### **IV. Detailed compliance audit on “Assessment and Collection of Electricity Duty”**

A detailed compliance audit on “Assessment and Collection of Electricity Duty” involving money value of ₹ 42.26 crore was conducted during the period between January 2017 and June 2017. It covered assessment periods from 2011-12 to 2015-16. Irregularities pointed out include the following:

- Audit identified 2,435 potential assesseees through cross verification of registration data with West Bengal Pollution Control Board. In the absence of any provision for such cross verification, the department could not identify and bring such cases into tax net.

**(Paragraph 7.3.3.1)**

- Absence of provision to levy interest on delayed/unpaid electricity duty in respect of non-licensees (who generate electricity for own consumption) led to non-levy of interest of ₹ 82.48 lakh.

**(Paragraph 7.3.3.2)**

- Electricity duty of ₹ 46.93 crore in respect of two licensees could not be realised as assessments became barred by limitation of time.

**(Paragraph 7.3.4.2)**

- Interest of ₹ 38.67 crore was not levied on electricity duty of ₹ 66.32 crore collected but not deposited by two licensees for a duration of 42 to 69 months.

**(Paragraph 7.3.4.5)**

- Interest of ₹ 1.54 crore was not levied on unauthorised retention of electricity duty of ₹ 17.08 crore for period ranging from one to 16 months.

**(Paragraph 7.3.4.6)**

## **V. Compliance Audit**

Compliance audit observations included in this Report highlight deficiencies with respect to compliance with the provisions of Acts and Rules framed thereunder.

### ***Value Added Tax***

- Irregular remission of tax of ₹ 4.74 crore was allowed in three cases on account of inadmissible claims.

**(Paragraph 2.4)**

- In six cases, Assessing Authorities (AAs) short-determined turnover of sales (TOS) by ₹ 5.73 crore. This resulted in short levy of tax of ₹ 53.13 lakh.

**(Paragraph 2.5)**

- In 43 cases, AAs allowed Input Tax Credit (ITC) of ₹ 9.11 crore instead of ₹ 5.31 crore, though the dealers were not eligible for such benefit. This resulted in irregular allowance of ITC of ₹ 3.80 crore.

**(Paragraph 2.6)**

- In 29 cases, AAs short-determined the Contractual Transfer Price (CTP) by ₹ 130.06 crore. This resulted in short levy of tax of ₹ 9.94 crore.

**(Paragraph 2.7)**

- In three cases, AAs allowed ineligible deduction of ₹ 98.43 crore from the CTP. This resulted in short determination of taxable CTP, with consequent short levy of tax of ₹ 11.59 crore.

**(Paragraph 2.8)**

## ***Motor Vehicles Tax***

In addition to the audit of physical records, data analysis was conducted through Computer Assisted Auditing Techniques (CAATs) and the following was observed:

- Tax, additional tax, penalty and special fee of ₹ 272.41 crore were not realised from owners of 1,05,483 vehicles.

**(Paragraphs 4.5)**

- Registering Authorities (RAs) did not realise permit fee of ₹ 20.15 crore from owners of 23,747 transport vehicles plying with expired permits.

**(Paragraphs 4.6)**

- RAs realised fee for conducting test of fitness at normal rates instead of 150 *per cent* of the fee for delayed production of vehicles for testing. This resulted in short realisation of fitness fee of ₹ 1.69 crore in case of 91,079 vehicles.

**(Paragraph 4.9)**

- Mapping of the amendment in the West Bengal Additional Tax & One-time Tax on Motor Vehicles Act, 1989 in the VAHAN software was not done correctly. It resulted in short levy of life-time and one-time tax of ₹ 72.49 lakh in case of 410 vehicles.

**(Paragraph 4.11)**

- RAs realised tax of ₹ 10.19 lakh instead of ₹ 63.48 lakh from the owners of 549 contract carriage vehicles. This was due to incorrect/improper mapping in VAHAN software. This resulted in short realisation of tax of ₹ 53.29 lakh.

**(Paragraph 4.12)**

## ***Stamp Duty and Registration Fees***

- In registration of nine deeds, stamp duty and registration fees was realised short by ₹ 25.02 crore due to misclassification of instruments.

**(Paragraph 5.4)**

- In registration of 50 lease deeds involving market value of ₹ 333.58 crore, five RAs levied stamp duty and registration fees of ₹ 0.46 crore only instead of ₹ 23.33 crore. This was due to incorrect determination of lease period resulting in short levy of stamp duty of ₹ 22.87 crore

**(Paragraph 5.5)**

- In registration of three deeds containing several distinct matters, stamp duty and registration fees of ₹ 1.61 crore was not levied.

**(Paragraph 5.6)**



- Stamp duty and registration fees of ₹ 21.15 lakh in case of registration of 28 flats was realised short, due to incorrect determination of market value of roof rights.

**(Paragraph 5.9)**

### *Mines and Minerals*

- For brick earth extracted without licence, State Government fixed the rate at ₹ 30 per 100 cubic feet (cft). This was not recovered/short recovered in 843 cases on extraction of 18.42 crore cft. It resulted in non-realisation of revenue of ₹ 9.89 crore.

**(Paragraph 6.4)**

- There was shortfall in extraction of 81.84 lakh cft of sand in 52 cases and 5.26 lakh cft of stone in seven cases. Penalty to the extent of ₹ 1.74 crore was not realised.

**(Paragraph 6.5)**

### *Profession Tax*

- Profession Tax Officer failed to detect non-deduction of profession tax of ₹ 52.44 lakh by an employer from the salaries of the employees.

**(Paragraph 7.4)**



# CHAPTER I



## CHAPTER I

### GENERAL

#### 1.1 Trend of revenue receipts

**1.1.1** The tax and non-tax revenue raised by the Government of West Bengal during the year 2016-17, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are detailed in **Table – 1.1**.

**Table – 1.1**  
**Trend of revenue receipts**

(₹ in crore)

Sl. No.	Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
<b>1.</b>	<b>Revenue raised by the State Government</b>					
	(a) Tax revenue	32,808.49	35,830.56	39,411.98	42,492.08	45,466.46
	(b) Non-tax revenue	1,918.15	2,022.72	1,626.66	1,861.79	2,949.86
	<b>Total</b>	<b>34,726.64</b>	<b>37,853.28</b>	<b>41,038.64</b>	<b>44,353.87</b>	<b>48,416.32</b>
<b>2.</b>	<b>Receipts from the Government of India</b>					
	(a) Share of net proceeds of divisible Union taxes and duties	21,226.27	23,175.02	24,594.93	37,163.93	44,625.16
	(b) Grants-in-aid	12,342.84	11,853.49	20,880.64	28,214.41	24,790.97
	<b>Total</b>	<b>33,569.11</b>	<b>35,028.51</b>	<b>45,475.57</b>	<b>65,378.34</b>	<b>69,416.13</b>
<b>3.</b>	<b>Total revenue receipts of the State Government (1 and 2)</b>	<b>68,295.75</b>	<b>72,881.79</b>	<b>86,514.21</b>	<b>1,09,732.21</b>	<b>1,17,832.45<sup>1</sup></b>
<b>4.</b>	<b>Percentage of 1 to 3</b>	<b>51</b>	<b>52</b>	<b>47</b>	<b>40</b>	<b>41</b>

During the year 2016-17, the total revenue raised by the State Government (₹ 48,416.32 crore) was 41 *per cent* of the total revenue receipts. The remaining 59 *per cent* came from the Government of India.

**1.1.2** The details of the tax revenue and non-tax revenue raised during the period 2012-13 to 2016-17 are given in **Appendix-I** and **Appendix-II** respectively.

<sup>1</sup> For details, please see Statement No. 14 – Detailed statement of revenue by minor heads in the Finance Accounts of Government of West Bengal for the year 2016-17. Figures under the heads 0020 – Corporation tax, 0021 - Taxes on income other than Corporation tax, 0032 - Taxes on wealth, 0037 – Customs duty, 0038 - Union Excise duties and 0044 - Service tax mentioned in the Statement under caption “A - Tax revenue” have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes.

Reasons for variation in respect of principal heads of tax revenue and non-tax revenue were not furnished by the Departments concerned (February 2018).

## 1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2017 in respect of some principal heads of revenue amounted to ₹ 182.23 crore, of which ₹ 123.33 crore was outstanding for more than five years, as detailed in the **Table – 1.2**.

**Table - 1.2**  
**Arrears of revenue**

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2017	Amount outstanding for more than five years as on 31 March 2017	Replies of the Department
1.	Taxes administered by Directorate of Agricultural Income Tax	133.53	87.66	Reasons for accrual of revenue were not furnished.
2.	State Excise	48.45	35.67	The Directorate attributed accrual of revenue to recoveries stayed by the Hon'ble High Court and other judicial authorities, cases pending at appeal stage before the Government and other appellate authorities, recoveries held up due to rectification/review of demands and demand raised against the defaulters not complied with.
3.	Taxes and Duties on Electricity	0.25	Nil	No specific reply was furnished.
<b>Total</b>		<b>182.23</b>	<b>123.33</b>	

Other principal revenue generating Departments/Directorates, viz., Directorate of Commercial Taxes, Directorate of Registration and Stamp Revenue, Land and Land Reforms Department and Transport Department did not furnish the figures of arrears of revenue (February 2018).

## 1.3 Arrears in assessments

The details of (i) cases pending at the beginning of the year, (ii) cases becoming due for assessment, (iii) cases disposed of during the year and (iv) cases pending for finalisation at the end of the year, as furnished by the Directorate of Commercial Taxes, the Directorate of Electricity Duty and the Directorate of Agricultural Income Tax are given in **Table 1.3**.

**Table – 1.3**  
**Arrears in assessments**

Head of revenue	Opening balance	New cases due for assessment during 2016-17	Total assessments due	Cases disposed of during 2016-17	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Taxes on sales, trade etc.	Not furnished	23,497	Not furnished	VAT-16,792 CST-6,582	Not furnished	—
Taxes and duties on electricity	Nil	104	Nil	104	Nil	100
Taxes administered by Directorate of Agricultural Income Tax	41,342	11,995	53,337	9,638	43,699	18.07

The Directorate of Agricultural Income Tax attributed the accrual of arrears in assessment to acute shortage of officers and staff.

Other principal revenue generating Departments/Directorates, viz., Directorate of Registration and Stamp Revenue, Land and Land Reforms Department and Transport Department did not furnish the figures of arrears of revenue (February 2018).

#### **1.4 Evasion of tax detected by the department**

As per reply furnished by the Directorate of Commercial Taxes, investigation was completed in 644 cases of evasion involving ₹ 676.15 crore during 2016-17. In respect of taxes administered by Directorate of Agricultural Income Tax, there were 10 cases of evasion involving ₹ 1.77 lakh. Cases of evasion pending as on 31 March 2017 and cases detected during 2016-17 as stated by the Directorate of Electricity Duty and the Directorate of Excise were nil.

Other principal revenue generating Departments/Directorates namely Directorate of Registration and Stamp Revenue, Land and Land Reforms Department and Transport Department did not furnish any information on evasion of tax (February 2018).

#### **1.5 Pendency of Refund Cases**

The number of refund cases pending at the beginning of the year 2016-17, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2016-17, as reported by the Departments, are given in **Table 1.4**.

**Table – 1.4**  
**Details of pendency of refund cases**

(₹ in crore)

Sl. No.	Particulars	Taxes on sales, trade etc.		Taxes and duties on electricity		Taxes administered by Directorate of Agricultural Income Tax	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	Not furnished	Not furnished	54	Not furnished	15	3.87
2.	Claims received during the year	Not furnished	Not furnished	65	Not furnished	3	1.18
3.	Refunds made during the year	984	180.27	3	20.52	1	0.76
4.	Balance outstanding at the end of the year	Not furnished	Not furnished	116	Not furnished	17	4.29

Directorate of Excise furnished a nil report regarding (i) claims outstanding at the beginning of the year, (ii) claims received during the year, (iii) refunds made during the year and (iv) balance outstanding at the end of the year.

Other principal revenue administering Departments/ Directorates viz., (i) Directorate of Registration and Stamp Revenue, (ii) Land and Land Reforms Department and (iii) Transport Department did not furnish details of refund cases (February 2018) though requested (May 2017) and followed by reminders.

## 1.6 Response of the Government/departments towards audit

### 1.6.1 Pendency of inspection reports

The Accountant General (Economic and Revenue Sector Audit), West Bengal conducts periodical inspection of the Government Departments to (i) test check transactions and (ii) verify maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot. These are issued to the heads of the offices inspected, with copies to the next higher authorities. The heads of the offices/Government are required to (i) promptly comply with the observations contained in the IRs, (ii) rectify the defects and omissions and (iii) report compliance through initial reply to the Accountant General (AG) within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection reports issued upto December 2016 disclosed that 5,239 paragraphs involving ₹ 3,092.90 crore relating to 945 IRs had remained outstanding at the end of June 2017, as mentioned in **Table 1.5**.



**Table - 1.5**  
**Details of pending Inspection Reports**

Particulars	June 2015	June 2016	June 2017
Number of IRs pending for settlement	918	853	945
Number of outstanding audit observations	4,695	4,460	5,239
Amount of revenue involved (₹ in crore)	2,311.57	2,536.06	3,092.90

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2017 and the corresponding amounts involved are mentioned in the **Table 1.6**.

**Table - 1.6**  
**Department-wise details of IRs**

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Number of outstanding audit observations	Money value involved
1.	Finance	Sales Taxes/VAT	253	2,055	1,645.77
		Electricity duty	31	95	396.52
		Amusement Tax	29	84	24.14
		Profession Tax	83	271	11.34
		Stamp duty and registration fees	262	620	144.07
		Non-judicial Stamp duty	21	56	8.47
		Departmental Receipts	Nil	Nil	Nil
2.	Excise	State Excise	26	108	12.05
3.	Land and Land Reforms	Land Revenue	82	1,131	360.96
		Receipts from mines and minerals	90	491	152.83
4.	Transport	Taxes on motor vehicles	68	328	336.75
<b>Total</b>			<b>945</b>	<b>5,239</b>	<b>3,092.90</b>

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of 323 IRs issued during 2016-17. The large pendency of IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

### 1.6.2 Departmental audit committee meetings

The Government sets up audit committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2016-17 and the paragraphs settled are mentioned in **Table 1.7**.

**Table - 1.7**

**Details of Departmental audit committee meetings**

					(₹ in crore)
Sl. No.	Name of the Department	Nature of receipts	Number of meetings held	Number of paras settled	Amount
1.	Land and Land Reforms	Land Revenue	2	9	0.13
2.	Finance	Stamp Duty and Registration Fees	1	230	51.37
3.	Excise	State Excise	1	52	3.05
<b>Total</b>			<b>4</b>	<b>291</b>	<b>54.55</b>

The progress of settlement of paragraphs pertaining to the Land and Land Reforms Department, was insignificant as compared to the huge pendency of the IRs and paragraphs in the IRs, despite holding Departmental audit committee meetings.

**1.6.3 Response of the Departments to the draft audit paragraphs**

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded to the Principal Secretaries/Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their responses within six weeks. The fact of receipt/non-receipt of the replies from the Department/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Twenty-nine draft paragraphs (DPs) besides one Performance Audit (PA) and two detailed compliance audits were sent to the Principal Secretaries/Secretaries of the respective Departments by name between March and September 2017. Replies are awaited for 26 DPs, as such, those have been included in this Report without their response. However, responses of the heads of the audited units, wherever available, have been taken into account.

**1.6.4 Follow up on the Audit Reports-summarised position**

As per the Constitutional provisions vide Article 151(2), the Reports of the Comptroller and Auditor General (CAG) of India relating to the accounts of a State shall be submitted to the Governor of the State, who shall cause them to be laid before the legislature of the State. Further, under the Comptroller and Auditor General (Duties, Powers and Conditions of Service) Act 1971, the State Government is obliged to place the Audit Reports before the Legislature of the State, as soon as may be after it is received.

The Reports of the CAG of India, in respect of accounts of the State were not being laid before the legislature in a timely manner. Audit noticed that the Reports for the years 2011-12 and 2012-13, which were submitted to the Governor in March 2013 and April 2014 respectively were laid before legislature in July 2014. Similarly, the Reports for the years 2013-14 and 2014-15, which were submitted to the Governor in April 2015 and March 2016 respectively were also tabled together in July 2016.

The pattern indicates that laying of Reports of CAG before the Legislature has been made a biennial exercise by the State Government. Such violation of Constitutional provisions deprived the legislature of the opportunity to have control over the Executive in respect of finances and its utilisation in the State.

The internal working system of the Public Accounts Committee (PAC), notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 158 paragraphs (including Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of West Bengal for the years ended 31 March 2011, 2012, 2013, 2014 and 2015 were placed before the State Legislative Assembly between 24 September 2012 and 4 July 2016. The action taken explanatory note in respect of only one sub-paragraph of Performance Audit was received on time. The action taken explanatory notes from the concerned Departments on 14 sub-paragraphs/paragraphs were received late with average delay of 16 months in respect of Audit Reports for the years ended 31 March 2011, 2012, 2013, 2014 and 2015. Action taken explanatory notes in respect of remaining paragraphs from five departments (Finance, Commerce & Industries, Transport, Home and Land & Land Reforms) had not been received for the Audit Reports for the years ended 31 March 2011, 2012, 2013, 2014 and 2015 so far (February 2018).

The Public Accounts Committee discussed during 2016-17 (September 2016 and January 2017) eight selected paragraph of the Audit Report for the year 2006-07, 2009-10 and 2010-11.

## **1.7 Analysis of the mechanism for dealing with the issues raised by Audit**

To analyse the system of addressing the issues highlighted in the IRs/Audit Reports by the Departments/Government, action taken on the paragraphs and Performance Audits included in the Audit Reports of the last 10 years for one Department is evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 and 1.7.2 discuss the performance of the Land and Land Reforms Department and cases detected in the course of local audit during the last 10 years and also the cases included in the Audit Reports for the years 2007-08 to 2016-17.

### **1.7.1 Position of Inspection Reports**

The summarised position of the inspection reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2017 are tabulated in **Table 1.8**.

**Table - 1.8**  
**Position of Inspection Reports**

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing balance during the year		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2007-08	174	1,245	350.96	7	43	3.79	1	5	0.82	180	1,283	353.93
2.	2008-09	180	1,283	353.93	8	72	13.53	3	22	1.97	185	1,333	365.49
3.	2009-10	185	1,333	365.49	10	207	21.45	89	822	204.30	106	718	182.64
4.	2010-11	106	718	182.64	5	54	17.63	42	273	42.09	69	499	158.18
5.	2011-12	69	499	158.18	10	165	37.90	Nil	34	4.53	79	630	191.55
6.	2012-13	79	630	191.55	9	163	49.81	2	77	19.91	86	716	221.45
7.	2013-14	86	716	221.45	11	298	49.47	1	45	5.34	96	969	265.58
8.	2014-15	96	969	265.58	10	269	156.44	1	154	29.72	105	1,084	392.30
9.	2015-16	105	1,084	392.30	11	375	123.29	40	355	131.39	76	1,104	384.20
10.	2016-17	76	1,104	384.20	9	377	288.66	Nil	198	121.19	85	1,283	551.67

The Government arranges Audit Committee meetings between the Department and AG's office to settle outstanding paragraphs. As would be evident from the above table, against 174 outstanding IRs with 1,245 paragraphs at beginning of 2007-08, the number of outstanding IRs were 85 with 1,283 paragraphs at the end of 2016-17. This indicates that adequate steps were not taken by the Department towards settlement of outstanding IRs and paragraphs.

### 1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in Table 1.9.

**Table - 1.9**  
**Recovery in accepted cases**

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount of recovery of accepted cases as of 31.03.2017
2006-07	6	962.50 <sup>2</sup>	6*	273.93	Nil
2007-08	5	0.70	4	0.40	Nil
2008-09	5	37.34	5*	37.03	14.22
2009-10	4	1.73	4*	1.10	0.18
2010-11	5	1.27	4*	1.25	0.21
2011-12	1	89.24	1*	82.47	0.50
2012-13	3	6.39	3*	5.83	0.77
2013-14	3	14.27	3*	10.62	Nil
2014-15	5	3.02	5*	1.87	0.25
2015-16	5	79.05	5*	79.05	0.27

\*Partly accepted by the Department.

<sup>2</sup> High money value was due to inclusion of a Performance audit in the Audit Report.

It is evident from the above table that the recovery even in accepted cases was meagre during these years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government.

### 1.8 Action taken on the recommendations accepted by the Departments/ Government

The draft performance reviews conducted by the PAG/AG are forwarded to the concerned Department/Government for their information with a request to furnish replies to audit observations included in the draft report. These reviews are also discussed in an Exit Conference and the Department's/Government's views are included while finalising the reviews for the Audit Reports.

The status of action taken on recommendations featured in the last five years as per Reports furnished by the Departments till November 2017 is given in **Table 1.10**.

**Table - 1.10**  
**Action taken on recommendations**

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
2011-12	e-Services in the Directorate of Commercial Taxes	5	Put in place proper controls in the system for capturing correct, complete, valid and reliable data in the system and to update it promptly to provide the latest information,	As per reply furnished by the Directorate of Commercial Taxes, these recommendations had been given effect.
			Incorporate business rules specifically in the system wherever required to avoid irregular transactions through the system,	
			Integrate modules wherever required to make the IT application more efficient and effective,	
			Introduce the system of user authentication for generation of e-TD (Transit Declarations) for ensuring data reliability,	
			Put in place effective business continuity and disaster recovery plan for providing smooth service.	Disaster recovery plan was under process.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
2012-13	Efficiency of the administration of Value Added Tax in West Bengal	5	Establishing a system by issuing departmental instructions to coordinate with other departments/within the department on information available with them, so as to bring eligible unregistered dealers into the tax net and to prevent tax evasion by registered dealers;	STDS (Sales Tax Deducted at Source)/ TCS (Tax Collection at Source) was introduced and integrated with IFMS (Integrated Financial Management System) of the Government of West Bengal.
			Instituting an effective surveillance system so as to curb business of dealers with cancelled registrations;	Validation introduced so that no ITC (Input Tax Credit) could be claimed against cancelled registrations.
			Timely initiation of recovery proceeding, raising demand in modified appeal cases and disposal of the seized materials to avoid delays in realisation of revenue;	New e-Anti Evasion Module had been introduced for the purpose.
			Maintaining a database of the dealers identified as persistent tax evaders by the preventing wings of the department; and	
			Maintenance of Scrutiny register and providing a working manual for streamlining the functioning of the IAW (Internal Audit Wing).	No reply was furnished.
2013-14	Assessment, Levy and Collection of Value Added Tax from works contractors	3	Establishing system of utilising intra-departmental data to bring all eligible works contractors into the tax net;	It was maintained by STDS (Sales Tax Deducted at Source) Cell.
			Developing coordination between the STDS cell and Charge offices for cross verification of data in respect of payments disclosed in TDS certificate by contractees with CTP (Contractual Transfer Price) disclosed by dealers in their returns to prevent evasion of tax;	It was introduced in IMPACT (Information Management for Promotion of Administration in Commercial Taxes).
			Make provisions like prescribing interest/late fee or imposing penalty to check delayed remittance of TDS and delayed furnishing of TDS certificates and scroll by contractees.	It had been given effect.

Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
2013-14	Administration of taxes under various Acts by Directorate of Agricultural Income Tax in West Bengal	7	<p>Establishing a system to mandatorily coordinate with different Departments, local bodies and other sources and exchange relevant information so as to bring eligible tax payers into the tax net;</p>	<p>As per Memo No. 391-C dated 28 June 2017, all attempts had been made to enlist a system of co-ordination with different Departments, local bodies etc. Agricultural Income Tax Officers had been directed to co-ordinate systematically with different Departments, local bodies and other sources and to exchange relevant information to bring the maximum number of tax payers into the tax net. Accordingly, a good number of Agricultural Income Tax Offices had requested the District Collector to check from the Cinema Hall owners the Entertainment Tax Clearance Certificates issued by the Agricultural Income Tax Office before renewal of Cinema Hall licenses. The same approach had also been taken in respect of Entertainment programmes as well.</p> <p>The Head Post Offices had been requested to follow the same approach before issuing or renewing the Registration Certificates under the Cable Television Networks (Regulation) Act, 1995.</p> <p>The District Land and Land Reforms authority were being contacted by the Agricultural Income Tax Officers to detect new cases of Tea Gardens, followed by physical inspections.</p>
			<p>Timely initiation of recovery proceedings and evolving a mechanism to monitor compliance of Appellate orders for efficient tax administration;</p>	<p>The Deputy Commissioners of Agricultural Income Tax in charge of different Circles had been directed to monitor timely initiation of recovery proceedings and early compliance of the appellate orders at the level of Assessing Officers.</p>



Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			Making the definition of luxury more inclusive in the tax;	The matter would be examined by the Government and if it was found justified considering all aspects, required amendments would be made in the said Act.
			Widening the scope of taxation under the Bengal Amusement Tax Act 1922, on complimentary tickets of commercialised entertainment/sports events;	Widening the scope of taxation of complementary tickets for the Sports under the Bengal Amusement Tax Act would be examined by the Government. If it was found justified considering all aspects, necessary amendment would be made in the said Act.
			Ensuring timely assessment of taxes under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the Bengal Amusement Tax Act, 1922;	The Agricultural Income Tax Officers had been asked to reduce the number of pending assessments under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 and the Bengal Amusement Tax Act, 1922, by taking appropriate steps. The Officers of this Directorate had undertaken the work of timely assessments for both the aforesaid Acts.
			Contemplating provisions in the Bengal Amusement Tax Act, 1922 for levy of interest;	It would be examined by the Government. If it was found justified considering all aspects, necessary amendment would be made in the said Act.
			Establishing an effective internal audit wing and formulating the office procedure manual to ensure that various provisions of the Acts and Rules are efficiently administered for effective tax administration.	There was an internal audit wing of the Directorate. Steps were being taken to streamline the proper functioning of the internal audit wing.
2014-15	System of Assessment under Value Added Tax	5	Use IT tools to bring potential tax assesses into tax net by utilising information in respect of transactions of unregistered dealers available in returns.	As per reply furnished by the Directorate of Commercial Taxes, such course of action had been undertaken.



Year of Report	Name of the PA	No. of recommendations	Details of recommendations	Status
			To avoid leakage of revenue, the department needs to introduce validation checks in its IT system for example- application of correct rates of tax in returns, payment of tax on sale of taxable goods in VAT returns in Form-14, proper fields in returns to verify claims of sales returns, calculation of interest and carry forward of ITC.	Practical validation was already there in the system.
			Information available at IMPACT should be compulsorily used by AAs for cross-verification of information/data to ensure accurate assessments and due payment of tax.	Such usage of information available at IMPACT was rigorously done.
			Increase number of returns/ assessments audited by IAW, and	No reply.
			Make the DAW (Data Analysis Wing) of the department more effective by sharpening its control over unauthorised ITC claims.	DAW had been efficient and relentless in sharpening its control over unauthorised ITC claims.

Out of 25 recommendations of five performance audits featured in the last five years, the Department had implemented 15 recommendations. In respect of five recommendations, action had been taken for their implementation. Further, the Department stated that three recommendations are yet to be examined by the Government. In two recommendations, the Department did not furnish reply.

Following Departments did not furnish any reply in respect of action taken on the recommendations of reviews/Performance Audits featured in the last five years' Reports sought for in May 2017 followed by reminders as mentioned in **Table 1.11**.

**Table - 1.11**  
**Non-submission of reply**

Name of the department	Year of Audit Report	Name of the Performance Audit
Finance	2012-13	Evasion of Stamp Duty and Registration Fees
	2015-16	West Bengal State Lotteries
Land and Land Reforms	2011-12	Management of Government land
		Receipts from Major Minerals
	2014-15	Assessment and collection of revenue from Minor Minerals
State Excise	2015-16	Assessment, levy and collection of Excise revenue

## 1.9 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which includes critical issues in government revenues and tax administration i.e., (i) budget speech, (ii) white paper on state finances, (iii) Reports of the Finance Commission (State and Central), (iv) recommendations of the Taxation Reforms Committee, (v) statistical analysis of the revenue earnings during the past five years, (vi) issues related to the tax administration, (vii) the extent of audit coverage and (viii) its impact during past five years etc.

During the year 2016-17, there were 573 auditable units, of which 174 units were planned and audited, which was 30.37 *per cent* of the total auditable units. The details are shown in the **Appendix – III**.

Besides the compliance audits mentioned above, one Performance Audit and two detailed compliance audits were also taken up to examine the efficacy of the tax administration of these receipts.

## 1.10 Results of audit

### 1.10.1 Position of local audit conducted during the year

Test check of the records of 174 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles tax, Land and Land Reforms, Stamp Duty and Registration Fees and other Departmental offices conducted during the year 2016-17 showed under assessment/short levy/loss of revenue aggregating ₹ 1,117.79 crore in 1,770 cases. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹ 352.04 crore involved in 966 cases which were pointed out in audit during 2016-17. The Departments collected ₹ 16.98 crore in 189 cases during 2016-17 pertaining to audit findings.

### 1.11 Coverage of this Report

This Report contains 29 paragraphs (selected from the audit observations made during the local audit referred to above and during earlier years, which could not be included in earlier reports) besides one Performance Audit on “Land Revenue Receipts in West Bengal”. This report also includes two detailed compliance audits on “Outsourcing in Transport Department” and “Assessment and Collection of Electricity Duty” involving overall financial effect of ₹ 594 crore.

The Departments/Government accepted audit observations involving ₹ 540.59 crore of which ₹ 2.41 crore had been recovered. No replies /specific replies had been furnished in respect of remaining cases (February 2018). These are discussed in succeeding Chapters II to VII.

# CHAPTER II



## CHAPTER II

### VALUE ADDED TAX

#### 2.1 Tax administration

During 2016-17, Value Added Tax (VAT) laws and rules framed thereunder were administered at the Government level by the Principal Secretary, Finance (Revenue) Department. He was assisted by one Commissioner of Commercial Taxes (CCT), nine Special Commissioners, 37 Additional Commissioners, 108 Senior Joint Commissioners, 179 Joint Commissioners, 134 Deputy Commissioners, 581 Commercial Tax Officers, three Senior Joint Commissioners (Accounts) and three Senior Joint Commissioners (Audit) for administering the relevant tax laws and rules.

#### 2.2 Internal Audit

The Department had an Internal Audit Wing (IAW) under the charge of the Special Commissioner of Commercial Taxes. He was assisted by one Senior Joint Commissioner and three Commercial Tax Officers. This Wing was to conduct scrutiny and detect irregularities in the assessments of VAT cases as well as to check different records and registers to ascertain whether internal control system as envisaged in the Acts and Rules made thereunder was properly followed.

Of the 68 Charge offices and 10 Ranges under the Directorate of Commercial Taxes (DCT), West Bengal, the wing planned to audit eight Charge offices/Ranges during 2016-17 for checking of 497 cases. However, the wing audited only six Charge offices/Ranges and checked 340 cases only. IAW stated that the target could not be achieved due to shortage of manpower.

Moreover, there was no internal audit manual to formulate working procedure of IAW.

#### 2.3 Results of audit

In 2016-17, test check of the records of 39 units relating to VAT assessments and other records showed underassessment of tax and other irregularities involving ₹ 185.11 crore in 642 cases, which fall under the following categories as given in Table 2.1.

**Table - 2.1**  
**Results of audit**

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Incorrect determination of Contractual Transfer Price / turnover of sales	112	30.07
2.	Irregular allowance of transfer of goods /Input Tax Credit /remission	104	26.92
3.	Irregular allowance of compounded/ concessional rate of tax	2	0.08
4.	Application of incorrect rate of tax/mistake in computation	54	9.14
5.	Non/short levy of purchase tax/penalty/interest	285	95.10
6.	Others	85	23.80
<b>Total</b>		<b>642</b>	<b>185.11</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 55.98 crore in 301 cases, of which in 287 cases involving ₹ 54.23 crore were pointed out in audit during the year 2016-17 and the rest in the earlier years. An amount of ₹ 39.77 lakh was realised in 14 cases during the year 2016-17.

A few illustrative cases involving ₹ 40.49 crore are discussed in the following paragraphs.

#### **2.4 Irregular remission of tax on resale of goods**

Claim for remission of tax ₹ 34.61 crore in three cases was allowed in assessment/appellate orders instead of ₹ 29.87 crore. This was done without verifying the correctness of the claims with the Final Accounts resulting in irregular allowance of remission of tax of ₹ 4.74 crore.

In terms of Rule 177 of the West Bengal Value Added Tax (WBVAT) Rules, 2005, read with Section 116 (1)(c) and 118 (1)(c) of the WBVAT Act, 2003, a registered dealer<sup>3</sup>, is eligible for enjoying remission of output tax. Remission of output tax is admissible, according to his return, in respect of sales of such goods manufactured in such unit. Under Rule 185 of WBVAT Rules, 2005, the Eligibility Certificate (EC) granted to him for such remission shall be valid for a period not exceeding 12 months. On expiry of the period of validity, the EC may be renewed for a further period not exceeding 12 months.

It was observed that the Special cell of the Directorate of Commercial Taxes (DCT) granted two ECs to Kitchen Appliances India Limited. One EC was granted in July 2008 for remission of tax on sale of goods manufactured in a newly set up industrial unit<sup>4</sup>. The other EC was granted in April 2008 for remission of tax on sale of goods manufactured in an expanded portion of an existing industrial unit.

In the course of scrutiny of assessment records in Large Taxpayers Unit (LTU), Audit observed<sup>5</sup> that during the assessment periods 2008-09, 2009-10 and 2011-12<sup>6</sup>, the dealer made sales of trading goods<sup>7</sup>, in addition to sale of goods manufactured in his industrial units. The dealer claimed remission of tax of ₹ 34.61 crore for assessment periods 2008-09, 2009-10 and 2011-12. According to the Final Accounts, the claim for remission of output tax included tax amounting to ₹ 4.74 crore payable on resale of goods. The remission of output tax on resale of goods was not admissible under the provisions of the Act. In assessing the

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<sup>3</sup> Manufacturing any goods in a newly set up industrial unit established by him or in an expanded portion of the existing industrial unit, in West Bengal.

<sup>4</sup> Located at Salt Lake City, Kolkata.

<sup>5</sup> Between October and November 2015.

<sup>6</sup> No remission of tax on sale of trading goods was noticed in returns for the period 2010-11.

<sup>7</sup> Goods for resale and not manufactured by seller.

cases<sup>8</sup>, the assessing authorities (AAs) in one case<sup>9</sup>, allowed the claim for remission of output tax of ₹ 12.29 crore. The AA did not consider that the remission claim included the tax of ₹ 1.59 crore payable on the resale of goods. In other two cases<sup>10</sup>, the AAs disallowed the claims of remission of tax of ₹ 22.32 crore in the absence of renewed ECs.

The dealer filed appeals against disallowance of remission of tax and other claims towards ITC, Sales returns etc. At the appellate stage, however, the appellate authorities not only confirmed<sup>11</sup> the remission allowed<sup>12</sup> by the AA, but also allowed<sup>13</sup> the claims for remission of tax of ₹ 22.32 crore. This was done on the basis of renewed ECs produced by the dealer at appellate stage. The claims so allowed by the appellate authorities<sup>14</sup> was inclusive of inadmissible remission of tax of ₹ 3.15 crore claimed on resale of goods. In pursuance of the appellate orders, modified assessment orders were passed<sup>15</sup> accordingly. Thus, claim for remission of tax of ₹ 34.61 crore was allowed in assessment/appellate orders instead of ₹ 29.87 crore. Audit observed that from assessment to appeal, the facts related to the trading sales were not considered and remissions were allowed without verifying the correctness of the claims with the Final Accounts. This resulted in irregular allowance of remission of tax of ₹ 4.74 crore as shown in the following table:

**Table - 2.2**  
**Irregular remission of tax**

(₹ in crore)

Period of assessment	Total tax assessed on sale by assessing/appellate authorities	Tax payable on resale of goods	Tax payable on sale of manufactured goods	Remission of tax allowable	Remission of tax allowed	Remission allowed in excess
1	2	3	4 (2-3)	5	6	7 (6-5)
2008-09	13.13	2.43	10.70	10.70	12.29	1.59
2009-10	14.83	3.03	11.80	11.80	13.95	2.15
2011-12	16.33	8.96	7.37	7.37	8.37	1.00
<b>Total</b>	<b>44.29</b>	<b>14.42</b>	<b>29.87</b>	<b>29.87</b>	<b>34.61</b>	<b>4.74</b>

After the cases were pointed out in July 2016, the Department accepted (May 2017) the audit observation and stated as follows:

<sup>8</sup> Between June 2011 and July 2014.

<sup>9</sup> For the assessment period 2008-09

<sup>10</sup> For the assessment periods 2009-10 and 2011-12.

<sup>11</sup> Between August 2012 and August 2015.

<sup>12</sup> For assessment period 2008-09.

<sup>13</sup> For the assessment periods 2009-10 and 2011-12.

<sup>14</sup> For the assessment periods 2009-10 and 2011-12.

<sup>15</sup> Between December 2013 and September 2015.

- Proceedings for suo motu revision had been initiated in two cases in respect of assesment periods 2008-09 and 2009-10; and
- The dealer had filed a revision application to the West Bengal Appellate & Revisional Board in respect of case for the assesment period 2011-12. The AA had filed cross revision to the Board informing of the excess remission of output tax in the appellate order.

The matter was reported to the Government in June 2017. Reply was awaited (February 2018).

## 2.5 Incorrect determination of turnover of sales

In six cases, AAs incorrectly determined turnover of sales (TOS) at ₹ 11.81 crore instead of ₹ 17.54 crore. This resulted in short determination of TOS of ₹ 5.73 crore with consequent short levy of tax of ₹ 53.13 lakh.

In terms of Section 2(55) of WBVAT Act, 2003, turnover of sales in relation to any period, means the aggregate of the sale prices/parts of sale prices received/receivable by a dealer for sales of goods made during such period which remains after making deductions prescribed under the Act. Section 16 of WBVAT Act, 2003 provides for levy of tax at applicable rates on such part of the TOS which remains after making deductions therefrom as prescribed under the Act.

Audit found<sup>16</sup> in four<sup>17</sup> Charge offices that in six cases<sup>18</sup>, AAs incorrectly determined TOS at ₹ 11.81 crore instead of ₹ 17.54 crore. This resulted in short determination of TOS of ₹ 5.73 crore with consequent short levy of tax of ₹ 53.13 lakh as detailed in the following table:

Table - 2.3

### Incorrect determination of TOS

(₹ in lakh)						
Sl. No.	Nature of irregularity	No. of cases	TOS assessable	TOS assessed	TOS determined short	Short levy of Tax
1.	In the absence of books of account, TOS assessed by AAs was short of that shown in returns <sup>19</sup>	2	151.20	121.29	29.91	4.09
2.	TOS assessed by AAs was short of that shown in books of account	4	1,602.83	1,059.85	542.98	49.04
<b>Total</b>		<b>6</b>	<b>1,754.03</b>	<b>1,181.14</b>	<b>572.89</b>	<b>53.13</b>

<sup>16</sup> Between November 2015 and September 2016.

<sup>17</sup> Balurghat, Behala, Fairlie Place and N.S. Road.

<sup>18</sup> Assessed between August 2012 and May 2015 for assesment periods between 2009-10 and 2012-13.

<sup>19</sup> Revised return was not furnished within six months from due date of filing of original returns as prescribed under the WBVAT Act.



After this was pointed out<sup>20</sup>, Charge offices accepted<sup>21</sup> the audit observations in four cases involving ₹ 22.78 lakh. They, however, did not furnish any report on realisation of tax. In the remaining cases, the Charge office did not furnish any reply (February 2018).

The matter was reported to the Government in June 2017. Reply was awaited (February 2018).

## 2.6 Irregular allowance of input tax credit

In 43 cases, the AAs allowed ITC of ₹ 9.11 crore. However, the dealers were eligible to ITC of only ₹ 5.31 crore. This resulted in irregular allowance of ITC of ₹ 3.80 crore.

Section 22 of the WB VAT Act, 2003 and Rules made there under prescribe that a registered dealer can avail the benefits of Input Tax Credit (ITC) to the extent of tax paid or payable by him in respect of purchases of taxable goods from the registered dealers of West Bengal. Any amount of ITC, which remains excess at the end of assessment period, shall be carried over to the next assessment period. ITC is, however, not admissible on purchase of goods specified in the negative list and purchases made from a registered dealer enjoying payment of tax at compounded rate.

Audit found<sup>22</sup> in 17<sup>23</sup> charge offices that in assessing 43 cases of 42 dealers<sup>24</sup>, the AAs allowed ITC of ₹ 9.11 crore. However, the dealers were eligible to ITC of only ₹ 5.31 crore. This resulted in irregular allowance of ITC of ₹ 3.80 crore as detailed in the following table:

**Table - 2.4**  
**Irregular allowance of ITC**

(₹ in lakh)					
Sl. No.	Nature of irregularity	No. of cases	ITC allowed	ITC allowable	Irregular allowance of ITC
1.	ITC was allowed on purchases made from dealers whose registration certificates were cancelled before purchases were made.	2	8.16	Nil	8.16
2.	ITC was allowed on purchases made from dealers who did not file returns or did not show any purchase and sale in their returns.	22	423.15	202.42	220.73
3.	ITC was allowed on claim of purchases higher than the sales disclosed by selling dealers.	2	80.87	Nil	80.87
4.	ITC allowed on purchases made from dealers paying tax at compounded rate.	5	7.47	Nil	7.47

<sup>20</sup> Between November 2015 and September 2016.

<sup>21</sup> Between November 2015 and September 2016.

<sup>22</sup> Between November 2015 and September 2016

<sup>23</sup> Asansol, Balurghat, Baruipur, Beadon Street, Behala, Berhampur, Bowbazar, Chandney Chawk, Ezra Street, Fairlie Place, LTU, Manohar Katra, N S Road, Park Street, Raiganj, Siliguri and Ultadanga.

<sup>24</sup> Between March 2013 and July 2015 for assessment periods between 2008-09 and 2012-13.

Sl. No.	Nature of irregularity	No. of cases	ITC allowed	ITC allowable	Irregular allowance of ITC
5.	ITC brought forward from previous assessment period was allowed in excess of the amount carried forward after assessment.	4	70.17	38.89	31.28
6.	ITC admissible to the dealer was computed excess in assessment.	1	23.72	20.07	3.65
7.	ITC was allowed on purchase of goods specified in negative list.	5	33.46	9.97	23.49
8.	ITC was allowed on purchase of goods tax on which was claimed to have been paid at rates higher than applicable rates.	1	1.62	0.48	1.14
9.	ITC in respect of purchase return was not reversed in assessment.	1	93.02	89.45	3.57
<b>Total</b>		<b>43</b>	<b>741.64</b>	<b>361.28</b>	<b>380.36</b>

After this was pointed out, the Charge offices while accepting<sup>25</sup> the audit observation in 17 cases stated that:

- Proposal for suo motu revision had been sent to the higher authorities in seven cases involving ₹ 0.97 crore;
- Notices under Section 66(1) of WBVAT had been issued to the dealers to produce books of account in three cases involving ₹ 0.15 crore;
- Proposals had been sent to the higher authorities to reopen two cases involving ₹ 0.59 crore; and
- Necessary actions were being taken in five cases involving ₹ 0.14 crore.

Report on levy and realisation of tax was yet to be furnished. In the remaining 26 cases, the Charge offices did not furnish any reply/specific reply (February 2018).

The matter was reported to the Government in June 2017 followed by a reminder issued in August 2017. Replies were awaited (February 2018).

### 2.7 Incorrect determination of contractual transfer price (CTP)

In 29 cases, the AAs incorrectly determined CTP of ₹ 392.46 crore instead of ₹ 522.52 crore. This resulted in short determination of CTP of ₹ 130.06 crore with consequent short levy of tax of ₹ 9.94 crore.

In terms of Section 2(10) of the WBVAT Act, 2003, contractual transfer price (CTP) in relation to any period is the amount received or receivable by a dealer in respect of transfer of property in goods in the execution of any works contract. Sections 14 and 18 of the Act prescribe that any transfer of property in goods involved in the execution of a works contract shall be deemed to be a sale by the person making such transfer. Tax at prescribed rates shall be levied on his CTP after allowing deductions towards labour, service and other like charges and

<sup>25</sup> Between December 2015 and September 2016.

payments to sub-contractors etc. Under Section 40 of the Act, a contractee shall deduct tax at source at the rate of two *per cent* from payments made to a registered dealer for execution of a works contract. Information in respect of contractual transfer price arising from execution of works contract is also available in IMPACT (Information Management for Promotion of Administration in Commercial Taxes), a web based application software developed for DCT for better tax administration. The information available in IMPACT is accessible to the assessing authorities.

Audit found<sup>26</sup> in 15<sup>27</sup> Charge offices that in 29 cases<sup>28</sup>, the AAs incorrectly determined CTP of ₹ 392.46 crore instead of ₹ 522.52 crore. This resulted in short determination of CTP of ₹ 130.06 crore with consequent short levy of tax of ₹ 9.94 crore as detailed in the following table.

**Table - 2.5**  
**Incorrect determination of CTP**

(₹ in crore)

Sl. No.	Nature of irregularity	No. of cases	CTP assessable	CTP assessed	CTP determined short	Short levy of Tax
1.	CTP assessed by AAs was less than that shown in books of account.	14	148.92	62.55	86.37	6.70
2.	CTP assessed by AAs was less than that claimed in certificate of tax deducted at source (TDS).	2	106.02	101.84	4.18	0.32
3.	CTP as per database available in IMPACT was higher than that shown in returns.	12	14.49	0.99	13.50	0.94
4.	CTP determined by the AA in ex-parte assessment was less than that disclosed by the dealer in annexure to returns, showing details of payments received from contractees.	1	253.09	227.08	26.01	1.98
<b>Total</b>		<b>29</b>	<b>522.52</b>	<b>392.46</b>	<b>130.06</b>	<b>9.94</b>

Charge offices accepted<sup>29</sup> the audit observations in 19 cases involving tax effect of ₹ 3.84 crore. Report on realisation of tax is yet to be furnished. In the remaining cases, the Charge offices did not furnish any reply/specific reply (February 2018).

The matter was reported to the Government in June 2017 followed by a reminder issued in August 2017. Their reply has not been received (February 2018).

<sup>26</sup> Between May 2015 and September 2016.

<sup>27</sup> Asansol, Baruiipur, Beadon Street, Behala, Beliaghata, Burdwan, Fairlie Place, Krishnanagar, LTU, Medinipur, N S Road, Radhabazar, Raigunj, Siliguri and Tamluk.

<sup>28</sup> Assessed between June 2012 and July 2015 for assessment periods between 2009-10 and 2012-13.

<sup>29</sup> Between November 2015 and September 2016.

## 2.8 Incorrect determination of taxable contractual transfer price (TCTP)

In three cases, AAs allowed excess deduction towards payment to sub-contractors and labour, service and other like charges. This resulted in short determination of taxable contractual transfer price by ₹ 98.43 crore with consequent short levy of tax of ₹ 11.59 crore.

Under Section 18(2) of the WBVAT Act, 2003, taxable contractual transfer price (TCTP) of a dealer is determined after deducting from the CTP, labour, service and other like charges, payment to sub-contractors etc. In terms of Section 18(3), however, if labour, service and other like charges or the TCTP for applying proper rates of tax are not ascertainable from books of account maintained by a dealer, such labour, service and other like charges or the TCTP shall, for the purpose of deduction from CTP, be determined on the basis of percentage of the value of the works contract, as prescribed for different types of works contract under Rule 30(2). Information in respect of payment made to sub-contractors in execution of a works contract is available in IMPACT software. The information available in IMPACT is accessible to the assessing authorities.

Audit found<sup>30</sup> in the Large Tax Payers Units (LTU) that in three cases of three dealers<sup>31</sup>, AAs in two cases allowed excess deduction of ₹ 55.76 crore towards payment to sub-contractors. In one case, apart from allowing excess deduction of ₹ 29.61 crore towards payment to sub-contractors, the AA also allowed excess deduction of ₹ 13.06 crore over deduction allowable towards labour, service and other like charges. This resulted in short determination of TCTP by ₹ 98.43 crore with consequent short levy of tax of ₹ 11.59 crore as detailed in the following table:

**Table - 2.6**  
**Incorrect determination of TCTP**

(₹ in crore)

Sl. No	Nature of irregularity	No. of cases/No. of dealers	Deduction allowed	Deduction admissible	Deduction allowed excess	TCTP determined short	Short levy of Tax
A	B	C	D	E	F(D-E)	G	H
1.	Claim for deduction towards payment to 168 sub-contractors was allowed twice in assessment.	1/1	193.76	164.15	29.61	42.67	6.17
	Deduction allowed for labour, service and other like charges was in excess of the amount admissible as per Section 18(3).		70.69	57.63	13.06		

<sup>30</sup> Between January 2016 and February 2016.

<sup>31</sup> Assessed between February 2013 and June 2014 for the assessment periods between 2009-10 and 2011-12.

Sl. No	Nature of irregularity	No. of cases/No. of dealers	Deduction allowed	Deduction admissible	Deduction allowed excess	TCTP determined short	Short levy of Tax
A	B	C	D	E	F(D-E)	G	H
2.	Claim for deduction allowed by AA to 15 sub-contractors was excess than the payments made by the dealer to such sub-contractors as per information available in the database accessed through IMPACT.	2/2	116.98	61.22	55.76	55.76	5.42
<b>Total</b>		<b>3/3</b>	<b>381.43</b>	<b>283.00</b>	<b>98.43</b>	<b>98.43</b>	<b>11.59</b>

After this was pointed out<sup>32</sup>, the LTU accepted<sup>33</sup> the audit observations in two cases involving tax effect of ₹ 5.42 crore. The report on realisation of tax is awaited. In the remaining one case, the LTU did not furnish any reply (February 2018).

The matter was reported to the Government in June 2017 followed by a reminder issued in August 2017. Their reply was awaited (February 2018).

### 2.9 Application of incorrect rate of tax

In 24 cases, AAs, involving sales of ₹ 42.69 crore levied output tax of ₹ 2.47 crore instead of ₹ 5.57 crore due to application of incorrect rate of tax. This resulted in short levy of tax of ₹ 3.10 crore.

Section 16 (2) the WBVAT Act, 2003 prescribes the rates of tax on sale of goods according to classification of the goods. Further, Sections 14 and 18 of the WBVAT Act, 2003 prescribe the rates of tax on CTP. Section 8 (2) of the Central Sales Tax (CST) Act, 1956 provides that in the case of inter-state sales of goods made to unregistered dealers, tax is leviable at the rates applicable to the sale/purchase of such goods within the state.

Audit observed<sup>34</sup> that in 12<sup>35</sup> Charge offices, the AAs in 24 cases<sup>36</sup>, involving sales of ₹ 42.69 crore levied output tax of ₹ 2.47 crore instead of ₹ 5.57 crore. This was due to application of incorrect rate of tax resulting in short levy of tax of ₹ 3.10 crore as detailed in the following table:

<sup>32</sup> Between January 2016 and February 2016.

<sup>33</sup> Between January 2016 and February 2016.

<sup>34</sup> Between January 2015 and November 2016.

<sup>35</sup> Amratola, Baruipur, Beliaghata, China Bazar, Fairlie Place, LTU, Radhabazar, Salkia, Salt Lake, Shibpur, Siliguri and Tamluk.

<sup>36</sup> Assessed between March 2013 and May 2015 for the assessment periods from 2009-10 to 2012-13.

**Table - 2.7**  
**Application of incorrect rate of tax**

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of cases	Taxable turnover	Tax leviable	Tax levied	Short levy of tax
1.	Application of lower rates of tax due to misclassification of commodity	20	3,115.03	406.82	133.94	272.88
2.	Application of lower rate of tax on goods taxable at higher rate	3	897.91	115.74	80.75	34.99
3.	Application of pre-revised rate of tax by AA on CTP	1	256.32	34.60	32.04	2.56
<b>Total</b>		<b>24</b>	<b>4,269.26</b>	<b>557.16</b>	<b>246.73</b>	<b>310.43</b>

Six<sup>37</sup> Charge offices accepted<sup>38</sup> the audit observations in 13 cases involving ₹ 1.05 crore. The report on levy and realisation of tax is awaited. In the remaining cases, the Charge offices did not furnish any/specific reply (February 2018).

The matter was reported to the Government in June 2017 followed by a reminder issued in August 2017. Their reply has not been received (February 2018).

### 2.10 Penalty on evaded tax not levied

In 109 cases, the AAs did not initiate proceedings to levy penalty despite evasion of tax by dealers. Penalty not exceeding ₹ 98.96 crore was leviable for such evasion of tax.

Section 96 of the WBVAT Act, 2003 prescribes levy of penalty, if a dealer has claimed excess ITC but has not reversed the same within the tax period or concealed any sales/purchases. Further, the quantum of penalty should not exceed twice the amount of tax, which would have been avoided if such concealment was not detected.

Audit observed<sup>39</sup> in 26<sup>40</sup> charge offices that in 109 cases of 96 dealers<sup>41</sup>, AAs detected evasion of tax of ₹ 49.80 crore. Of this, 12 dealers in as many cases evaded tax by claiming excess ITC of ₹ 5.45 crore without entering into valid transactions with other dealers. Eighty four dealers in 97 cases evaded tax of ₹ 44.35 crore by suppression of sales/purchases. Though the AAs detected evasion of tax, they did not initiate proceedings to levy penalty under Section 96 of WBVAT Act. Penalty not exceeding ₹ 98.96 crore was leviable for such evasion of tax.

<sup>37</sup> Baruipur, Fairlie Place, Radhabazar, Salt Lake, Shibpur and Siliguri.

<sup>38</sup> Between February 2015 and August 2016.

<sup>39</sup> Between November 2015 and November 2016.

<sup>40</sup> Alipore, Amratola, Asansol, Balurghat, Baruipur, Bankura, Barasat, Beadon Street, Behala, Berhampore, Bowbazar, Burdwan, China Bazar, Diamond Harbour, Durgapur, Esplanade, Ezra Street, Fairlie Place, Krishnanagar, LTU, Medinipur, Manohar Katra, Park Street, Shibpur, Taltala and Ultadanga.

<sup>41</sup> Assessed between June 2012 and August 2016 for assessment periods between 2008-09 and 2013-14.

After this was pointed out, 19<sup>42</sup> Charge offices while accepting<sup>43</sup> the audit observations in 47 cases stated that

- Penal proceedings had already been initiated in 37 cases involving ₹ 26.07 crore,
- Proposal had been forwarded to the higher authorities for necessary action in five cases involving ₹ 1.21 crore, and
- Necessary action was being taken in five cases involving ₹ one crore.

In the remaining 62 cases, the Charge offices did not furnish any/specific reply (February 2018).

The matter was reported to the Government in June 2017 followed by a reminder issued in August 2017. Their reply has not been received (February 2018).

### 2.11 Interest not /short levied

Interest of ₹ 4.65 crore was not/short levied in 33 cases.

Section 33 of the West Bengal Value Added Tax Act, 2003 prescribes that a dealer, who fails to adjust any amount of reverse credit by way of deducting inadmissible ITC from the amount of ITC claimed for a tax period or fails to make full payment or makes delay in payment of net tax in respect of any tax period of a return period, shall be liable to pay interest at the rate of 12 *per cent* per annum.

Audit found<sup>44</sup> in 11<sup>45</sup> Charge offices that in 33 cases of 28 dealers<sup>46</sup>, AAs did not levy interest of ₹ 4.44 crore in 32 cases. In the remaining one case, the AA levied short interest by ₹ 20.14 lakh. Thus interest of ₹ 4.65 crore was not/short levied as detailed in the following table:

**Table - 2.8**  
**Interest not /short levied**

(₹ in lakh)						
Sl. No.	Nature of irregularity	No. of cases/ No. of dealers	Tax on which interest was leviable	Interest leviable	Interest levied	Interest not /short levied
1.	Number of days involved in delay in payment of tax was determined short by 345 days.	1/1	142.74	53.27	37.07	20.14
	Interest for non-reversal of ITC was levied short.		23.51	7.45	3.51	

<sup>42</sup> Alipore, Asansol, Balurghat, Baruipur, Barasat, Beadon Street, Behala, Berhampore, Burdwan, Diamond Harbour, Esplanade, Ezra Street, Fairlie Place, Krishnanagar, LTU, Medinipur, Manohar Katra, Park Street and Taltala.

<sup>43</sup> Between December 2015 and November 2016.

<sup>44</sup> Between November 2015 and November 2016.

<sup>45</sup> Asansol, Bowbazar, Burdwan, Durgapur, Esplanade, Ezra Street, Fairlie Place, LTU, Medinipur, Posta Bazar and Radha Bazar.

<sup>46</sup> Assessed between June 2012 and June 2015, for assessment periods between 2008-09 and 2012-13.



Sl. No.	Nature of irregularity	No. of cases/ No. of dealers	Tax on which interest was leviable	Interest leviable	Interest levied	Interest not /short levied
2.	Interest was not levied on tax admitted in returns, but not paid by a dealer by the prescribed dates.	1/1	22.47	6.96	Nil	6.96
3.	Interest on non-reversal of inadmissible ITC claimed in returns by the dealers was not levied.	31/26	1,394.62	437.46	Nil	437.46
<b>Total</b>		<b>33/28</b>	<b>1,583.34</b>	<b>505.14</b>	<b>40.58</b>	<b>464.56</b>

After this was pointed out<sup>47</sup>, six<sup>48</sup> Charge offices accepted<sup>49</sup> the audit observations in seven cases involving ₹ 1.28 crore. Report on realisation of interest was yet to be furnished. In the remaining cases, six<sup>50</sup> Charge offices did not furnish any/specific reply (February 2018).

The matter was reported to the Government in June 2017 followed by a reminder issued in August 2017. Reply was awaited (February 2018).

## 2.12 Short levy of tax due to mistake in computation

In 19 cases, the AAs assessed output tax of ₹ 5.28 crore instead of ₹ 7.42 crore due to mistake in computation. This resulted in short levy of tax of ₹ 2.14 crore.

Under the WBVAT Act, 2003, tax is to be computed at prescribed rates along with interest and penalty, if any, on the goods sold.

Audit observed<sup>51</sup> in 15<sup>52</sup> Charge offices that in 19 cases<sup>53</sup>, the AAs assessed output tax of ₹ 5.28 crore instead of ₹ 7.42 crore. This was due to (i) calculation of tax on TOS/CTP<sup>54</sup> less than the TOS/CTP actually determined by them, (ii) calculation of tax at the rates lower than the rates actually determined by them and (iii) other arithmetical mistakes. Such mistakes in computation resulted in short levy of tax of ₹ 2.14 crore.

<sup>47</sup> Between November 2015 and November 2016.

<sup>48</sup> Burdwan, Esplanade, Ezra Street, Fairlie Place, Posta Bazar and Radha Bazar.

<sup>49</sup> Between March 2016 and August 2016.

<sup>50</sup> Asansol, Bowbazar, Durgapur, Esplanade, LTU and Medinipur.

<sup>51</sup> Between October 2015 and November 2016.

<sup>52</sup> Asansol, Baruipur, Behala, Burdwan, Chandney Chawk, Durgapur, Fairlie Place, LTU, Manohar Katra, N.S. Road, Posta Bazar, Radha Bazar, Shibpur, Tamluk and Ultadanga.

<sup>53</sup> Assessed between June 2012 and August 2015 for assessment periods between 2009-10 and 2012-13.

<sup>54</sup> Turnover of sales (TOS)-in case where assessee was a Dealer/Contractual transfer price (CTP)-in case where assessee was a Contractor.



After this was pointed out, 11<sup>55</sup> Charge offices while accepting<sup>56</sup> the audit observations in 12 cases stated that

- Proposals for revision had been sent to the higher authorities in eight cases involving ₹ 0.13 crore,
- Necessary action was being taken in three cases involving ₹ 0.09 crore, and
- Proposals had been sent to the higher authority for necessary action in one case involving ₹ 0.29 crore.

Report on realisation of tax was yet to be furnished. In the remaining seven cases, the Charge offices did not furnish any/specific reply (February 2018).

The matter was reported to the Government in June 2017. Reply was awaited (February 2018).

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<sup>55</sup> Asansol, Baruipur, Behala, Burdwan, Fairlie Place, Manohar Katra, Posta Bazar, Radha Bazar, Shibpur, Tamluk and Ultadanga.

<sup>56</sup> Between November 2015 and November 2016.



# CHAPTER III



## CHAPTER III

### LAND REVENUE

#### 3.1 Tax administration

Land Revenue consists of receipts from land rent, rates and cess, management of Ex-Zamindari Estates, survey and settlement operations etc.

During 2016-17, Land Revenue was administered by the Land and Land Reforms (L&LR) Department headed by the Land and Land Reforms Commissioner (LRC) and Principal Secretary, assisted by one Director of Land Records and Surveys (DLR&S) and Joint LRC, 19 Additional District Magistrate (ADM) and District Land and Land Reforms Officers (DL&LROs).

#### 3.2 Internal audit

The Internal Audit Wing (IAW) of the L&LR Department was established with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations and safeguarding resources against loss.

The Internal Audit Wing was headed by the Audit Officer cum Ex-officio Joint Secretary of the Government of West Bengal. The Wing had a sanctioned strength of 16 Internal Audit Officers and 14 Assistant Auditors. Against this, only 11 Assistant Auditors were in position. No Internal Audit Officer was posted.

During 2016-17, the Wing planned to audit 19 DL&LROs, six Land Acquisition Collector, one First Land Acquisition (FLA) Collector, one Rent Controller and two Thika tenancy units. The wing conducted audit of all the planned units except one Thika Tenancy. The achievement of targets was 96.55 per cent.

#### 3.3 Results of audit

In 2016-17, test check of the records of 10 units relating to receipts from Land Revenue showed irregularities involving ₹ 275.18 crore in 361 cases, which fell under the following categories as given in **Table 3.1**.

**Table - 3.1**  
**Results of audit**

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non-realisation of Government revenue due to non-settlement of long term lease	79	27.11
2.	Non/short realisation of rent, cess and surcharge on land used for commercial purpose	186	42.06
3.	Non-realisation of <i>salami</i> and annual lease rent	23	16.06
4.	Non-realisation of Government revenue due to non-renewal of long term lease	11	6.04

Sl. No.	Categories	Number of cases	Amount
5.	Non-realisation of transfer value due to non-settlement of land with Government of India	4	182.40
6.	Blockage/loss of revenue due to non-leasing of <i>sairati</i> interest	22	0.57
7.	Other cases	36	0.94
<b>Total</b>		<b>361</b>	<b>275.18</b>

During the course of the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 233.68 crore in 321 cases, of which 313 cases involving ₹ 233.10 crore were pointed out during the year 2016-17 and the rest in earlier years. An amount of ₹ 22.29 lakh was realised in 18 cases at the instance of audit.

A Performance Audit on “Land Revenue Receipts in West Bengal”, having money value of ₹ 127.33 crore is discussed in the following paragraphs.

### 3.4 Performance Audit on “Land Revenue Receipts in West Bengal”

#### Highlights

- The Department failed to implement the Kolkata Land Revenue Act in original jurisdiction of Kolkata Municipal Corporation area.  
**(Paragraph 3.4.8.1)**
- Transfer value of ₹ 31.33 crore was not realised due to inaction of the Department to settle the land with four Central Government Organisations.  
**(Paragraph 3.4.8.2)**
- Revenue of ₹ 42.71 crore was not realised due to non-initiation of certificate proceedings.  
**(Paragraph 3.4.8.3)**
- e-Bhuchitra is an internet based application introduced in December 2014 to manage day to day activities of Land and Land Reforms (L&LR) Department at block level in real time. Some shortcomings in this application are mentioned below:
  - The Department failed to estimate the land revenue in the absence of data<sup>57</sup> relating to tenants and rent due in e-Bhuchitra.  
**(Paragraph 3.4.9.1)**
  - The Department failed to realise the arrears of land revenue in the absence of required data<sup>58</sup> in the application.  
**(Paragraph 3.4.9.2)**

<sup>57</sup> Earlier it was maintained in Register-I which was a Revenue/Rent Roll that contained the names of the tenants, their status, land revenue including rent, surcharge/cess payable by them and the area included in the Records of Right.

<sup>58</sup> Earlier, Tenants’ Ledger also known as Register-II, was maintained that consisted of tenant-wise information of demand, collection and arrears of land revenue.

- Quantum of Government land was not monitored properly as old *pattas* were not recorded in e-Bhuchitra. (Paragraph 3.4.9.5)
- Revenue of ₹ 73.90 crore was not realised due to failure to settle land with unauthorised occupants. (Paragraph 3.4.10.2)
- Lease rent of ₹ 1.07 crore was not realised due to inaction of the Department to renew expired leases. (Paragraph 3.4.10.5)
- Commercial rent of ₹ 1.14 crore for commercial use of land was not realised from different development authorities. (Paragraph 3.4.10.8)
- Defective integration of e-Nathikaran and e-Bhuchitra resulted in non-achievement of citizen centric works like hassle free mutation of properties. (Paragraph 3.4.10.10)
- Department failed to detect unauthorised occupation of Government land of 26.96 acres by a private company. (Paragraph 3.4.10.14)

### 3.4.1 Introduction

Land revenue receipts arise mainly from land rent<sup>59</sup>, *salami*<sup>60</sup>, lease rent<sup>61</sup> from short/long term lease of non-agricultural land and *sairati*<sup>62</sup> interests and transfer value of land transferred to the Central Government departments. In addition, different kinds of cesses like Rural Employment Cess, Road Cess, Public Works Cess and Primary Education Cess are also levied on land revenue. For delayed payment of land revenue, interest is leviable at a prescribed rate. Land revenue and interest thereon which remains unpaid, constitute arrears and are recoverable under the Bengal Public Demands Recovery Act, 1913. All the receipts are deposited under the head of account “0029”.

The computerisation of land records in West Bengal started in 1986-87. The first version of the Land Records computerisation software, named “Bhumi” was developed by the National Informatics Centre (NIC) in 1989, which has been upgraded from time to time. A number of upgraded versions of the “Bhumi” have been brought out so far in West Bengal including Bhuchitra and e-Bhuchitra. Land records were ported into Bhuchitra from the year 2000 and were maintained in Bhuchitra up to the December 2014 till e-Bhuchitra was introduced in a phased manner. “e-Bhuchitra” is an internet-based web-application

<sup>59</sup> Land Rent is an annual rent paid by the *raiyat* of the land to the Government.

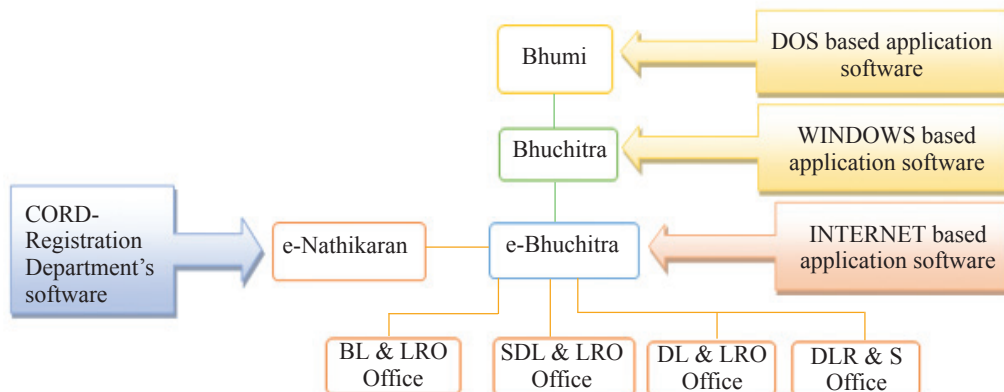
<sup>60</sup> *Salami* means lump sum amount payable by the lessee in the case of settlement of Government land.

<sup>61</sup> Lease Rent is a rent paid by the lessee to the Government for the use of Government land for non- agricultural purposes for a specific period.

<sup>62</sup> The word *Sairati* has been derived from the word *sair*. The amount which the owners of haat, bazar, markets, ferries, fisheries etc. used to collect on commodities sold or benefits derived from those places were designated as *sair* collection. Such haat, ferries etc. are known as *sairati* interests. The owner of *sairati* interests could be Government or any individual.

that uses central repository of records at State Data Centre. It manages day-to-day activities of block level land and land revenue officers/ offices in real time basis. It also integrates registration offices through another software called “e-Nathikaran” for hassle-free mutation of land. The Land and Land Reforms (L&LR) Department has been providing citizen centric services like information of Record of Rights (RoR)<sup>63</sup>, status of mutation cases etc., from the official website banglarbhumi.gov.in. Upgradation of computerisation of land records from time to time and working of e-Bhuchitra have been depicted in the **Chart 3.1**:

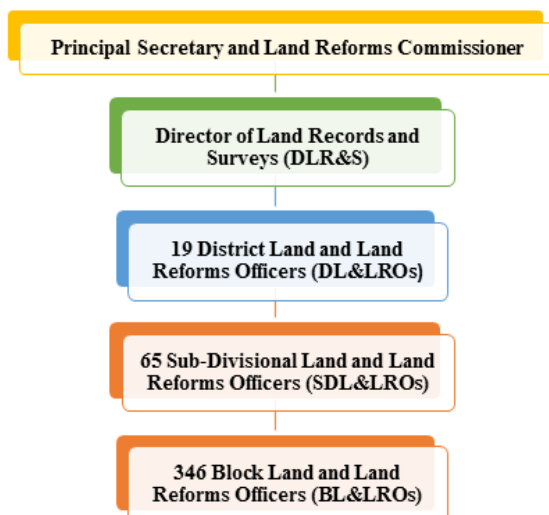
**Chart 3.1: Upgradation from “Bhumi” to “e-Bhuchitra”**



### 3.4.2 Organisational set up

Land revenue receipts are administered by the Land and Land Reforms (L&LR) Department, headed by the Principal Secretary and Land Reforms Commissioner, who is assisted by Director of Land Records and Surveys, District Land and Land Reforms Officers (DL&LRO), Sub Divisional Land and Land Reforms Officers and Block Land and Land Reforms Officers. The organisational structure of the L&LR Department is shown in the **Chart 3.2**:

**Chart 3.2: Organisational set up**



<sup>63</sup> It is statutory document maintained by the prescribed authority u/s 50 of WBLR Act, 1955 and is a notice to the public at large as to who are the owners of the land in the records of the authorities.



### 3.4.3 Audit objectives

The Performance Audit was conducted with the objectives to ascertain whether:

- Acts/Rules and departmental instructions were adequate to safeguard the revenue of the State;
- The IT system was in accordance with the provisions of the Acts/Rules;
- Compliance to existing provisions on land revenue receipts was being followed by the department;
- Internal control mechanism was efficient and effective.

### 3.4.4 Audit scope and Methodology

Audit selected seven<sup>64</sup> out of 19 DL&LROs by adopting stratified sampling method by application of IDEA software. In addition, the office of DL&LRO, Malda was also selected on the suggestion made by the Principal Secretary to the Government of West Bengal, L&LR Department, during the course of entry conference held on 28 February 2017. The Performance Audit was conducted during the period January 2017 to July 2017 covering the period from 2011-12 to 2015-16. During the course of audit, apart from eight offices of DL&LROs, office of DLR&S, 11 SDL&LROs and 64 BL&LROs were also taken up for audit. Audit findings from compliance audit on similar issues also stand included in the report.

**The Department did not provide access to the dump data entered in the “e-Bhuchitra” software. They, also, did not furnish any reason for not providing access to the dump data. As such, Audit could not comment on the efficacy of the IT system in accurate maintenance and updation of land records in the State.** At the local BL&LRO offices, wherever access was provided to “e-Bhuchitra”, Audit endeavoured to assess the deficiencies noticed in the software.

### 3.4.5 Audit criteria

The following Acts and Rules made thereunder along with notifications and circulars issued from time to time constituted the audit criteria for the Performance Audit:

- Bengal Public Demands Recovery (BPDR) Act, 1913;
- West Bengal Estate Acquisition (WBEA) Act, 1953;
- West Bengal Land Reforms (WBLR) Act, 1955;
- West Bengal Land Reforms (WBLR) Rules, 1965;
- West Bengal Rural Employment and Production (WBREP) Act, 1976;
- West Bengal Land and Land Reforms (WBL&LR) Manual 1991;

<sup>64</sup> Bankura, Birbhum, Burdwan, Darjeeling, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

- Kolkata Land Revenue (KLR) Act, 2003; and
- Other relevant Acts, Rules and Departmental instructions issued time to time.

### 3.4.6 Trend of Revenue

The budget estimates (BE), and the actual receipts from land revenue along with the percentage of variation and the comparison between the LR receipts and the total tax receipts of the state for the period from 2011-12 to 2015-16 are mentioned in the following table:

**Table - 3.2**  
**Trend of revenue**

(₹ in crore)

Year	BE	Actual	Difference between BE and actual	Percentage of Variation	Total tax revenue collected in the State	Percentage of LR receipts in respect of total tax revenue
2011-12	1,694.37	1,872.23	(+) 177.86	(+)10.49	24,938.16	7.51
2012-13	1,805.27	2,023.72	(+) 218.45	(+) 12.10	32,808.49	6.17
2013-14	3,942.82	2,253.54	(-) 1,689.28	(-) 42.84	35,830.56	6.29
2014-15	2,829.13	2,275.74	(-) 553.39	(-) 19.56	39,411.98	5.77
2015-16	3,031.85	2,456.27	(-) 575.58	(-) 18.98	42,492.08	5.78

Source: - Finance Accounts and Budget Publications of the Government of West Bengal

There was a wide variation between BEs and actuals, ranging from (+) 12.10 per cent in 2012-13 to (-) 42.84 per cent in 2013-14. Such wide variation indicated that system followed for framing estimates or assessing prospective collection was flawed. The Department, though asked for, did not furnish the reasons for variations. In addition, the percentage of revenue collected as LR in the state was decreasing, despite an increase in total tax revenue collected by the state Government.

### 3.4.7 Acknowledgement

Prior to the commencement of audit, scope, criteria and methodology of the Performance Audit were discussed in an Entry Conference held on 28 February 2017 between the Accountant General and Principal Secretary to the Government of West Bengal, L&LR Department. Findings of the Performance Audit were forwarded to the Department in September 2017. The Exit Conference with L&LR Department was held in December 2017 and views of the Department have been suitably incorporated in the relevant paragraphs.

### Audit findings

#### 3.4.8 Adequacy of Acts/Rules and Departmental instructions to safeguard revenue of the State

The L&LR Department is mainly responsible for maintenance of land records and surveys, assessment and collection of land revenue, mutation of ownership and conversion of land, requisition and acquisition of land and revision of RoR,

vesting and settlement of ceiling surplus land etc. It was examined in audit whether the relevant Acts/Rules/notifications facilitated and aided the collection of revenue. Findings related to this aspect are discussed in the following paragraphs:

#### **3.4.8.1 Kolkata Land Revenue Act not implemented in jurisdictional areas of Kolkata Municipal Corporation**

Land revenue was not realised in original jurisdiction of KMC as KLR Act was not implemented.

Sections 22 and 23 of the WBLR Act, 1955, provide that all *raiyats*<sup>65</sup>/tenants are liable to pay land revenue in respect of land held by them. Further, KLR Act, 2003, had been enacted to realise land revenue from the land owners under the Kolkata Municipal Corporation (KMC). Section 7(1) of the KLR Act, 2003, provides that in case of a land situated within KMC, the Revenue Officer shall assess and collect the revenue. The basis for this would be the holding register of such corporation, till the RoR in respect of the interests of a *raiyat* are prepared and finally published under the provisions of the WBLR Act, 1955. Under Section 21 of the KLR Act, 2003, the State Government was directed to frame rules for carrying out the purposes of this Act.

Audit observed (October 2016) that the KLR Act had not been implemented in any of the 144 wards under jurisdiction of KMC. However, in ward no. 101 to 144 which were not in original jurisdiction<sup>66</sup> of KMC, land revenue under WBLR Act, 1955, continued to be collected. In ward no. one to 100 covering an area of 23,127.79 acres, no land revenue either under KLR Act or under WBLR Act was being collected. The State Government neither framed any rules for carrying out the purposes of KLR Act nor appointed any revenue officer for assessment and collection of land revenue. RoR of *raiyats* was also not prepared. As a result, Government had been deprived of land revenue within the original jurisdiction of Kolkata for the last 12 years from 2004-05 to 2015-16. By not implementing the Act, the will of legislature has been defeated.

After this was pointed out, the Additional DLR&S, West Bengal did not furnish any specific reply. However, in the exit conference (December 2017), the Principal Secretary stated that the KLR Act had not been implemented in the original jurisdiction of KMC. The issue of implementation of KLR Act was policy matter of the Government.

#### **3.4.8.2 Absence of a time limit for transfer of land to Central Government**

Transfer value of ₹ 31.33 crore was not realised due to inaction of the Department to settle the land.

Transfer of land between Central Government and State Government is guided by Rule 471 of WBL&LR Manual, 1991. No time limit is prescribed for such

<sup>65</sup> *Raiyat* means a person or an institution holding land for any purpose.

<sup>66</sup> As per Calcutta Municipal Act, 1951 there was 100 wards under Calcutta Municipal Corporation. Further amalgamation of erstwhile Municipalities of Jadavpur, South Suburban, Garden Reach, and Joka, total number of wards extended from 101 to 144 under KMC. Thus original jurisdiction means area under ward no. one to 100 of KMC.

transfer of land. However as per Rule 225 *ibid*, there is a time limit of five months for the long term settlement of Government land on lease.

Audit found in two<sup>67</sup> DL&LROs between March 2016 and July 2017 that in five cases, 25.97 acres of land was under possession of four<sup>68</sup> Central Government Organisations for periods ranging from three years to 55 years. The organisations had applied for settlement of the land between November 2013 and May 2014.

Thus, in absence of time limit for transfer of land, the process of settlement was not completed even though land was under the possession of the organisations in all cases. No reasons were found on records for such delay. This resulted in transfer value of ₹ 31.33 crore being not realised.

After this was pointed out, DL&LRO, Darjeeling stated that realisation would be made after sanction of the Government. DL&LRO, Malda stated that the matter would be communicated to the higher authority for early disposal of the case.

In the exit conference (December 2017), the Principal Secretary stated that after verification, if it was found that the land under possession of Central Government Organisations was vested land, then action would be taken to settle the land as per the Land Allotment Policy.

### 3.4.8.3 Absence of a time limit for initiation of certificate proceedings<sup>69</sup>

Revenue of ₹ 42.71 crore was not realised due to non-initiation of certificate proceedings.

Rule 320 of the WBL&LR Manual, 1991, empowers the functionaries of the L&LR Department as certificate officers under Section 3(3) of the Bengal Public Demand Recovery Act, 1913 (BPDR Act) to recover arrears of land revenue. However, there is no time limit prescribed for initiation of certificate proceedings in the WBL&LR Manual, 1991.

Audit found from test check of records in four<sup>70</sup> DL&LROs that 13 *raiyats* in 15 cases and 35 lessees in 37 cases, did not pay the land rent, cess, surcharge and lease rent amounting to ₹ 42.71 crore. These dues were pending from 1978-79 to 2015-16. Age-wise analysis of arrears of land revenue is mentioned in the following table:

<sup>67</sup> Darjeeling and Malda.

<sup>68</sup> Border Security Force (one case) (44 years), Sashastra Seema Bal (two cases) (three years and 19 years), 12<sup>th</sup> Battalion the Jammu and Kashmir Rifles (one case) (55 years) and National Dairy Development Board (one case) (unknown).

<sup>69</sup> Under the BPDR Act, 1913, "Certificate proceedings" are proceedings to recover a public demand. Subject to certain conditions and limitations as may be prescribed, a Certificate Officer may order execution of the certificate (a) by attachment and sale, or by sale (without previous attachment), of any property, or (b) by attachment of any decree, or (c) by arresting the certificate-debtor and detaining him in the civil prison, or (d) by any two or all of the methods mentioned in clauses (a), (b) and (c).

<sup>70</sup> Malda, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

**Table - 3.3**  
**Age-wise analysis of arrears**

(₹ in crore)

Sl. No.	Period	Number of cases	Arrears of land revenue
1.	1 to 5 years	8	3.40
2.	6 to 10 years	19	9.48
3.	11 to 20 years	17	15.79
4.	More than 20 years	8	14.04
<b>Total</b>		<b>52</b>	<b>42.71</b>

Even after demand notices were issued by the L&LR authorities between November 2011 and November 2016 the defaulters did not pay. No certificate proceedings were initiated against the defaulters in the absence of a time limit. As a result, revenue of ₹ 42.71 crore remained unrealised for want of certificate proceedings.

After this was pointed out, DL&LROs did not furnish any specific reply.

In the exit conference (December 2017), the Principal Secretary stated that initiations of certificate proceedings would be resorted to within a reasonable time where substantial amount of Government dues were outstanding.

### 3.4.9 IT system's adherence to provisions of the Acts/Rules

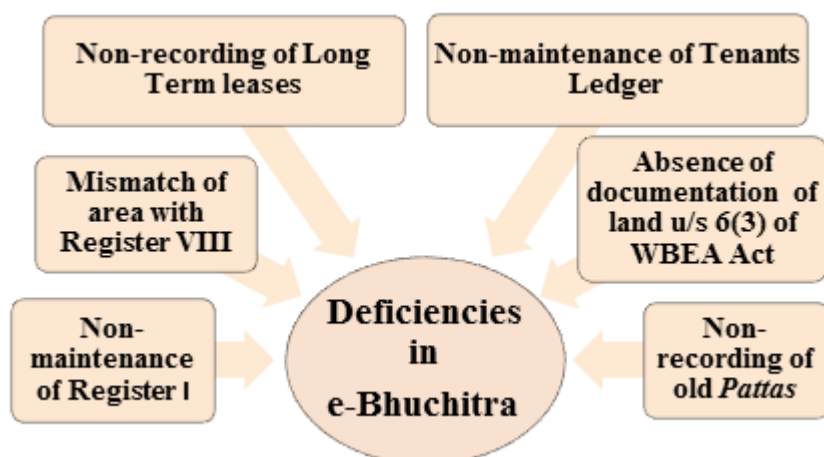
The software called “e-Bhuchitra”, was developed by NIC for the computerisation of the land records by the L&LR Department. It had been in operation since December 2014. e-Bhuchitra is the application software envisaged :

- (i) to manage land records as well as map data for the State of West Bengal;
- (ii) to integrate the vector digitised<sup>71</sup> *mouza* maps with the land record information;
- (iii) to carry out citizen centric services such as mutation, conversion, *patta* enrollment, record correction; and
- (iv) assessment, raise demand, monitor the collection of land revenue etc.

Out of 346 BL&LROs, 334 BL&LROs were working through e-Bhuchitra and remaining 12 BL&LROs were yet to be connected to the central server due to connectivity constraints, as per reply of the Additional DLR&S. However, it did not carry out assessment, demand or collection of land revenue as described in its original scope of work. Thus, e-Bhuchitra was yet to be implemented fully.

<sup>71</sup> Vector data is an abstraction of the real world where positional data is represented in the form of coordinates. In vector data, the basic units of spatial information are points, lines and polygons. GIS-ready digitisation, also termed as vectorisation, of cadastral mauza maps are required to be done in various layers to facilitate digital capturing of all the features of existing paper map.

During the course of Performance Audit, Audit observed a number of deficiencies in the present electronic system as shown in Figure:



These deficiencies are discussed in the following paragraphs:

### 3.4.9.1 Absence of provision of assessment of land revenue in e-Bhuchitra

Due to absence of Register-I in e-Bhuchitra, estimation of land revenue was not properly monitored.

Rule 323 (a) of WBL&LR Manual, 1991, provides that Register-I, which is a Revenue/Rent Roll should contain the names of the tenants, their status, land revenue including rent, surcharge/cess payable by them and the area included the Records of Rights (RoR). Further, with the introduction of e-Bhuchitra, Register-I was required to be maintained in e-Bhuchitra for assessment of land revenue.

Audit found from test check of records that Register-I (Revenue/Rent Roll) was not maintained at all, either manually or electronically in 19<sup>72</sup> BL&LROs under five<sup>73</sup> DL&LROs. In the absence of Register-I in its manual form as well as in “e-bhuchitra”, land revenue could not be assessed. Hence, arrears of revenue lying unrealised in these 19 BL&LROs could also not be ascertained by the Department.

Audit also observed that in seven<sup>74</sup> BL&LROs, total numbers of *raiya*s as per records of *Bhumi Sahayaks* did not match with the monthly progress report<sup>75</sup>. In the absence of updated records in the form of Register-I correctness could not be

<sup>72</sup> Bolpur, Darjeeling Sadar, Kalimpong-I, Kharagpur-I, Kharibari, Matigara, Mayureswar-I, Mohammad Bazar, Naxalbari, Old Malda, Panskura-II, Paschim Medinipur Sadar, Phansidewa, Ramnagar-I, Rampurhat-I, Sainthia, Salboni, Suri-I and Sutahata-I.

<sup>73</sup> Birbhum, Darjeeling, Malda, Paschim Medinipur and Purba Medinipur.

<sup>74</sup> Kalimpong-I, Matigara, Naxalbari, Panskura-II, Phansidewa, Ramnagar-I and Sutahata-I.

<sup>75</sup> Monthly progress report reflects the working of the BL&LRO in terms of revenue collected, mutation, conversion etc.



checked. The variation in *raiya*ts as recorded by *Bhumi Sahayaks* and as reflected in monthly progress reports in 2015-16 was between 5.31 per cent and (-)134.59 per cent as shown in the following table:

**Table - 3.4**  
**Variation in coverage of *raiya*ts**

Name of the DL&LRO	Name of BL&LRO offices	Total No. of <i>raiya</i> ts as per Monthly Progress report (MPR)	<i>Raiya</i> ts Coverage by the Bhumi Sahayaks (BS)	Difference in <i>raiya</i> ts as per MPR and data as provided by BS	Percentage of Variation/ anomaly of <i>raiya</i> ts coverage with respect to MPR
Darjeeling	Kalimpong	17,237	16,483	754	4.37
	Matigara	55,956	66,984	(-)11,028	(-)19.70
	Naxalbari	37,854	37,230	624	1.64
	Phasidewa	52,871	52,196	675	1.27
Purba Medinipur	Panskura - II	61,176	1,43,513	(-)82,337	(-)134.59
	Ramnagar - I	67,050	86,786	(-)19,736	(-)29.43
	Sutahata - I	92,092	87,195	4,897	5.31

As such, maintenance of Register-I in “e-Bhuchitra” software was essential to accurately estimate the land revenue.

After this was pointed out, all DL&LROs accepted the audit observations and stated that matter would be taken up with higher authority.

Accepting the audit observation, in the exit conference (December 2017), the Principal Secretary stated that assessment of the land revenue through e-Bhuchitra would require an amendment of Section 23/24 of WBLR Act, 1955. Appropriate action would be taken accordingly.

#### **3.4.9.2 Absence of tenant-wise information in “e-Bhuchitra”**

In absence of Tenants’ Ledger, arrears of land revenue of tenants were not properly ascertained.

Rule 483 of the WBL&LR Manual, 1991, provides that Register-II should be maintained for recording tenant-wise position of demand, collection and arrears. Register-II is the Tenants’ Ledger which contains the area, annual demand of land revenue/rent, surcharge and cesses, tenant’s name and residence. The amount of annual demand of land revenue entered in Register-II is derived from Register-I. Further, with the introduction of e-Bhuchitra, Register-II was required to be featured in e-Bhuchitra for demand, collection and arrears of land revenue.

Audit found that Register-II was not maintained either manually or electronically in 44<sup>76</sup> BL & LROs under eight<sup>77</sup> DL&LROs. Out of these, it was also noticed in six<sup>78</sup> BL&LROs under three DL&LROs that maintenance of Register-II was

<sup>76</sup> Andal, Asansol (Extn.-I), Barasat-I, Barasat-II, Barrackpore-I, Barrackpore-II, Basirhat-I, Bolpur, Burdwan-I, Burdwan-II, Darjeeling Sadar, Durgapur-Faridpur, Haroa, Hasnabad, Jamalpur, Jamuria, Kalimpong-I, Kalna-I, Kanksa, Katwa-I, Kharagpur-I, Kharibari, Kotulpur, Kulti, Matigara, Mayureswar-I, Mohammad Bazar, Memari-I, Minakhan, Naxalbari, Old Malda, Panskura-II, Paschim Medinipur Sadar, Phansidewa, Purbasthali-II, Rajarhat, Ramnagar-I, Rampurhat-I, Sainthia, Salboni, Sandeshkhali-I, Sonamukhi, Suri-I and Sutahata-I.

<sup>77</sup> Bankura, Birbhum, Burdwan, Darjeeling, Malda, Paschim Medinipur, Purba Medinipur and North 24 Parganas.

<sup>78</sup> Matigara, Old Malda, Panskura-II, Phansidewa, Ramnagar-I and Sutahata-I.

discontinued between 1980 and 1996. However, Audit could not ascertain the period of discontinuance of maintenance of Register-II in respect of the remaining BL&LROs. In absence of such register, tenant-wise information like area of land, position of demand, collection and arrears could not be ascertained by the BL&LROs. Even the L&LR Department did not make provision to show tenant-wise details i.e. area, annual demand of land revenue/rent, surcharge and cess, tenant's name and residence in the "e-Bhuchitra" software. Only the *Mouza*-wise and *Khatian*<sup>79</sup>-wise land records were maintained in the present computerised system.

In absence of tenant-wise information in the "e-Bhuchitra" as well as non-maintenance of Register-II, full details regarding actual payment of land revenue/surcharge/cess could not be tracked by the department. Thus, arrears of land revenue could not be assessed and levied.

After this was pointed out, all DL&LROs stated that the matter would be reported to higher authority with a request to incorporate the module in "e-Bhuchitra" software.

In the exit conference (December 2017), the Principal Secretary stated that it would be implemented shortly.

### 3.4.9.3 Absence of resumption module in the "e-Bhuchitra"

Resumption cases of mills, factories, etc. were not monitored in the absence of resumption module in e-Bhuchitra.

Under Section 6(3) of WBEA Act, 1953, land with mills, factories, tea gardens etc., may be retained by the intermediary/lessee to the extent of requirement and necessary correction may be made in the RoR. The State Government may, after reviewing the circumstances of a case, revise any order made by it earlier, specifying the land whose possession the intermediary/lessee shall be entitled to retain. The Government would resume the land in excess of the requirement. L&LR department in an order<sup>80</sup> issued in May 2014 directed all the DL&LROs for holding reconnaissance survey of land to assess how much quantum of land should be allowed to retained by the mills, factories etc., and the quantum of land which should be resumed in the state. They were to submit proposals for resumption cases accordingly. This was being maintained manually in Register 6(3). However, the maintenance of this register was not being done in prescribed format<sup>81</sup> and had missing information like details of reconnaissance survey cases<sup>82</sup>, resumption of land by the Government etc. Further, the "e-Bhuchitra" application does not provide for any module to deal with resumption cases of mills, factories, tea gardens etc.

Audit observed the following from the status report in respect of mills/factories in three<sup>83</sup> DL&LROs (**Table 3.5**).

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<sup>79</sup> *Khatian* is a document of rights over land held by *raiyats*.

<sup>80</sup> Order No. 159/2881-2898/C/13 dated 8 May 2014.

<sup>81</sup> Instruction issued by the Director of Land Records and Surveys, West Bengal in April 2000 vide Memo No. 7/2157-2191/C/2000 dated 24 April 2000.

<sup>82</sup> SDL&LRO will serve a notice survey on spot and fix a date of hearing.

<sup>83</sup> Birbhum, Burdwan and North 24 Parganas.



**Table- 3.5**  
**Status report in respect of mills/factories**

<b>DL&amp;LRO</b>	<b>No. of cases</b>	<b>Reconnaissance surveys</b>	<b>Proposals for resumption of excess land</b>
North 24 Paraganas	14	Held	Sent to Government
Burdwan	7	Held	Not sent to Government
Burdwan	17	Not held	Not sent to Government
Birbhum	2	Not held	Not sent to Government

Due to absence of this module in “e-Bhuchitra” resumption cases of mills, factories, tea gardens etc. could not be monitored. This was also due to improper maintenance of register of 6(3)<sup>84</sup> cases. Thus, there was no trail of action taken by the department of resumption of the excess land and its settlement on long term lease basis. Audit found from spot enquiry reports of SDL&LRO and BL&LRO that 31.79 acres and 10.13 acres of land of closed mills/factories were encroached<sup>85</sup> and sold<sup>86</sup> respectively. Audit also found from RoR that 0.95 acre of land of closed mills/factory had already been mutated in the Katwa-I Block under DL&LRO, Burdwan. Despite this being in the knowledge of the Department, due to the inaction of the authorities, land belonging to the Government was mutated unauthorisedly to private entities, which was a matter of great concern.

DL&LRO, Burdwan accepted the audit observation and stated that the BL&LRO, Katwa-I would be instructed to rectify the RoR which was wrongly done. The other two DL&LROs did not furnish any specific reply.

Accepting the audit observation, in the exit conference (December 2017), the Principal Secretary stated that steps were being taken in terms of the West Bengal Land Reforms Amendment Act 2017 and Rules thereof. This would ensure proper documentation of 6(3) land as well.

#### **3.4.9.4 Absence of suo-motu entry in the lease module of “e- Bhuchitra”**

Sanctioned long term leases were not recorded due to deficiencies in the lease module of e-Bhuchitra.

L&LR Department memorandum issued in May 2015<sup>87</sup> prescribed the manner of recording the name and status of lessee and/or assignee in the land *khatian*/ RoR under three categories:

- (i) Government vested land leased out to a person or a unit or corporation/ company;

<sup>84</sup> Land held by mill, factory etc. before 14 April 1955.

<sup>85</sup> Asansol EP-I, Baraboni and Ranigunj Block under the SDL&LRO, Asansol and Ausgram-I Block under SDL&LRO, Burdwan (Sadar North) under DL&LRO, Burdwan.

<sup>86</sup> Ausgram-I and Katwa-I Block under DL&LRO, Burdwan.

<sup>87</sup> Memo No. 1509-LP/1A-10/2014 dated 26 May 2015.

- (ii) Government vested land subsequently transferred/ assigned to another person/unit by the lessee/unit/ corporation; and
- (iii) Plot of land leased out by a *raiyat* to another person/unit/ corporation etc. for certain specified purposes.

Audit found from long term lease cases in seven BL&LROs under four DL&LROs that 7.15 acres of vested land was settled in favour of three organisations on realisation of *salami* from the lessees fixed by the sanctioning authority as detailed in the following table:

**Table - 3.6**  
**Name and status of lessees**

Sl. No.	Name of the District	Name of the Block	Name of the lessee	Area of Land (in acres)	Date of possession
1.	Purba Medinipur	Sutahata-1	Haldia Development Authority (HDA)	2.68	April 2015
2.	Birbhum	Md. Bazar and Sainthia	West Bengal State Electricity Distribution Company Limited (WBSEDCL) and Sainthia Municipality	2.8 and 0.71	September 2015 and November 2015
3.	Darjeeling	Matigara and Sukhia Pokhri	WBSEDCL	1.00 and 1.00	October 2016 and January 2017
4.	Paschim Medinipur	Keshpur and Daspur-I	WBSEDCL	1.00 and 0.62	September 2015 and November 2016

Though possession of the land was handed over between April 2015 and November 2016 to the organisations concerned, their names and status were not recorded in lease module 'Lease *Khatian*'. For recording the lease *khatian* in the application page of "e-Bhuchitra", the name of "L&LR Department" required for selection as a sanctioning Department was missing in the available list of departments in application page. Though the purpose of the lease to HDA and WBSEDCL was "development" and "construction of 33/11 KV sub-Station" respectively, in the application page of "e-Bhuchitra" the only option available was 'FACTORY'.

Thus, incomplete information was recorded in the system of "e-Bhuchitra".

- Further, there was no system in place for recording leases in the RoR electronically through "e-Bhuchitra" for cases prior to 2015. The Department could not show the status of recording of the leases granted before 2015.
- Audit found in the records of long term settlement cases in BL&LRO, Salboni under the DL&LRO, Paschim Medinipur that an area of 3,035.29 acres of land was settled with M/s JSW Bengal Steel Ltd by L&LR Department in February 2011. Cross-verification of RoR maintained in the "e-Bhuchitra" software with manual records revealed that there was no entry of settlement with the JSW Steel Ltd., as a lessee in the remarks column of Collector's *Khatian-I* against the plot numbers.

- Audit found in the BL&LRO, Suri-I under the DL&LRO, Birbhum that a *raiyat* leased out a plot for 999 years to another person on behalf of Sri Sri Maa Sarada Seva Sangha, a religious charitable trust in January 2013. Subsequently, in September 2016, a petition to the BL&LRO, Suri-I for mutation and conversion on behalf of Sri Sri Maa Sarada Seva Sangha by virtue of the lease deed was submitted. Further, cross-verification of Lease *Khatian* maintained in the “e-Bhuchitra” revealed that there was no provision to open a Lease *Khatian* for Private Organisations. Thus, the said lease was not found recorded in the RoR. Thus, such deficiencies in the lease module of “e-Bhuchitra” resulted in incomplete lease particulars in respect of a district/State.

Due to such deficiencies, details of lessees, annual rent, expiry and renewal of long term leases could not be monitored by the BL&LROs properly.

After this was pointed out, all DL&LROs stated that the matter would be reported to higher authority with a request to update the module of recording of lease in “e-Bhuchitra.

In the exit conference (December 2017), the Principal Secretary stated that multiple options for the purpose of the lease have been inserted in the lease module. An instruction would be issued to the DL&LROs regarding recording of sanctioned lease prior to the period of 2015 in lease module.

#### 3.4.9.5 Absence of provision for recording old *pattas* in “e-Bhuchitra”

Quantum of Government land was not monitored properly as old *pattas* were not recorded in e-Bhuchitra.

Rules 200 and 203 of the WBL&LR Manual, 1991, provide that as soon as distribution of *pattas* has been completed, the names of all *patta*<sup>88</sup> holders should be entered in the *Patta* Register maintained in the Office of the BL&LRO. A separate *khatian* shall be opened in the name of each *patta* holder and the plot or part of the plot, as the case may be, shall be shifted from the Collector’s *khatian* to the *patta* holder’s *khatian*.

Audit observed from *Patta* case records maintained in 10<sup>89</sup> BL&LROs under five<sup>90</sup> DL&LROs that 1,135 *patta* holders got their *patta* during the period between 1970 and 2012. However, these were not recorded in the RoR in that time as the *patta* holders did not apply for recording of their names in the RoR after getting *pattas*. After introduction of “e-Bhuchitra” in these block offices between June 2015 and November 2016, these 1,135 *patta* holders applied to the BL&LROs

<sup>88</sup> Agricultural Government land settled with landless people under Section 49 of WBLR Act, 1955.

<sup>89</sup> Binpur-I, Contai-I, Daspur-II, Garbeta-III, Kharagpur-II, Kharibari, Keshpur, Manikchak, Old Malda and Rampurhat-I.

<sup>90</sup> Birbhum, Darjeeling, Malda, Paschim Medinipur and Purba Medinipur.

concerned, for recording of their *patta* in “e-Bhuchitra”. These old *pattas* could not be recorded in “e-Bhuchitra” by using the option “*Pattadar* enrolment” as old *pattas* did not contain descriptions required for mandatory fields of Bon-o-Bhumisanskar Sthayee Samity<sup>91</sup> (BoBS) date, SDO’s and SDL&LRO’s memo No. and date.

As the old *pattas* were not recorded in e-Bhuchitra, area of vested land distributed through *pattas* were not transferred from the Collector’s<sup>92</sup> *khatian* to *patta* holder’s *khatian*. Thus, actual area of Government land was not reflected in “e-Bhuchita”, this could affect distribution of *pattas*, and settlement of land on long-term basis as the department was unaware which land belonged to the government.

After this was pointed out, DL&LROs admitted the audit observation and stated that the matter would be taken up with the higher authority.

In the exit conference (December 2017), the Principal Secretary stated that old *pattas* could now be recorded in e-Bhuchitra as mandatory field of date had been made operational.

#### **3.4.9.6 Mismatch of records between of Register-VIII and “e-Bhuchitra”**

There was mismatch of area of Government land as recorded in Register VIII and that shown in e-Bhuchitra in the absence of reconciliation.

Rule 489 of the WBL&LR Manual, 1991 prescribes maintenance of Register-VIII in respect of unoccupied Government land. All the lands recorded in the register must be inspected by the Revenue Inspectors at regular intervals and the facts of such inspection noted in column 6 of the register. Further, vested, resumed and abandoned lands must also be entered in the register. If any land is unsuitable for distribution or cannot be settled owing to injunction of the court, should be noted in the “Remarks” column of the register.

Audit found during cross verification between the Register-VIII and “e-Bhuchitra” in 11<sup>93</sup> BL&LROs under Burdwan and Malda district, that in Register-VIII the total Government land remained in 120 plots under 28 *mouzas* was 79.26 acres while in “e-Bhuchitra” it was 3.77 acres. Thus 75.49 acres of Government land was shown less in “e Bhuchitra” than the manual records maintained in the said block offices. No reconciliation was made by the BL&LROs to quantify the actual area of Government land, which existed in their jurisdiction. As a result, the distribution of *pattas*/settlement of land through long term lease could not be monitored by the BL&LROs.

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<sup>91</sup> A standing committee under West Bengal Panchayati Raj Act, 1973 for assisting in implementation of land reforms programme.

<sup>92</sup> Government/vested land under *khatian* no.-1.

<sup>93</sup> Asansol EP-I, Burdwan-I, Burdwan-II, Durgapur-Faridpur, Gazole, Jamalpur, Jamuria, Kalna-I, Katwa-I, Memari-I and Raniganj.

After this was pointed out, the DL&LROs instructed<sup>94</sup> the BL&LROs concerned to rectify anomalies after verification of records.

In the exit conference (December 2017), the Principal Secretary stated that an instruction would be issued for verification of mismatch of records between Register-VIII and e-Bhuchitra.

### 3.4.10 Whether existing provisions on land revenue receipts being complied with by the Department

During Performance Audit a number of deficiencies in compliance to existing provisions of the Acts, Rules and Manuals were observed, which resulted in Government revenue being not/short realised as discussed in the following paragraphs:

#### 3.4.10.1 Revenue from land used for commercial purpose not realised

Revenue of ₹ 8.40 crore was not realised due to inaction of the Department.

Sections 22 and 23 of the WBLR Act, 1955 provide that *raiyats* using land for commercial purposes are liable to pay land revenue at the prescribed rate. Further, Section 3 of the WBREP Act, 1976 provides for levy and collection of a surcharge<sup>95</sup>. Different kinds of cess<sup>96</sup> are also realisable on the land revenue payable by *raiyats*. The *Bhumi Sahayaks* posted in the Revenue Inspectors' offices under the BL&LROs are responsible for collection of land revenue.

Audit found<sup>97</sup> from test check of *Bhumi Sahayaks*' Collection Register<sup>98</sup> and Rent Receipts Books in DL&LROs<sup>99</sup> that in 7,357 cases<sup>100</sup>, 7,349 *raiyats* did not pay rent, cess and surcharge of ₹ 8.40 crore on 7,099.18 acres of land used for commercial purposes<sup>101</sup>. The DL&LROs, however, did not initiate any action to realise the dues from them. Thus rent, cess and surcharge of ₹ 8.40 crore remained unrealised.

After this was pointed out, all DL&LROs accepted between December 2015 and September 2016 the audit observations and stated that action would be taken to realise the dues.

<sup>94</sup> Between May 2017 and July 2017.

<sup>95</sup> A surcharge of 15 paise on each rupee of land rent payable.

<sup>96</sup> Road cess six paise, public works cess 25 paise, primary education cess 10 paise and rural employment cess 30 paise on each rupee of land rent payable.

<sup>97</sup> Between December 2015 and September 2016.

<sup>98</sup> Maintained in Register-III.

<sup>99</sup> Bankura, Burdwan, Darjeeling, Howrah, Malda, Murshidabad, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

<sup>100</sup> Rent not paid in any year constitutes one case.

<sup>101</sup> For the periods between 2012-13 and 2015-16.

In the exit conference (December 2017), the Principal Secretary stated that an amount of ₹ 8.36 lakh had been realised as reported by DL&LRO, Howrah till date. The other DL&LROs would be instructed to realise the remaining dues.

### 3.4.10.2 Long term lease not settled

Revenue of ₹ 73.90 crore was not realised due to failure to settle the land with unauthorised occupants.

Rule 238 of the WBL&LR Manual, 1991, prescribes that the government land should be offered to the occupants, if occupied for more than 12 years, though unauthorisedly, for long terms settlement. Further, Rule 238 of the WBL&LR Manual, 1991, read with Government order<sup>102</sup> issued in February 2006, provides that in case of settlement of Government land for non-agricultural purpose for a period of 30 or 99 years, as the case may be, *salami*<sup>103</sup> and rent would have to be paid to the Government, which would be assessed on the market value of the land. *Salami* and rent for settlement of land for 99 years are to be determined at 95 per cent and 0.3 per cent respectively of the market value and that for settlement of land for 30 years are to be determined at 40 per cent and four per cent respectively of the market value. Further, Rule 225 of the Manual prescribes that the procedure of long term settlement is to be completed by the Department within five months from the date of its initiation.

Audit found (between December 2015 and July 2017) from files relating to long term settlement cases in nine<sup>104</sup> DL&LROs that in 52 cases, 358.95 acres of land was under unauthorised occupation. The occupants applied between July 2003 and September 2016 for long term settlement of the land for non-agricultural purposes. The cases were not finalised for reasons like delay in receiving land enquiry report of Revenue Inspector, non-availability of current valuation of land, etc. In 28 cases, the proposals for long term lease were not forwarded by the concerned DL&LROs to the approving authority (L&LR Department), and in the remaining cases, the proposals were pending with the L&LR Department.

Thus, due to failure of the Department to settle the land by way of lease agreement with the unauthorised occupants within the prescribed time-limit, revenue ₹ 73.90 crore remained unrealised (Rent ₹ 8.30 crore and *salami* ₹ 65.60 crore)<sup>105</sup>.

After this was pointed out, the DL&LROs admitted (between December 2015 and July 2017) the audit observations in all cases.

In the exit conference (December 2017), the Principal Secretary stated that long term leases would be settled on case to case basis as per Land Allotment Policy.

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<sup>102</sup> G.O. No. 518-LR/3M-11/GE(M) dated 20 February 2006.

<sup>103</sup> *Salami* means the lump sum amount payable by the lessee in the case of settlement of Government land.

<sup>104</sup> Bankura, Burdwan, Darjeeling, Howrah, Malda, Murshidabad, North 24 Parganas, Paschim Medinipur and Purba Medinipur.

<sup>105</sup> This is the revenue figure involved in 52 cases for the period from 2011-12 to 2015-16.



### 3.4.10.3 Transfer value of land not realised

Transfer value of ₹ 8.09 crore was not realised in cases sanctioned by the Department.

Under Rule 471 of the WBL&LR Manual, 1991, transfer of land between the Central and State government is governed by the principles laid down in the Land Transfer Rules, as embodied in the Land Acquisition Manual. For such transfer of State Government land, amount payable by the Central Government would be the transfer value comprising market value and capitalised value of land. As per order<sup>106</sup> of the West Bengal Government issued in August 2012, the capitalised value of land shall be determined at 25 times of two *per cent* of market value as payable by the Central Government for such land.

Audit found between March 2016 and July 2017 in two<sup>107</sup> DL&LROs that in three cases, 14.83 acres of State Government land was under possession of three<sup>108</sup> ministries of Government of India (GOI). The authority of ministries concerned had applied between March 2013 and June 2014 for settlement of the land. The cases were approved by L&LR Department between January 2015 and October 2015 on transfer value of ₹ 8.09 crore (market value ₹ 5.39 crore and capitalised value ₹ 2.70 crore). BL&LROs, however, did not issue demand notice to realise the transfer value. This resulted in transfer value of ₹ 8.09 crore not being realised.

After this was pointed out, the DL&LROs accepted (between August 2015 and May 2017) all the audit observations and stated that action was being taken to realise the transfer value of land.

In the exit conference (December 2017), the Principal Secretary stated that the realisation of transfer value would be made in due course.

### 3.4.10.4 Annual lease rent and interest not realised

Annual lease rent and interest of ₹ 1.59 crore on land possessed by lessees was not realised.

Rule 235 of the WBL&LR Manual, 1991 provides that rent shall be payable annually according to the Bengali year which falls due on the last day of the year in respect of which it is paid. Rule 303 prescribes interest leviable at the rate of 6.25 *per cent* per annum on delayed payment of revenue.

Audit found<sup>109</sup> from lease registers and case records of lessees in five<sup>110</sup> DL&LROs that annual lease rent<sup>111</sup> and interest of ₹ 1.59 crore was not realised in 18 cases

<sup>106</sup> G.O. No. 4607-LA/3M-32/12, dated 24 August 2012.

<sup>107</sup> Burdwan and Darjeeling.

<sup>108</sup> Ministry of Home Affairs-one case, Ministry of Finance -one case and Ministry of Coal-one case.

<sup>109</sup> Between February 2016 and June 2017.

<sup>110</sup> Bankura, Burdwan, Murshidabad, North 24 Parganas and Purba Medinipur.

<sup>111</sup> For periods between 2011-12 and 2015-16.

from 17 lessees in possession of 483.91 acres of land. BL&LROs did not issue demand notice to realise the annual lease rent and interest. This resulted in annual lease rent and interest of ₹ 1.59 crore (lease rent ₹ 1.52 crore and interest ₹ 0.07 crore) remaining unrealised.

After this was pointed out, the DL&LROs accepted (between February 2016 and June 2017) all the audit observation and stated that action would be taken to realise the dues.

In the exit conference (December 2017), the Principal Secretary stated that an amount of ₹ 12.93 lakh had been realised as reported by DL&LROs Murshidabad and Bankura till date. The other DL&LROs would be instructed to realise remaining dues.

### 3.4.10.5 Long term lease not renewed

Lease rent of ₹ 1.07 crore was not realised due to inaction of the Department to renew expired leases.

Rule 219 of the WBL&LR Manual, 1991, provides that the long term lease shall ordinarily be for a period of 30 years and on expiry of the period, the lessee shall be entitled to opt for successive renewal of the lease for the same period. Further, Rule 226(i) provides that rent shall be realised at the rate of four *per cent* of the market price of the land at the time of the renewal of the lease for industrial or commercial purpose and 15 times the annual rent previously payable or four *per cent* of the market price of the land at the time of renewal of the lease, whichever is less for homestead or residential purposes.

Audit found between December 2015 and July 2017 from files relating to renewal of long term lease cases in seven<sup>112</sup> DL&LROs, that in 14 cases, 106.39 acres of land had been settled on long-term basis between 1954 and May 1984. The period of leases expired between 1984 and May 2014. Of these, top 10 cases in terms of market value of land were as follows:

**Table - 3.7**  
**List of top 10 cases**

							(₹ in lakh)
Sl. No.	Name of the BL&LROs	Name of the lessee	Area (acre)	Date of expiry	Date of application for renewal	Current Market value of land	Total Rent due <sup>113</sup>
1.	Burdwan-I, under D L & L R O , Burdwan (East)	Bharat Petroleum Corporation Ltd.	0.37	04.05.2014	11.02.2013	252.76	20.22
2.	Jhargram under DL&LRO, Paschim Midnapore	M/S Kanchan Oil Industries Ltd.	4.795	18.11.2006	10.07.2006	245.31	19.62

<sup>112</sup> Bankura, Birbhum, Burdwan, Howrah, Malda, Murshidabad and Paschim Medinipur.

<sup>113</sup> Rent has been calculated on the market value of land on the basis of the report of the concerned Additional District Sub Registrar office for the period from 2011-12 to 2015-16.



Sl. No.	Name of the BL&LROs	Name of the lessee	Area (acre)	Date of expiry	Date of application for renewal	Current Market value of land	Total Rent due
3.	Jhargram under DL&LRO, Paschim Midnapore	Balaji Paper & News Print Pvt. Ltd	50.00	24.07.2010	April 2010 and July 2015	197.47	14.89
			7.96	20.02.2011		13.21	
			26.26	20.02.2014		161.68	
4.	Barjora under DL & LRO, Bankura	Kangsabati Co-Operative Spinning Mills Ltd.	6.30	23.11.2012	26.09.2014	337.53	13.50
5.	Raina-I under DL & LRO, Burdwan (East)	Shamsundar College	4.01	26.04.2008	20.01.2009	42.65	8.53
6.	Bankura -I under DL & LRO, Bankura	Indian Oil Corporation Ltd.	0.10	31.03.2010	12.03.2012	66.82	8.02
7.	Md. Bazar under D L & L R O , Birbhum	M/S Esses Agro Biotics(P) Ltd.	3.57	18.10.2009	12.03.2009	72.47	5.80
8.	B a n k u r a - I , under DL & LRO, Bankura	Bharat Petroleum Corporation Ltd.	0.10	31.03.2007	25.06.2009	73.72	5.79
9.	English Bazar under DL & LRO, Malda	Malda Whole sale Consumers' Co-operative Society Ltd.	0.18	April 2007	12.09.2005	22.45	4.49
10.	Bagnan-I under DL&LRO, Howrah	Prasanta Kumar Bose	0.07	1984	16.08.2012	44.02	3.52

Though the occupants had applied between September 2005 and July 2015 for renewal of LTS, the Department did not renew the leases for following reasons:

- In six cases, the proposals for renewal of the leases were pending with the L&LR Department; and
- In remaining eight cases, the proposals for renewal of leases were not forwarded by the concerned DL&LROs to the L&LR Department.

Thus, in the absence of monitoring of the leases by the L&LR Department, the expired leases were not renewed. In the absence of any lease, rent of ₹ 1.07 crore could not be levied and realised.

After this was pointed out, the six DL&LROs admitted the audit observations in 12 cases. DL&LRO, Paschim Medinipur did not furnish the specific reply in remaining two cases.

In the exit conference (December 2017), the Principal Secretary stated that the long term leases were being renewed and that was an ongoing process.

### 3.4.10.6 *Salami* not realised from tea gardens

*Salami* of ₹ 1.02 crore for non-payment by tea garden owners was not realised.

Government Order<sup>114</sup> issued in August 2015 by L&LR Department provides that the present applicant of tea gardens has to pay *salami* at the rate of ₹ 9,000 up to 31 March 2011 and at the rate of ₹ 15,000 after 31 March 2011 per hectare at a time for fresh lease agreement. Further, the Land Reforms Commissioner, L&LR Department, in December 2016 allowed the owner of tea gardens to pay the *salami* in not more than seven equal instalments as a special case.

Audit found (April 2017) in DL&LRO, Darjeeling that L&LR department between July 2004 and December 2006 accorded sanction to long term lease of 2,789.60 acres of Government land in favour of four tea gardens for a period of 30 years. The tea garden owners were liable to pay *salami* of ₹ 1.02 crore against the lease. Neither the tea garden owners paid the *salami* nor the Special Land Acquisition Officer issued the demand notice to realise the *salami*. This resulted in *salami* of ₹ 1.02 crore not being realised.

After this was pointed out, DL&LRO, Darjeeling stated that Additional Land Acquisition Officer, Land Acquisition Department would be instructed to realise the *salami*.

In the exit conference (December 2017), the Principal Secretary stated that steps were taken to realise *salami* and that was an ongoing process.

### 3.4.10.7 Rent and cess short realised from the tea gardens

Rent and cess of ₹ 43.40 lakh was short realised from tea garden owners due to application of incorrect rate.

Sections 22 and 23 of the WBLR Act, 1955 provide that *raiya*s using land for commercial purposes are liable to pay land revenue at the prescribed rate. Different kinds of cess are also realisable on the land revenue payable by the *raiya*s.

Audit found in DL&LRO, Darjeeling that the Officer-in-Charge, Tauzi Section realised the rent and cess of tea gardens of ₹ 209.50 lakh instead of ₹ 252.90 lakh. Audit further observed that this was due to application of incorrect rate of rent and cess in respect of 120 tea gardens out of 144 tea gardens, for the period between 2011-12 and 2015-16. This resulted in short realisation of rent and cess of ₹ 43.40 lakh.

After this was pointed out, the DL&LRO, Darjeeling stated that Additional Land Acquisition Officer, Land Acquisition Department would be instructed to realise due rent and cess at the earliest.

<sup>114</sup> G.O. No. 2232(3)-LP/3T-13/02GE(M)Pt-II, dated 3 August 2015.

In the exit conference (December 2017), the Principal Secretary stated that instructions would be issued for realisation of rent and cess.

### 3.4.10.8 Commercial rent not realised from development authority

Commercial rent of ₹ 1.14 crore for commercial use of land was not realised from different development authorities.

Sections 22 and 23 of the WBLR Act, 1955 provide that *raiyats* using land for commercial purposes are liable to pay land revenue. Government Order<sup>115</sup> issued in June 2007, by L&LR Department provides that in the event of transfer of the land by the development authorities to private companies, a condition in the lease deed be incorporated that the lessee shall be liable to pay the lease rent to the State Government in the L&LR department which shall not be less than the amount of revenue payable for commercial use of the land.

Audit found from the records of BL&LROs, Ramnagar-I and Sutahata-I that 1,147.08 acres and 453.71 acres of land were recorded in the name of Digha Shankarpur Development Authority (DSDA) and Haldia Development Authority (HDA). As per RoR, DSDA and HDA hold a *raiyat* status of the land held by them.

- DSDA had subsequently leased out 80.15 acres of the said land to 524 hotels and holiday homes through registered lease deeds. Audit found that neither hotels/holiday homes nor DSDA which was a *raiyat*, paid any land revenue. This was despite the fact that DSDA was collecting lease rents from the lessees. The BL&LRO did not issue demand notice to DSDA for payment of land revenue. Thus land revenue for the period from 2011-12 to 2015-16 amounting to ₹ 14.91 lakh<sup>116</sup> was not realised.
- HDA subsequently leased out 79.78 acres of land to Indian Oil Petronus Company Ltd. and 150.04 acres of land to Indian Oil Corporation Limited / Haldia Barauni Crude Oil Pipeline in October 2000 and March 2002 respectively through registered lease deeds. During scrutiny of lease deeds, Audit further observed that in clause 9 of the lease deeds, the payment of any outstanding dues, taxes etc., upon the demised<sup>117</sup> land lies with the lessee and the company (lessee) has agreed to the terms and conditions as laid down in the deed and after such consent, the registered instrument was executed.

Moreover, it was seen that neither HDA which was a *raiyat* nor the Company as per terms and conditions of the lease deed paid any land revenue, though, HDA was collecting lease rent from these companies. The BL&LRO did not issue demand notice to HDA for payment of land revenue. This resulted in land revenue of ₹ 99.11 lakh<sup>118</sup> not being levied and realised. As such, the Government had

<sup>115</sup> Memo No. 2954 (40)-LA dated 7 June 2007.

<sup>116</sup> At the rate of ₹ 3,720 per acre per annum for five years.

<sup>117</sup> Demise means to transfer by lease.

<sup>118</sup> ₹ 8,625 X 79.78 acres X 5 years and ₹ 8,625 X 150.04 acres X 5 years.

not been receiving land revenue either from the different development authorities or from the various companies/commercial establishments.

After this was pointed out, the DL&LRO, Purba Medinipur stated in case of DSDA a demand for payment of land revenue would be raised after conducting field survey. In case of HDA, the DL&LRO did not furnish any specific reply.

Accepting the audit observation, in the exit conference (December 2017), the Principal Secretary stated that Development Authorities i.e., HDA and DSDA were liable to pay land revenue and demand notices would be issued to them.

#### **3.4.10.9 Annual rent short/not realised from fisheries**

Annual rent of ₹ 35.82 lakh was not/short realised from fisheries leased out to lessees/fishermen's co-operative societies etc.

Rules 272 and 275 of the WBL&LR Manual, 1991 prescribe that Government fisheries should be leased out on year to year basis for a period not exceeding seven years, for which the rent is to be fixed by the collector of the district. Further, 25 *per cent* of the rent for the first year should be deposited at the time of settlement and the balance should be deposited before the beginning of the year. Rents for the successive years should be deposited by the lessee in full before the beginning of the respective year. Further, Rule 275A<sup>119</sup> of the WBL&LR Manual prescribes that when a lease is granted for more than one year, the rent shall be enhanced by five *per cent* per annum.

1. Audit found<sup>120</sup> from the notice inviting tender files in two<sup>121</sup> DL&LROs that 24 fisheries<sup>122</sup> involving 42 cases, were leased out between 2008-09 and 2015-16 to 13 lessees/fishermen's cooperative societies. In 29 cases, the annual rent of ₹ 19.42 lakh for the period between 2011-12 and 2015-16 was neither paid by the lessees/fishermen's cooperative societies nor was any action taken by the L&LR Department to realise the rent. In 13 cases, rent of ₹ 6.30 lakh was realised instead of ₹ 13.20 lakh for the period 2011-12 to 2015-16. This resulted in rent of ₹ 26.32 lakh remaining short/not realised from the fisheries.

After this was pointed out, the DL&LROs admitted (June 2017 and July 2017) the audit observations and stated that action would be taken to realise the Government revenue.

In the exit conference (December 2017), the Principal Secretary stated that instructions were being issued to concerned DL&LROs for realisation of pending dues.

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<sup>119</sup> Inserted by Notification No. 4650-L, Ref./IF-20/01 GE(M) dated 10 December 2001.

<sup>120</sup> Between June and July 2017.

<sup>121</sup> Burdwan and Malda.

<sup>122</sup> Fishery means an area associated with fish or aquatic population which is harvested for its commercial value. Cases mean number of years for which annual rent was due.

2. Audit found in February 2017 in DL&LRO, Bankura that 19 fisheries were leased out between 2013-14 and 2015-16 to 16 fishermen Co-operative Societies/Self Help Groups. The district authority realised the lease rents of ₹ 16.80 lakh instead of ₹ 26.31 lakh due to non-consideration of five *per cent* of enhancement of lease rent. This resulted in short realisation of lease rent of ₹ 9.50 lakh.

After this was pointed out, the DL&LRO admitted the audit observation and stated that action would be taken to realise the Government revenue.

In the exit conference (December 2017), the Principal Secretary stated that instructions were being issued to concerned DL&LROs for realisation of pending dues.

#### **3.4.10.10 Deficiencies in the citizen centric work taken up by the department**

Desired benefits could not be extended to the citizens due to deficiencies in the citizen centric works.

Rules 56 to 75 of the WBL&LR Manual, 1991, lay down the details of procedures to be followed for mutation by the Revenue Officer and the BL&LRO. With the advent of “e-Nathikaran” in the Directorate<sup>123</sup> and “e-Bhuchitra” in the Department<sup>124</sup> and their linkages for the cases of mutation has made the process of tracking of mutation cases hassle-free. The system operates on the principle that on completion of registration in “e-Nathikaran”, the buyer of land receives a Short Message Service (SMS) in his/her mobile and his/her case becomes pending for mutation in the concerned BL&LRO. The case also gets simultaneously updated in the “e-Bhuchitra”. This is a citizen centric initiative taken by both Departments of the Government of West Bengal. The RO subsequently issues notice for mutation to the fresh buyer and concerned sellers.

Audit observed in eight<sup>125</sup> BL&LROs, under four<sup>126</sup> DL&LROs between April 2015 and March 2017 that out of 27,403 mutation cases received from registration offices, no mutation case was settled. The mutation cases could not be settled due to the following deficiencies in the system:

(i) Audit observed during test check of 91 system generated hearing notices that mobile numbers of the buyers (where data was retrieved through e-Nathikaran) were not available in 71 cases. As such, the buyers could not be informed of hearing date through SMS. The BL&LROs offices also did not

<sup>123</sup> Directorate of Registration and Stamp Revenue, Finance (Revenue) Department.

<sup>124</sup> Land and Land Reforms Department.

<sup>125</sup> Binpur-I, Garhbeta-III, Ghatal, Kalimpong-I, Matigara, Naxalbari, Old Malda and Tamluk-I.

<sup>126</sup> Darjeeling, Malda, Paschim Medinipur and Purba Medinipur.

serve hearing notices for those mutation cases received from Registration offices. As a result, the parties concerned did not turn up on hearing date and subsequently the mutation cases were cancelled.

(ii) In BL&LRO, Garhbeta-III, no notice, for hearing of mutation cases received from registration office, was generated by authority concerned.

(iii) In case of ROs transferred to other offices, pending mutation cases received from the registration offices in ROs panel were automatically cancelled by the system with a remarks “User not present in this Block”.

Further, Audit found that the cases from e-Nathikaran did not get simultaneously updated in the e-Bhuchitra. In two<sup>127</sup> BL&LROs in two cases, mutation fees paid at the time of registration were not reflected in the “e-Bhuchitra” panel even after 23 days and 31 days respectively. During hearing of the mutation case, BL&LRO, Debra, did not accept payment made by applicant at the time of registration as the case was not reflected in the “e-Bhuchitra” panel. The applicant again applied for mutation and paid mutation fees.

Thus, despite linkage of e-Nathikaran with e-Bhuchitra for hassle-free mutation of land, desired benefits could not be achieved.

After this was pointed out, DL&LROs admitted all the audit observation and stated that the matter would be taken up with the higher authorities.

In the exit conference (December 2017), the Principal Secretary stated that the issuance of notices to the vendors and vendees for mutation cases had been started. Mutation cases received from registration department were not cancelled by the system but it was being done at the end of the BL&LRO. However, this problem was being sorted out. There was problem of mismatch cases sent by the e-Nathikaran to e-Bhuchitra in 22 Blocks, which was being sorted out. The Government also agreed to make entry of mobile number(s) of vendor and vendee mandatory at the time of registration.

#### **3.4.10.11 Classification of land in the Records of Rights (RoR) not revised after conversion**

Classification of land in the RoR was not revised due to conversion of land not being recorded immediately.

Sections 4C(3) and 4C(4) of WBLR Act, 1955 prescribe that every order directing change, conversion or alteration shall specify the date from which such change, conversion or alteration shall take effect. A copy of the order passed by the

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<sup>127</sup> Debra and Memari-I.



Collector directing change, conversion or alteration, if any, under sub-Section (2), Revenue Officer shall incorporate in the RoR and revise the RoR in accordance with such order.

L&LR Department is providing citizen centric services like RoR, mutation/ conversion etc., from the official website banglarbhum.gov.in. However, certified copies of records in pre-printed stationary were being provided from BL&LRO offices.

Audit found in six<sup>128</sup> BL&LROs under two<sup>129</sup> DL&LROs that 78 *rai-yats* applied for conversion of land for commercial purposes between 2011-12 and 2015-16. The concerned DL&LRO had given permission for conversion of land within six months from the date of order between April 2011 and November 2015. Further, Audit observed from RoR in “e-Bhuchitra” that the classification of land was not revised even after lapse of period ranging between 11 months and 69 months. As such, in these cases, the objective of the State Government to provide citizen centric services by means of updated and corrected RoR could not be fulfilled. Also, since levy of land revenue is based on the classification of land, leakage of Government revenue due to such lapses on the part of the Government cannot be ruled out.

After this was pointed out, the DL&LRO Birbhum stated that according to existing rule, the RoR would be corrected in due course. The competent authority, however, did not conduct field enquiries to ensure that whether the required conversion of the land had been made or not within the time limit. The DL&LRO, Paschim Medinipur did not furnish any specific reply.

In the exit conference (December 2017), the Principal Secretary stated that the updation in the RoR would be done as soon as the issuance of the conversion certificate of the land.

#### **3.4.10.12 Failure to settle/lease Government fisheries**

Government fisheries in water bodies measuring 411.40 acres were not settled due to inaction of department/ district authority.

Rules 272 and 275 of the WBL&LR Manual, 1991 prescribe that Government fisheries should be leased out on yearly basis for a period not exceeding seven years. The rent is to be fixed by the Collector of the district.

1. Audit observed<sup>130</sup> from the notice inviting tender files in three<sup>131</sup> DL&LROs that tenders for leasing out 33 water bodies measuring 403.39 acres were invited

<sup>128</sup> Bolpur, Mohammad Bazar, Rampurhat-I, Salboni, Santhia and Suri-I.

<sup>129</sup> Birbhum and Paschim Medinipur.

<sup>130</sup> Between February 2017 and July 2017.

<sup>131</sup> Bankura, Burdwan and Malda.

during the period between May 2013 and May 2015 after expiry of previous lease period. The water bodies were, however, not settled, as no tenders were received in 31 cases and water bodies were under encroachment in two cases. DL&LROs did not investigate physically whether the water bodies existed or not, whether they were fit for settlement and whether reasonable reserved price was fixed or not. As a result, Government had to forego substantial amount of revenue for years together.

After this was pointed out the DL&LRO, Burdwan stated that necessary action for settling the tank fisheries on short term basis would be taken soon. DL&LRO, Malda stated that necessary action would be taken to lease out as early as possible and the DL&LRO, Bankura stated that repeated tenders were floated in 22 cases but no one turned up. The reply of DL&LRO, Bankura is not tenable because the district authority failed to detect the reasons through survey for not turning up of the participants.

2. Audit found from RoR in DL&LRO, Birbhum, that one water body measuring 8.01 acres under BL&LRO Bolpur was not put to tender process. The district authority was not aware of the existence of such water body under his jurisdiction. As a result, field survey of that water body could not be conducted so as to facilitate settlement thereof.

After this was pointed out, DL&LRO, Birbhum did not furnish any specific reply.

In the exit conference (December 2017), the Principal Secretary stated that directions were being issued to all ADM & DL&LROs with a copy to all District Magistrates for collection and follow the rules for short term settlement of Government vested water bodies well in time.

#### **3.4.10.13 Failure to correct *Khasmahal*<sup>132</sup> land records**

*Khasmahal* land of 849.01 acres was not settled due to inaction of the department/ district authority.

Chapter XV of the WBL&LR Manual, 1991 governs the principles and procedures for settlement of non-agricultural land including *Khasmahal* land.

Audit found in November 2016 from the status report of the BL&LRO, Sadar, Paschim Medinipur and from the status report of the DL&LRO, Paschim Medinipur

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<sup>132</sup> *Khasmahal* means Government land under direct management of the Revenue Department and administered by the District Collector. *Khasmahal* land is a category of Government land where the ownership remains with the Government and is leased out to individuals for various purposes. The Government is entitled to realise lease rent from the lessees. *Khasmahal* land cannot be transferred without the prior permission of the State Government. *Raiyat* land means plot of land owned by the *Raiyat*. The plot of land is heritable and transferable. The Government is entitled to realise land rent, cess and surcharge from the *Raiyat*.



that there were 849.01 acres of *Khasmahal* land in four *mouzas* under the BL&LRO, Sadar, Paschim Medinipur. The lease period of the entire *Khasmahal* land area were expired on 31 March 1975. The entire *Khasmahal* land was being used for home stead purpose as stated by the BL&LRO. However, the land was not settled with the present occupiers or prospective lessees.

As the previous lessees did not apply for renewal, the DL&LRO, Paschim Medinipur could have resumed the land in each case for settlement of the same with prospective lessees. No action was, however, taken by the district authority to resume *Khasmahal* land from the ex-lessees occupying the land unauthorisedly for over 40 years from the date of expiry of lease. Thus, *Khasmahal* Land of 849.01 acres with the occupiers or prospective lessees was not settled which resulted in loss of Government revenue in the shape of *salami* and rent.

Audit observed from status report of the BL&LRO, Sadar Paschim Medinipur that at the time of preparation of LR records, the records had been prepared mostly as *raiyati* land in place of *Khasmahal* land erroneously. The LR records had not yet been corrected as the above *mouzas* did not appear in the drop down menu of *Mouza* selection box in the “e-Bhuchitra” software.

After this was pointed out (November 2016), DL&LRO, Paschim Medinipur stated in November 2016 that a detail report was sent to L&LR Department for necessary instructions.

In the exit conference (December 2017), the Principal Secretary stated that the issue of *Khasmahal* land was under active consideration of the Government.

#### **3.4.10.14 Land under unauthorised occupation not settled**

Failure to detect Government land of 26.96 acres under unauthorised occupation by a private company resulted in appropriate revenue not being realised.

Rule 238 of the WBL&LR Manual, 1991, prescribes that the Government land should be offered to the occupants, if occupied for more than 12 years, though unauthorisedly, for long terms settlement. Further, Rule 238 of the WBL&LR Manual, 1991, read with Government order<sup>133</sup> issued in February 2006, provides that in case of settlement of Government land for non-agricultural purpose for a period of 30 or 99 years, as the case may be, *salami* and rent would have to be paid to the Government, which would be assessed on the market value of the land. *Salami* and rent for settlement of land for 99 years are to be determined at 95 per cent and 0.3 per cent respectively of the market value and that for settlement

<sup>133</sup> G.O. No. 518-LR/3M-11/06/GE(M) dated 20 February 2006.

of land for 30 years are to be determined at 40 *per cent* and four *per cent* respectively of the market value. Further, Rule 225 of the Manual prescribes that the procedure of long term settlement is to be completed by the Department within five months from the date of its initiation.

Records of DL&LRO<sup>134</sup>, North 24 Parganas showed that a long term lease for 26.96 acres of land was sanctioned<sup>135</sup> by Government to Titagarh Industries Ltd. The L&LR Department fixed *salami* of ₹ 2.50 crore and annual rent of ₹ 24.98 lakh for a period of 30 years from the date of possession of the land. However, the lease was not settled as the company did not make payment of annual rent and *salami*. It was also noticed from a report of the BL&LRO, Barrackpore-II submitted to DL&LRO on 2 April 2014 that the land was under possession of another Company (Loomtex Engineering Pvt. Ltd.). The period of unauthorised occupation by that company could not be ascertained from records. Further, there was nothing on records to show that the Department had initiated any action during the intervening period (between July 1998 and April 2014) for settlement of the land. Thus, the district authority failed to detect the unauthorised occupation in time through field survey and settle the land on realisation of appropriate revenue.

After this being pointed out, DL&LRO, North 24 Parganas did not furnish any specific reply.

In the exit conference (December 2017), the Principal Secretary stated that after investigation if the said land was found under unauthorised occupation of M/s Loomtex Engineering Pvt. Ltd., necessary action would be taken to dispose of the matter as per law and the extant policy.

### **3.4.11 Efficiency and effectiveness of internal control mechanism**

Internal control is an integral component of an organisation's management processes to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. Deficiencies in the internal control mechanism are discussed in the following sub-paragraphs:

#### **3.4.11.1 Functioning of the Internal Audit Wing of the Department**

The Internal Audit Wing of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed systems are functioning reasonably well.

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<sup>134</sup> Under BL&LRO, Barrackpore-II.

<sup>135</sup> In July 1998.

The Internal Audit Wing of the L&LR Department was established with the objective of fulfilling accountability obligations, complying with applicable rules and regulations, executing orderly, ethical, economic, efficient and effective operations and safeguarding resources against loss. The wing was headed by Internal Audit Officer cum Ex-officio Joint Secretary who was assisted by Internal Audit Officers and Assistant Auditors. The sanctioned strength and men-in position has been given in the following table:

**Table - 3.8**  
**Men-in position**

<b>Post</b>	<b>Sanctioned strength</b>	<b>Men in position</b>
Audit Officer cum Ex-officio Joint Secretary	1	1
Internal Audit Officer	16	Nil
Assistant Auditor	14	11

The Wing conducted audit of 112 units during 2011 -12 to 2015-16 against 130 units selected as per detailed audit plan for the last five years.

The Government should effectively use internal audit to ensure that the various wings of the Department are functioning efficiently for optimum collection of revenue.

In the exit conference (December 2017), the Principal Secretary stated that effective measures were under active consideration of the Government.

#### **3.4.11.2 Inadequacy in human resource capacity**

Revenue Collection as well as citizen centric works were hampered due to inadequacy of staff.

Human resource capacity is about ensuring that an organisation has enough people with the necessary skills to achieve its objectives. Rule 23 of the WBL&LR Manual, 1991, clearly lays down the major duties for the BL&LROs such as vesting, taking over possession and distribution of ceiling surplus lands, settlement and survey work, land management, maintenance of RoR etc. Rule 24 of the said manual entrusts the Revenue Inspectors with the responsibilities like collection of land revenue, preparation and maintenance of RoRs., crop survey and agricultural census etc. Besides, Appendix-VI of the manual lays down detailed duties of officers and staff at various levels. Particularly, for the Revenue Inspectors, *Bhumi Sahayak* and Amins further detailed functions have been

entrusted which are essential for maintenance of efficiency and transparency in land revenue administration.

Audit observed in four<sup>136</sup> DL&LROs that the existing staff strength against total sanctioned post of 1,235, 1,327, 2,879 and 2,349 in different cadre in four<sup>137</sup> DL&LROs were 567, 523, 946 and 793 respectively. Further, in the ground level (Group 'D', Clerk, Amin, *Bhumi Sahayak* and Revenue Inspector) the percentage of shortage of manpower ranged between 24 and 83 as shown in the following table:

**Table - 3.9**  
**Inadequacy in human resource capacity**

Sl. No.	Name of the District	Name of post	Sanctioned strength	Men in position	Percentage of shortage
1.	Purba Medinipur	Gr. D	817	160	80
		UDC/LDC/HC	571	187	67
		Amin	304	115	62
		<i>Bhumi Sahayaks</i>	223	130	42
2.	Paschim Medinipur	Gr. D	1,023	301	71
		UDC/LDC/HC	639	203	68
		Amin	389	113	71
		<i>Bhumi Sahayaks</i>	298	116	61
3.	Darjeeling	Gr. D	411	168	59
		UDC/LDC/HC	350	145	59
		Amin	137	23	83
		<i>Bhumi Sahayaks</i>	95	58	39
4.	Malda	Gr. D	370	99	73
		UDC/LDC/HC	343	125	64
		Amin	196	98	50
		<i>Bhumi Sahayaks</i>	148	59	60

Any percentage of deficiency in staff strength would reduce the performance of land administration; further, more than 50 *per cent* deficiency was taken as alarming. Audit found that a few posts had become less relevant with the implementation of "e-Bhuchitra" and advent of staff hiring and contractual staff. For example, draftsman used to be a very important position when manual map making and revision was necessary. With the initiation of digital land

<sup>136</sup> Darjeeling, Malda, Paschim Medinipur and Purba Medinipur.

<sup>137</sup> Darjeeling, Malda, Paschim Medinipur and Purba Medinipur.

mapping, conventional style draftsman had become less relevant and alternatively requirement for persons with knowledge and training of computer and Geographical Information System (GIS) had become relevant. Similarly, shortage of drivers though would hinder the frequency of field inspection by the officers, hiring and contract vehicles had reduced that hindrance.

There was acute shortage of Amin, *Bhumi Sahayaks*, Head Clerk/UDC/LDC and Group 'D' staff. Absence of Amin would reduce the degree of coverage or the quality of survey and it was observed that regular cadastral survey had become close to nil.

Shortage of Revenue Inspector and *Bhumi Sahayaks* would also hinder their duties as stipulated in the WBL&LR Manual. In many blocks, (i) absence of important documents like rent roll registers and tenants' register and (ii) improper maintenance and updating of registers like register of unoccupied government lands, long term leases were serious issues. These were to be dealt by the LR Department immediately for maintaining an efficient and effective land revenue and reforms administration.

After this was pointed out, DL&LROs stated that the shortage of manpower would be communicated to the higher authority. In the exit conference (December 2017), the Principal Secretary stated that to meet the shortage of staff and rational use of services of existing staff strength was under active consideration of the Government.

#### **3.4.11.3 Mutation Registers not produced due to seizure of records/ registers by Anti-Corruption Branch**

Citizen centric works hampered for a particular period as mutation register was seized by Anti-corruption Branch.

Rule 490 of WBL&LR Manual, 1991 provides that in connection with mutation cases, Register-IX should be maintained. Mutation of land is one of the most important Citizen centric works in BL&LRO offices.

Registers/records maintained in SRO-II-in-Charge, SDL&LRO (EXTN-I) Asansol under DL&LRO, Burdwan showed that Mutation Registers for the period from 1 April 2011 to 25 April 2012 and 6 September 2013 to 31 March 2016 were not produced to Audit as these registers were seized by the Anti-corruption Branch, West Bengal (ACB) in April 2017. In absence of mutation registers for the said period, the work of mutation was hampered concerning those periods.

The SRO-II-in-Charge, SDL&LRO (EXTN-I), Asansol did not communicate the fact of seizure of mutation Register by ACB to the DL&LRO. Thus, the higher authority remained unaware of the incident.

After this was pointed out the DL&LRO stated that after the report from Anti-corruption Branch, West Bengal and also from BL&LRO i.e. SRO-II in-charge, SDL&LRO (EXTN-I) being received, instructions would be issued to the concerned authority.

In the exit conference (December 2017), the Principal Secretary while admitting the audit observation stated that as registers and records were under seizure by investigating agency, there was no way to produce the same before audit. Reply of the Government was not tenable as the department would have kept the photocopies of the records seized by the investigating agency.

#### **3.4.11.4 Departmental inspection**

Shortfall in departmental inspection resulted in non/ improper maintenance of registers, records etc.

A circular<sup>138</sup> issued in June 2001 by Government of West Bengal provides that the every BL&LRO and Revenue Officer must inspect each of the Revenue Inspector offices at least twice in every month. Every SDL&LRO must visit each of the Block offices under his control at least once a month and each R.I offices once in four months. Every DL&LRO must inspect at least four BL&LRO offices in every month and a few Revenue Inspector offices. Every Deputy DL&LROs should inspect at least four Blocks and four Revenue Inspector offices in a month.

Audit observed in five<sup>139</sup> DL&LROs that departmental inspections were not conducted as per circular. There were shortfalls in inspection ranging between 76.92 per cent and 98.97 per cent.

Shortfall in inspection indicated that performances of the subordinate offices were not monitored properly. As a result, deficiencies in compliance of the provisions of Acts/Rules and departmental instructions, if any, could not be detected and set right.

Audit observed the following deficiencies for want of adequate departmental inspection :

- In BL&LRO Offices, Conversion Register, Register for long term leases etc., were not maintained properly.
- Accounts and Cash Book of *Bhumi Sahayaks* were seldom checked either by the Revenue Inspector or any RO/BL&LRO, with reference to relevant records.
- Cash Book in the Block Office was not checked and verified for months together.

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<sup>138</sup> Circular No. 4281/195/2001-IS dated 25 June 2001.

<sup>139</sup> Birbhum, Darjeeling, Malda, Paschim Medinipur and Purba Medinipur.

- *Bhumi Sahayaks* were allowed to retain huge amount of cash in hand, as a result of which, misappropriation/ defalcation of Government money in RI offices and Block offices could be a possibility.

In the exit conference (December 2017), the Principal Secretary stated that instructions had been issued to adhere to the inspection schedule.

#### **3.4.11.5 Lease rent not realised due to LTS Register not being maintained / maintained properly**

Due to non/improper maintenance of Register-X, details of leases as well as revenue collection were not properly monitored.

Rule 491 of the WBL&LR Manual, 1991 prescribes maintenance of Register-X in respect of leases for a term of years. This register facilitates keeping watch on renewal of leasehold land, hats, ferries, fisheries leased or licensed for a term of years. It also helps in monitoring collection of annual rent. The register is to be maintained in each BL&LRO Office, *mouza*-wise. Further DLR&S, West Bengal has issued order<sup>140</sup> in September 1995 for maintenance of Register-X. The DLR&S instructed to prepare chronological index of dates of expiry of leases as laid down in the manual (Part-II of Register-X), year-wise in the format of Register-X. This will help the administration to formulate advance action before expiry of the period of leases, either by renewing them or by removing the present occupier for re-settlement with others.

Audit found in eleven<sup>141</sup> BL&LROs under the five<sup>142</sup> DL&LROs that Register-X was either not maintained or maintained improperly. Audit also observed that in the absence of Register-X or due to improper maintenance thereof, lease of lands were either not renewed or renewed after delay of considerable period as discussed below:

1. Monthly progress reports of the four<sup>143</sup> block offices for three years ended between March 2014 and March 2016 disclosed that 1,594.55 acres of land were settled for LT/ST lease. No lease rent was, however, realised during the last three years by the block offices. No record of such leases and the lessees were available in the block offices.
2. Audit found from records relating to leases in BL&LROs Bolpur and Sainthia under DL&LRO, Birbhum, that 22 leases expired between May 2005 and March 2016. The BL&LROs, however, did not initiate renewal process. Further, BL&LRO, Sadar under DL&LRO Paschim Medinipur, initiated renewal process after lapse of period between 12 months and 105 months since expiry of the leases.

<sup>140</sup> Order vide No. 41/3772-89/C/95 dated 27 September 1995.

<sup>141</sup> Bolpur, Kharibari, Kharagpur-I, Naxalbari, Panskura-II, Phansidewa, Ramnagar-I, Rampurhat-I, Sadar Paschim Medinipur, Sainthia and Sonamukhi.

<sup>142</sup> Bankura, Birbhum, Darjeeling, Paschim Medinipur and Purba Medinipur.

<sup>143</sup> Kharibari, Naxalbari, Panskura-II, Phansidewa and Rampurhat-I.



3. Audit found in SDL&LRO, Darjeeling Sadar that Register-X had not been maintained properly. The chronological index of dates of expiry of leases was also not maintained. In the absence of Register, the SDL&LRO could not identify the cases where periods of lease expired. Process of renewal in respect of 12 leases which expired between November 2001 and January 2015 were not initiated.

Thus, in absence of Register-X or due to improper maintenance thereof, the offices were unable to monitor the lessees, date of expiry of leases and could not realise the annual lease rent. Maintenance of Register-X in e-Bhuchitra, which includes details of the LTS cases such as name of the lessees, area of land, lease rent, and sanction and expiry date of lease would have facilitated the Department in monitoring of lease rent and advance initiation of renewal process of LTS.

After this was pointed out, DL&LROs stated that BL&LROs concerned would be instructed to maintain register properly.

In the exit conference (December 2017), the Principal Secretary stated that an instruction would be issued to maintain Long Term Register properly in the BL&LROs as well as DL&LROs offices.

#### **3.4.11.6 Lack of monitoring on Government land resulting in encroachment**

Lack of monitoring on Government land by district authority resulted in encroachment of 29.30 acres land.

Under the provisions of the West Bengal Public Land (eviction of unauthorised occupants) Act 1962, action should be taken by the competent authority for eviction of unauthorised occupants (encroachers) from Government land.

1. Audit found<sup>144</sup> from the records long term settlement case records in DL&LRO, Burdwan that an inter-departmental transfer for 0.10 acres of land under BL&LRO, Burdwan-II was sanctioned by Government in December 2014. It was sanctioned to Subsidiary Intelligence Bureau (SIB), Ministry of Home Affairs, Government of India with effect from the date of delivery of possession at a total transfer value of ₹ 68.18 lakh. It was done with the purpose of construction of office-cum-residential complex of SIB in the district of Burdwan. Though the competent authority of SIB deposited the entire amount of transfer value, the district authority failed to hand over possession of the land to SIB till May 2017. It was further observed from the field enquiry report of Revenue Inspector that the land was under encroachment by some local people.

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<sup>144</sup> June 2017.



After this was pointed out DL&LRO, Burdwan did not furnish any specific reply.

In the exit conference (December 2017), the Principal Secretary stated that the matter would be examined and it would be explored if an alternate suitable land could be arranged, if available, for Subsidiary Intelligence Bureau (SIB) in Burdwan.

2. Audit found from report regarding unauthorised occupations of land in DL&LRO, Malda that a mango orchard measuring an area 29.20 acres, out of total area of 60.18 acres under Chanchal-II Block, was unauthorisedly occupied by 126 persons. The persons in unauthorised occupation of the land erected temporary *kachha* houses within the orchard area by felling trees. The Department failed to lease out the orchard due to unauthorised occupation of the land. As a result, Government had to forego revenue as falkar<sup>145</sup>. Moreover, felling trees of the orchard under unauthorised occupation also posed a threat to the environment. The higher authorities of L&LR Department were also not aware of such incidence. However, the remaining 30.98 acres of land with mango orchard was leased out on realisation of falkar. Thus, the Department failed to take action against unauthorised occupation.

After this was pointed out DL&LRO, Malda stated that the matter was already informed to Superintendent of Police, Malda for taking necessary action regarding unauthorised occupants on the said plot and the matter would be taken up with the Department shortly.

In the exit conference (December 2017), the Principal Secretary stated that all district authorities had been instructed to ensure protection of government land from encroachments. He further stated that boards, signage, fencing and boundary walls were being erected on the government land.

3. As per Rule 238 of the WBL&LR Manual, 1991, where lands used for non-agricultural purposes are in possession of persons without any lease for a period exceeding 12 years, such persons, if agreeable, may be offered long-term settlement. If not, he may be permitted to remain on payment of fair and equitable rent, as per the West Bengal Non-agricultural Tenancy Act, 1949. But, if he has used the land in a manner which renders it unfit for use for the purpose of the tenancy, steps should be taken to eject him by a suit. In cases, where the period does not exceed 12 years, the tenant may be offered long term settlement in accordance with the preceding Rules. If he refuses, necessary action should be taken at once for his eviction.

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<sup>145</sup> Revenue realised through auction of mango, litchi or other orchard existed on Government land.

Audit found from the computerised RoR and Government land survey report in nine<sup>146</sup> BL&LROs under three<sup>147</sup> DL&LROs that 277 plots of land measuring an area of 188.61 acres were used for non-agricultural purposes. As per RoR, the lands were classified as vested/*Khasmahal* land. However, in the absence of specific entry in the RoR, it could not be ascertained in audit as to whether the lands had been settled or not. Absence of such information indicated lack of monitoring and internal control over Government land.

After this was pointed, the DL&LRO, Burdwan stated that some persons encroached Government land for the purpose of fishery and poultry farms, but they did not apply for LTS. The remaining three DL&LROs instructed BL&LROs concerned to enquire into the matter for further course of action.

In the exit conference (December 2017), the Principal Secretary stated that all district authorities had been instructed to ensure protection of government land from encroachments. He further stated that boards, signage, fencing and boundary walls were being erected on the Government land.

### **3.4.12 Conclusion**

The L&LR Department is entrusted with the management of land and land revenue. It was noticed that management of land particularly vesting, resumption and settlement of resumed land held by mills, factories, etc. were not carried out in accordance with the provisions of the law and regulations in force. In the absence of proper records, monitoring and settlement of vested land due to the closure of mills was inadequate. Lack of proper monitoring and control led to illegal sale, encroachment, etc. of Government land by the owners of closed mills/factories, local people etc. As a result, substantial amount of revenue remained unrealised/short realised. Cases of long term settlement of land applied for and renewal of the cases where period of lease had expired awaited sanction for a number of years, thereby depriving the state exchequer of substantial amount of revenue. Transfer of Government land to different body, corporate, Central Government etc. and advance possession of Government land without settlement resulted in revenue remaining unrealised. Tenants' Ledger (Register-II) was not maintained in any of the Block offices, in absence of which the Block offices could not monitor realisation of rent, cess and surcharge. Even after enactment of the KLR Act, 2003, this Act had not been implemented till date (February 2018) as a policy matter of the Government.

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<sup>146</sup> Andal, Asansol EP –I, Barrackpore-I, Barrackpore-II, Burdwan-I, Durgapur-Faridpur, Katwa-I, Kulti and Paschim Medinipur Sadar.

<sup>147</sup> Burdwan, North 24 Parganas and Paschim Medinipur.

### 3.4.13 Recommendations

The Government may consider:

- Maintaining the Register-I and Tenants' Ledger (Register-II) immediately through e-Bhuchitra, to watch the updated position of tenant-wise demand, collection, arrear etc. and to initiate certificate proceedings against the big defaulters;
- Fixing an appropriate time limit for renewal of long term lease cases, settlement of Government land with unauthorised occupiers, transfer of Government land to different body corporate, Central Government etc.;
- Resumption of excess land held by mills, factories etc. and entire land for closed mills, factories, etc. to protect the Government land from illegal encroachment, sale, mutation, etc.;
- Conducting regular field survey to update the record of Government land, Government water bodies, etc. in the prescribed registers and monitoring the registers regarding use of the same frequently; and
- Recovery of land revenue from the land under possession of different Development Authorities.

All the recommendations made by audit were discussed during the Exit Conference and were accepted by the Government.



# CHAPTER IV



## CHAPTER IV

### MOTOR VEHICLES TAX

#### 4.1 Tax administration

The receipts from the Transport Department are regulated under the provisions of the Central and the State Motor Vehicle Acts and Rules made thereunder and are under the administrative control of the Transport Department. The Transport Department collects motor vehicle taxes, fees and fines through the State Transport Authority (STA), Public Vehicle Department (PVD), Kolkata and Registering Authorities (RAs) comprising of Regional Transport Officers (RTOs) at the district level and Additional Regional Transport officers (ARTOs) at the Sub-Divisional level.

#### 4.2 Internal audit

Department did not furnish details regarding Internal Audit Wing (IAW) (August 2017). Therefore, the performance of internal audit conducted by the Department could not be analysed.

#### 4.3 Results of audit

In 2016-17, test check of the records of 15 units relating to road tax<sup>148</sup>, additional tax<sup>149</sup>, special tax<sup>150</sup>, audio fee<sup>151</sup>, special fee<sup>152</sup>, video fee<sup>153</sup>, dealer's tax<sup>154</sup>, permit fee<sup>155</sup> and penalties showed underassessment of tax and other irregularities involving ₹ 187.82 crore in 213 cases, which fall under the following categories in the **Table 4.1**.

**Table - 4.1**  
**Results of audit**

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non-realisation of		
	• Tax, additional tax and penalty (LMV)	13	123.82
	• Tax, additional tax and penalty (Goods and other vehicles)	15	25.12

<sup>148</sup> Tax imposed under the West Bengal Motor Vehicles Tax Act, 1979.

<sup>149</sup> Tax imposed under the West Bengal Additional Tax and One-Time Tax on Motor Vehicles Act, 1989.

<sup>150</sup> Tax on air-conditioned vehicles.

<sup>151</sup> Applicable to the installation of radio set, gramophone, tape recorder, cassette recorder or any kind of apparatus producing sound effect or voice.

<sup>152</sup> Plying of heavy goods vehicles having gross vehicle weight (GVW) above 22,542 kg is permitted on payment of a special fee.

<sup>153</sup> Applicable to the installation of video sets, television sets, or any other apparatus, to display any object on the screen with or without amplification of any sound or voice.

<sup>154</sup> Every dealer or manufacturer who keeps in his possession or control any motor vehicle shall pay dealer's tax on such motor vehicle at the time of its first registration.

<sup>155</sup> Motor Vehicles (MV) Act, 1988 provides that the owner of a transport vehicle can use his vehicle in a public place having valid permit. Further, the WBMV Rules, 1989, prescribes fees for application and grant/renewal of permit in respect of different kinds of vehicles.

Sl. No.	Categories	Number of cases	Amount
	• Tax, additional tax and penalty (contract carriage vehicles)	15	7.36
	• Tax, additional tax and penalty (stage carriage vehicles)	14	0.95
	• Dealer's tax	16	23.24
	• Permit fees	11	1.35
	• Special fee	14	0.74
	• Authorisation fee	12	0.42
	• Audio fee	13	0.37
	• Special tax	12	0.26
2.	Short realisation of		
	• Fines for delayed production of vehicles for Certificate of Fitness	14	1.34
	• Road taxes from LMV/Omni buses (private use)	14	1.11
	• Road tax from contract carriage vehicles	12	0.44
3.	Other cases	38	1.30
	<b>Total</b>	<b>213</b>	<b>187.82</b>

During the course of the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 324.96 crore in 288 cases, of which 90 cases involving ₹ 42.58 crore were pointed out in audit during the year 2016-17 and the rest in earlier years. An amount of ₹ 12.53 crore was realised in 102 cases at the instance of audit.

A detailed compliance audit on “**Outsourcing in Transport Department**” having money value of ₹ 2.19 crore and few illustrative cases involving ₹ 318.03 crore are discussed in the following paragraphs.

#### 4.4 Detailed Compliance Audit on “**Outsourcing in Transport Department**”

##### 4.4.1 Introduction

The Transport Department of the Government of West Bengal is responsible for implementing, coordinating and monitoring policies and programmes on road transport. The functioning of the Department is governed by the Motor Vehicles (MV) Act, 1988, the Central Motor Vehicles (CMV) Rules, 1989, the West Bengal Motor Vehicles (WBMV) Rules, 1989 and notifications issued thereunder, from time to time. The Department outsourced (i) affixation of High Security Registration Plates (HSRP) to vehicles, (ii) issuance of Smart Cards/Plastic Cards for Driving Licence (DL) and Registration Certificate (RC) and (iii) issuance of Pollution under Control Certificates (PUCC) by Auto Emission Testing Centres (AETC) to private agencies. The Department functioned under the supervision of the Principal Secretary, assisted by an Additional Secretary, two Commissioners, two Special Secretaries, two Joint Secretaries and five Deputy Secretaries. The Transport Department functions through Public Vehicles Department, Kolkata (PVD, Kolkata), 18 Regional Transport Offices (RTO) and 28 Additional Regional Transport Offices (ARTO).



### 4.4.2 Audit objective, scope and methodology

Audit was undertaken with a view to ascertain whether:

- the outsourcing activities conformed to the provisions of Acts and Rules made thereunder;
- notifications issued in that regard and agencies outsourced were working efficiently and effectively; and
- the relevant provisions of Acts/Rules were sufficient to safeguard revenue.

Audit was conducted between February 2017 and July 2017 covering the period from April 2011 to March 2016, in the office of Transport Department and six<sup>156</sup> registering authorities (RAs)<sup>157</sup> selected on the basis of revenue collection. Cumulative Data<sup>158</sup> for the period from 2011-12 to 2015-16 in respect of vendors<sup>159</sup> of HSRPs were obtained from the Department/ West Bengal Transport Infrastructure Development Corporation (WBTIDC) Ltd. This data was analysed by using Computer Assisted Audit Techniques (CAATs). Information collected from vendors was cross-checked with the records of Commissioner of Commercial Taxes (CCT), West Bengal and WBTIDC. Information in respect of licencees<sup>160</sup> of AETCs was cross-checked with the records of West Bengal Pollution Control Board (WBPCB). Audit was conducted with reference to provisions made under Motor Vehicles Acts/Rules and notifications issued thereunder. The scope of audit was restricted to examination of revenue implications from the provisions and process of outsourcing of the three activities – (i) issue of HSRP, (ii) issue of Smart Cards/Plastic Cards for Driving Licence (DL)/Registration Certificate (RC) and (iii) issue of Pollution under Control Certificates (PUCC) by Auto Emission Testing Centres (AETCs).

Audit noticed a number of deficiencies as discussed in the following paragraphs:

### Audit findings

#### 4.4.3 High Security Registration Plates

To prevent the misuse of number plates by way of counterfeiting and irregular use in vehicles and to restrain the use of vehicles in illegal activities, the Ministry of Road Transport and Highways (MoRTH), Government of India, introduced a scheme of affixation of HSRPs to vehicles<sup>161</sup>. MoRTH laid down specifications for affixation of HSRPs to vehicles through various notifications<sup>162</sup> issued in 2001. According to those

<sup>156</sup> Alipur, Barasat, Hooghly, Howrah, Nadia and PVD, Kolkata.

<sup>157</sup> PVD, Kolkata, RTOs and ARTOs.

<sup>158</sup> Data received in 'dmp' format.

<sup>159</sup> Concerns engaged by the Department for affixation of HSRP to vehicles.

<sup>160</sup> Concerns authorised by the Department to carry out emission test of vehicles.

<sup>161</sup> By amending Rule 50 of CMV Rules, 1989 in March, 2001.

<sup>162</sup> Notification No.G.S.R.221 (E) dated 28 March, 2001, The Motor Vehicles (New High Security Registration Plates) order, 2001 dated 22 August, 2001, Notification No.S.O.814 (E) dated 22 August, 2001 and Notification No.S.O.1041 (E) dated 16 October, 2001.

notifications, from 28 September 2001, it was mandatory for all newly/already registered vehicles to be affixed with HSRPs having specifications and standards, as prescribed under Rule 50 of the CMV Rules. The objective of this scheme was to ensure (i) uniformity in size, (ii) colour and (iii) specifications of the registration plates affixed to all types of vehicles being registered/already registered all over India. The Automotive Research Association of India (ARAI), an approved test agency recognised by the Government of India, approved the security features, size and specifications of HSRPs. ARAI issues Type Approval Certificate (TAC)<sup>163</sup> and Conformity of Production (COP)<sup>164</sup> to the manufacturers. These rules/processes were applicable to all the states, including West Bengal.

### **Deficiencies in the implementation of HSRP scheme**

The Government of West Bengal delegated the authority and responsibility to implement the scheme to WBTIDC Ltd. The contract for implementation of the scheme was awarded to M/s Celex Technologies Pvt. Ltd. (CTPL)<sup>165</sup> for Zone A<sup>166</sup> and a consortium headed by M/s Subba Micro System Ltd (SMSL)<sup>167</sup> for Zone B<sup>168</sup>, on 10 November, 2010 in the State, by means of open tender. The bid documents for HSRP constituted the agreement between Government of West Bengal and the vendors. All the terms and conditions regarding affixation of HSRPs were specified in the two agreements executed between the WBTIDC Ltd. on behalf of the Government of West Bengal and the vendors in November 2010 (Agreement). Further, the Department issued letters to the WBTIDC Ltd. from time to time to ensure that the affixations of HSRPs to vehicles were done as per provisions of the Government Order 2001<sup>169</sup>. The Department was to monitor the implementation of the HSRP scheme. Audit observed several deficiencies in implementation of the scheme as discussed in the following paragraphs:

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<sup>163</sup> TAC means the approval accorded to the bidder by ARAI as per test procedure prescribed, which was to be submitted with the bid document.

<sup>164</sup> A procedure of periodic evaluation, testing and certification as defined and certified by ARAI, the designated test agency.

<sup>165</sup> Individual concern.

<sup>166</sup> Zone A consists of nine RA/districts viz. Cooch Behar, Dakshin Dinajpur, Darjeeling, Jalpaiguri, Malda, Murshidabad, Nadia, PVD, Kolkata and Uttar Dinajpur.

<sup>167</sup> Consortium -M/s Subba Micro System Ltd.(SMSL) entered into a Consortium Agreement on 10 November 2005 with M/s Utsav Safety System (P) Ltd. (USSL) and M/s M.S. Associates; the financial contribution being 60 *per cent*, 30 *per cent* and 10 *per cent* respectively as per agreement. M/s SMSL participated in bid for HSRP as lead partner.

<sup>168</sup> Zone B consists of 10 districts viz. Bankura, Birbhum, Burdwan, Hooghly, Howrah, North 24 Parganas, Paschim Medinipur, Purba Medinipur, Purulia and South 24 Parganas.

<sup>169</sup> The Motor Vehicles (New High Security Registration Plate) order, 2001 dated 22 August 2001.

#### 4.4.3.1 Delay in implementation of HSRP Scheme

There was delay in implementation of HSRP Scheme by the vendors in the State.

The Government of West Bengal instructed<sup>170</sup> WBTIDC Ltd. in March 2011 for implementation of HSRP Scheme in all the Registering Authorities (RAs) in West Bengal by 30 June 2011. In terms of the Agreements, the vendors were required to set up, operate and build complete infrastructure in all respects at all locations of RAs in West Bengal by the date stipulated by GoI/GoWB. As per Clause 3.10 of the bid document, WBTIDC Ltd. had to provide space and other infrastructure like electricity etc. in the premises of RAs. The agreement further provided that liquidated damages at the rate of ₹ 50,000 for each day of delay subject to maximum of ₹ 50 lakh was recoverable from the vendors. The delay in commencement was not to, in any case, exceed 50 days. The agreement was valid for a period of 10 years.

Audit noticed that the Department failed to ensure timely implementation of the project in West Bengal. The vendors delayed implementation of HSRP scheme by three to seven months in 16<sup>171</sup> districts out of 19 districts. Reasons for delay in implementation of the scheme could not be ascertained from the records of the Department.

On being pointed out (April 2017), the Department stated (December 2017) that the District administration took time to provide the requisite space and supporting arrangement to the vendor to set up its complete hardware and software infrastructure. The reply is not tenable as space and other supporting arrangements were to be provided by WBTIDC Ltd. in the premises of RAs and District administration had no role to play.

#### 4.4.3.2. Short payment of royalty on HSRP

There was short payment of royalty of ₹ 60.67 lakh due to taking incorrect price of HSRP for calculation.

As per terms of the Agreements, the vendors (CTPL and SMSL), were to pay royalty, on monthly basis, to WBTIDC Ltd., equivalent to four *per cent* of the amount collected on sale of HSRP from vehicle owners. The royalty was to be paid by vendors through bank draft, calculated at prevailing maximum retail prices (MRP) of HSRP.

Audit observed through analysis of data pertaining to the period between April 2011 and March 2016 that the vendors paid royalty at the rate of four *per cent* of the approved bid price of HSRP, exclusive of taxes. As per the Agreements, they should have paid royalty on the MRP inclusive of all taxes. This resulted in short payment of royalty of ₹ 60.67 lakh for the affixation of 31.69 lakh HSRP. The Department failed to detect such short payment of royalty by vendors till Audit pointed it out.

<sup>170</sup> Letter no. 753-WT/3M-25/2007 dated 1 March 2011.

<sup>171</sup> Alipur, Jalpaiguri and PVD, Kolkata implemented the HSRP scheme within the stipulated date.

On being pointed out (April 2017), the Department accepted (December 2017) the audit observation and stated that demand notice to the vendors had been issued (April-October 2017) by the WBTIDC Ltd. to recover short payment of royalty from the year 2011-12.

#### 4.4.3.3 Delay in affixation of HSRP to vehicles

The contract provision of affixation of HSRP within six days of issue of cash receipt by vendors was not complied with.

As per terms of the Agreements with CTPL and SMSL, HSRP was to be affixed to vehicles within six days, including holidays, from the date of issue of cash receipt by the vendor to the vehicle owner.

Audit found from the analysis of data pertaining to the period from April 2011 to March 2016 that out of the total 31.69 lakh HSRP affixed to vehicles, CTPL and SMSL delayed in 21.99 lakh (69.39 per cent) cases. It was noticed that out of the delay cases, 77 per cent HSRP were affixed with a delay ranging from 7 to 30 days. A time analysis is shown in the following table:

**Table - 4.2**  
**Delay in affixation of HSRP**

Period	Delay Cases		Percentage (%)
	SMSL	CTPL	
7 to 15 days	7,67,446	3,62,432	77
16 to 30 days	3,64,212	1,91,942	
1 to 2 months	1,54,771	1,28,094	21
2 to 6 months	86,945	90,779	
6 months to one year	18,251	18,343	2
1 to 5 years	7,588	7,748	
<b>Total</b>	<b>13,99,213</b>	<b>7,99,338</b>	<b>100</b>
<b>Grand Total</b>	<b>21,98,551</b>		

The RAs failed to ensure compliance of the stipulated time for affixation of HSRP by vendors, making vehicles ply without HSRP. Further, the Department failed to monitor the performance of RAs to ensure compliance of the provisions in respect of affixation of HSRPs as prescribed in agreement. Thus, the objective of the HSRP scheme for prevention of crimes was diluted.

The Department accepted (December 2017) the audit observation and stated that in order to ensure compliance, instructions had been issued to the RAs not to deliver Smart Cards (Registration Certificates) to vehicle owners before affixation of HSRPs, and also to the car dealers urging them to deliver the vehicles only after HSRPs were duly fitted thereupon. However, the Department did not take any action against the vendors for delayed delivery of services.

#### 4.4.3.4 Provision of networking not complied with

Provision of networking as prescribed in Agreement was not complied with by the vendors. This deprived the RAs of verification and monitoring of the performance of the vendors.

As per terms of the Agreements, the vendors were required to submit prescribed reports and details of “ON LINE” management system to be installed by them at all locations of the RAs. The access method relating to the issuance of the HSRP in “ON LINE” real time environment was also to be provided.

Audit noticed from records of the Department and WBTIDC Ltd. that the vendors had not provided access to the system of issuance of the HSRP in an “ON LINE” real time environment to the RAs and centralised access for the entire State to the Department and WBTIDC Ltd. Transfer of data from vendors to RAs was being done manually by means of CD/Pen drive. Audit also found that the vendors had been submitting monthly compliance report to the RAs in hard copies. The Department failed to ensure compliance of Agreement provisions in respect of installation of “ON LINE” network by the vendor. Thus, the updated data and online transmission of prescribed reports from the vendors were not available to the RAs on real time basis. This deprived the RAs of verification and monitoring of the performance of the vendors.

Department accepted (December 2017) the audit observation and stated that after introduction of web-based e-Vahan, HSRP affixation status in an ON LINE real time environment could be cross-checked by RAs and monthly compliance report submitted by the vendors could be cross-checked by the WBTIDC Ltd. through NIC database online.

However, it had been noticed from the data of e-Vahan, made available by the Department in December 2017, that e-Vahan had not been implemented in all the RAs. Thus, provisions of the networking were still to be implemented in all RAs.

#### 4.4.3.5 HSRP not affixed on vehicles

There was shortfall in achievement of target of affixing HSRP to vehicles.

As per Central Government enactment of ‘Motor Vehicles (new High Security Registration Plates) Order, 2001’ issued in August 2001 read with Rule 50 of the CMV Rules, it was mandatory for all newly registered vehicles to be affixed with HSRP having prescribed specifications and standards. In case of vehicles already registered, HSRP were to be affixed within two years from the date of publication of the order.

1. Audit found from the analysis of data obtained from six RAs selected for this audit that HSRP had not been affixed to 1,91,384 vehicles out of 10,92,366 vehicles registered between the date of implementation and 31 March 2016 in these RAs. No reasons for non-affixation were found on records. The shortfall in achievement of targets for affixation of HSRPs on newly registered motor vehicles ranged between 2.80 and 48.31 *per cent* in these RAs, as detailed in **Table 4.3**.

**Table - 4.3**  
**HSRP not affixed on new vehicles**

Name of the RA	Vendor responsible to affixation of HSRP	Date of commencement of affixation of HSRP in the RA	No. of Vehicles registered from the date of commencement to 31.03.2016	HSRP not affixed	HSRP not affixed (percentage)
PVD, Kolkata	CTPL	17.01.2011	2,50,508	7,015	2.80
Nadia		31.01.2012	1,43,068	18,974	13.26
Alipur	SMSL	01.03.2011	2,18,450	1,05,535	48.31
Hooghly		10.09.2011	1,47,971	17,101	11.55
Howrah		31.01.2012	1,35,968	14,716	10.82
Barasat		19.01.2012	1,96,401	28,043	14.28
<b>Total</b>			<b>10,92,366</b>	<b>1,91,384</b>	

Thus, affixation of HSRP to these new vehicles has not been monitored by the RAs at the time of registration of vehicles as directed by the Department.

After this was pointed out (April 2017), the Department stated (December 2017) that HSRPs were actually ready for affixing on vehicles and the time were given to vehicle owners for affixing, but the vehicle owners did not turn up to get those affixed for long.

Thus, the Department did not have any mechanism to ensure that HSRP was affixed on every newly registered vehicle.

- Audit observed from data analysis of six RAs, that in case of vehicles already registered prior to the date of implementation of HSRP scheme, HSRP were not affixed to 16,29,555 vehicles out of 16,61,148 vehicles. The shortfall in achievement of target for affixation of HSRP to vehicles already registered, ranged between 89.14 and 99.98 *per cent* in these RAs as detailed in **Table 4.4**.

**Table - 4.4**  
**HSRP not affixed on already registered vehicles**

Name of the RA	Vendor responsible to affix HSRP	Date of commencement of affixation of HSRP in the RA	Vehicle registered before the date of commencement of HSRP	HSRP not affixed	HSRP not affixed (percentage)
PVD, Kolkata	CTPL	17.01.2011	6,61,847	6,40,666	96.89
Nadia		31.01.2012	91,357	81,440	89.14
Alipur	SMSL	01.03.2011	2,73,208	2,73,045	99.94
Hooghly		10.09.2011	1,45,805	1,45,722	99.94
Howrah		31.01.2012	2,48,114	2,48,073	99.98
Barasat		19.01.2012	2,40,817	2,40,609	99.91
<b>Total</b>			<b>16,61,148</b>	<b>16,29,555</b>	



Audit also observed that no affixation plan had been framed by the Department for fixing of HSRP on vehicles already registered.

Thus, the Department failed to implement the affixation of HSRP to vehicles already registered even after lapse of more than five years of commencement of the HSRP scheme in the State. This resulted in non-compliance of the orders of MoRTH, depriving the Government of revenue in the form of royalty amounting to ₹ 1.51 crore (approx.)<sup>172</sup> and the applicable Value Added Tax and Service Tax.

Department did not furnish (February 2018) any specific reply.

#### 4.4.3.6 Irregular procurement of HSRP

Department failed to monitor and prevent irregular procurement of HSRP.

As per 'Motor Vehicles (new High Security Registration Plates) Order, 2001' issued in August 2001 by Government of India, the eligibility criteria of manufacturer or supplier of HSRP were specified. The State Governments were instructed to ensure fulfilment of such criteria. Further, HSRP was introduced by the MoRTH as a highly sensitive product for prevention of crime. It involves high security features to prevent counterfeiting and duplication of HSRP.

Contracts for affixation of HSRP to vehicles were awarded to two vendors, comprising of an individual concern and a consortium of three agencies<sup>173</sup> for implementation of HSRP scheme. Audit found from the records of the Commissioner of Commercial Tax, WB that another company, M/s Subba Micro system (SM), which was not part of the consortium, procured HSRP from one of the consortium partners, USSL, in an unauthorised manner. Audit further observed that SM sold back these HSRP to SMSL during the period from July 2014 to March 2016. The Department failed to monitor and prevent irregular sale of HSRP by USSL to an unauthorised party and procurement by SMSL. The scheme of affixing HSRP was intended to select vendors who had necessary expertise in such works and could strictly comply with high security features of HSRP. Thus, misuse of HSRP for illegal activities could not be ruled out.

On being pointed out (July 2017), the Department stated (December 2017) that the Department was concerned with fitment of proper HSRP only. The bid document did not disallow sourcing from third parties by vendor, provided those come from a manufacturer with type approval certificate.

Reply of the Department is not tenable as the vendor (consortium partner) sold the HSRP to a third party which was not authorised for affixation of HSRP. It indicates that there was no system in place to monitor and prevent sale and purchase of HSRP by unauthorised entities.

<sup>172</sup> Royalty (four *per cent*) has been calculated on the value of the HSRPs that could not be collected due to non-fixing of HSRPs in the six test checked RAs.

<sup>173</sup> Consortium vendor- M/s Subba Micro System Ltd.(SMSL) entered into a Consortium Agreement on 10 November 2005 with M/s Utsav Safety System (P) Ltd. (USSL) and M/s M.S. Associates; the financial contribution being 60 *per cent*, 30 *per cent* and 10 *per cent* respectively as per agreement. M/s SMSL participated in bid for HSRP as lead partner.

#### **4.4.3.7 Code of PCIN used in HSRP not in conformity with the approval of ARAI**

Type Approval Certificate regarding PCIN and consecutive serial numbering were not maintained in generation of PCIN by vendor.

ARAI issues Type Approval Certificate (TAC) and Conformity of Production (COP) to the manufacturers. As per Notification<sup>174</sup> issued by MoRTH in October 2001, the Permanent Consecutive Identification Number (PCIN)<sup>175</sup> in Arabic numbers shall be preceded by two alphabets representing the name of the vendor, or the manufacturer or the supplier, as the case may be, to whom the TAC has been issued by the ARAI. ARAI had given approval to USSL, a partner of the consortium of SMSL, to use code 'AA'.

Audit noticed from analysis of data in respect of HSRP that the code 'AAA' was used instead of 'AA' as PCIN in 7,82,849 HSRPs out of 50,54,593 HSRPs. Audit also found that there was a gap<sup>176</sup> in the series of PCIN of HSRPs in both the series. Thus, vendor violated TAC issued by the ARAI by using code 'AAA'. Due to lack of monitoring, the Department could not detect and prevent the violation of TAC by the vendor. Further, presence of a gap in serial number of PCIN violated CMV Rules and this might lead to misuse of gaps in series.

Department stated (December 2017) that NIC was being requested to check from e-Vahan database, whether improper PCINs had been allotted by the vendor and fed into the database or not. After receipt of report suitable and stern actions would be taken.

#### **4.4.3.8 Third registration mark on two wheelers not affixed**

In the absence of specific provision in the bid documents, norms fixed for affixation of third registration plate to two wheelers were violated by the Department.

As per Notification<sup>177</sup> issued in August 2001, a third Registration plate in the form of a self-destructive type chromium based hologram 'sticker' shall be affixed to all vehicles as additional security feature of HSRP.

During the course of audit, it was observed that affixation of third registration plate in sticker form was not specified in bid documents of HSRP by WBTIDC Ltd., in case of two wheelers. As a result, 'third registration plate' sticker was not affixed to two wheelers. Thus, in the absence of provision for affixation of third registration plate to two wheelers in bid documents, the Department compromised with the security features of HSRP.

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<sup>174</sup> Notification No. S.O. 1041 (E) dated 16 October 2001.

<sup>175</sup> Unique number for each HSRP.

<sup>176</sup> The Permanent Consecutive Identification Number (PCIN) were not issued consecutively.

<sup>177</sup> Notification No.S.O.814 (E) dated 22 August 2001 of MoRTH.



After this was pointed out (April 2017), the Department stated (December 2017) that the third registration plate was to be fixed on the inner side of left hand corner of the windshield of a vehicle. Two wheelers did not have mandate for such windshield to be fitted on them.

Thus, the Department initiated tender process without ensuring the place where the third registration plate to be fixed in two wheeler vehicles. Therefore, the Department compromised one of the security features of HSRP in case of two wheeler vehicles.

#### **4.4.3.9 Loss of revenue due to mis-statement of sales of HSRP by vendors**

There was mismatch of data in respect of payment of royalty shown in monthly reports and that figured in soft copies submitted by the vendors to WBTIDC. Short payment of royalty to WBTIDC Ltd. by the vendors could not be ruled out.

As per the Agreements, the vendors were to submit a monthly compliance report to WBTIDC Ltd., on affixation of HSRP to vehicles. WBTIDC Ltd., had the right to appoint independent auditors to have books, premises and operations examined at suitable intervals at the cost of the vendors.

Audit found from the analysis of data and monthly compliance reports in hard copies submitted by the vendors to the WBTIDC Ltd. that the payment of royalty as per monthly report did not match<sup>178</sup> with the receipts as per data. Further, the WBTIDC Ltd. has failed to produce any report on periodic reconciliation by themselves or through an independent auditor. In the absence of periodical reconciliation of compliance reports by WBTIDC Ltd. with the data in respect of HSRP in soft copy submitted by the vendors, the correctness of figures of sale of HSRP could not be ascertained in audit. Thus, short payment of royalty to WBTIDC Ltd. by the vendors could not be ruled out.

After this was pointed out (July 2017), the Department stated (December 2017) that the checking data of monthly compliance report on affixation of HSRP to vehicles used to be made through sampling, but after introduction of e-Vahan all data were being checked through online process.

However, it had been noticed from the data of e-Vahan, made available by the Department in December 2017, that e-Vahan had not been implemented in all the RAs from January 2017. Thus, the correctness of figures of sale of HSRP was still to be ensured in all RAs.

#### **Absence of required provisions in the scheme**

#### **4.4.3.10 Absence of provision for sharing of royalty from outsourcing of HSRP**

Royalty collected from vendors was retained by WBTIDC Ltd in the absence of provision for sharing revenue with the State exchequer.

There is no provision for sharing royalty by WBTIDC Ltd., with the Government,

<sup>178</sup> A difference of ₹ 3.53 lakh was noticed.

whereas in other States like Assam<sup>179</sup>, Haryana<sup>180</sup>, the Government receives royalty on HSRP from vendors.

Audit noticed from the records of WBTIDC Ltd., that WBTIDC Ltd., had collected an amount of ₹ 381.18 lakh towards royalty from vendors on sale of HSRP between 2012-13 and 2015-16 as detailed in the following table:

**Table - 4.5**  
**Collection of royalty**

Year	Royalty collected (₹)
2012-13	72,50,486
2013-14	87,03,939
2014-15	1,06,12,303
2015-16	1,15,51,271

In the absence of suitable provisions, royalty on HSRP was not shared with the Government.

Department stated (December 2017) that WBTIDC Ltd. was a fully owned Government Company and the royalty earned by WBTIDC Ltd. was used by the Government for public purposes for the infrastructure development of Transport Department.

The reply is not tenable as the WBTIDC Ltd. was authorised to implement HSRP scheme in the State on behalf of the Transport Department, Government of West Bengal. Retention of full amount of royalty by the WBTIDC Ltd. was not in conformity with the Government Accounting Rules, 1990. Rule 15(a) prescribes that all receipts on behalf of Government be deposited into Government Accounts.

#### **4.4.3.11 Absence of provision for lost HSRPs**

There were no provisions for generation of new PCIN in case of lost HSRP.

The scheme of affixation of HSRP to vehicles was introduced by Government of India based on the Motor Vehicles (New High Security Registration Plates) Order, 2001, Rule 50 of CMV Rules, 1989 and various notifications issued from time to time for guidance. For every HSRP, a new Permanent Consecutive Identification Number (PCIN) was to be generated for the front and rear plates of the vehicle.

<sup>179</sup> One per cent.

<sup>180</sup> Five per cent.

Audit noticed that in none of the notifications issued by the Government of West Bengal on HSRP, was there any provision for the mode and manner of issuing a HSRP for lost HSRP and generation of new PCIN. In absence of any guidelines in this regard, the purpose of affixing HSRP to vehicles tend to be defeated in cases of lost HSRP.

After this was pointed out (April 2017), the Department accepted (December 2017) that there was no provision of replacement of HSRP against lost one. Further, the Department stated that it had sought clarification from the competent authority i.e MoRTH several times in that regard.

#### **4.4.3.12 Uniformity of HSRP not maintained**

Authorities approved different style of HSRPs, which compromised the objective of maintaining uniformity in specifications.

As per Notification<sup>181</sup> issued in August 2001 by MoRTH, the objective of HSRP scheme was to ensure uniformity in size, colour and specifications of the number plates all over India, to all types of vehicles being registered/already registered. The testing agency, ARAI, carries out verification of documents, inspection at the plant and necessary testing before providing the TAC to vendors for manufacture of HSRP.

- Audit noticed that the TAC issued to USSL (the consortium partner of SMSL) did not have 'INDIA' inscription in the third number plate (sticker type) approved by ARAI, whereas in TAC issued to CTPL, 'INDIA' inscription had been approved by the same testing agency.
- Further, Audit noticed that ARAI had approved different styles of snap locks to the vendors for affixation of HSRP on vehicles.

Thus, ARAI approved different style of HSRPs to vendors, compromising with the objective of maintaining uniformity of the scheme. The Department had not taken any initiative to bring it to the notice of the MoRTH or ARAI for rectification of TAC issued to USSL by ARAI.

Department stated (December 2017) that ARAI was the Government approved authority to issue type approval and Conformity of Production Certificates. If they had approved any particular type of any material for any vendor, the State Government had no jurisdiction in the matter to object.

The Department, however, did not communicate the matter to MoRTH for rectification of TAC.

#### **4.4.4 Issue of Smart Card for DL/RC**

The issue of Driving License (DL) and Registration Certificate (RC) in smart card for the area under the jurisdiction of PVD, Kolkata commenced from 12 October 2004 as per notification<sup>182</sup> of the Department. The Government of West Bengal executed

<sup>181</sup> Notification No.S.O.814 (E) dated 22 August 2001.

<sup>182</sup> No.4595-WT/3M-187/2004 dated 6 October 2004.

agreement in October 2003 with West Bengal Electronics Industry Development Corporation Ltd. (WEBEL), a Government of West Bengal Undertaking, for implementation of project for issue of DL/RC in smart card and for keeping records thereof electronically. This agreement was executed prior to issue of the notification (October 2004) stipulating the date of implementation of scheme. Hence, in the agreement it had been prescribed that the project was to be rolled out throughout the State within one year's time.

Irregularities noticed in this regard are discussed in the following paragraphs:

#### **4.4.4.1 Unauthorised contract on Smart Card**

There was violation of West Bengal Financial Rules in selection of the vendors for implementation of the project of issuing smart cards.

As per terms and conditions of the Agreement between Government of West Bengal and WEBEL, performance of WEBEL was to be reviewed by the Department at the end of each year. The Department was responsible to monitor the project. WEBEL entered into an agreement in December 2003 with a private agency, SMSL, to execute and implement this project. Rule 47(8) of the West Bengal Financial Rules (WBFR) as amended vide GoWB notification No. 10500-F of November, 2004, provides that "orders should be placed only after open tenders or quotations have been invited".

Audit found from records of the PVD Kolkata and Department that:

- No tendering documents were available with the Department in respect of selection of WEBEL for the project. Similarly, in the absence of any records relating to selection of SMSL by WEBEL, it could not be vouched safe that provisions of Rule 47(8) of the WBFR were complied with.
- As per Clause III of the agreement with Government, WEBEL was adjudged to be capable of executing and implementing the project and to provide technical support and assistance to the Department for this project. However, WEBEL passed on all the responsibilities assigned to them by GoWB to SMSL by incorporating the same terms and conditions in their agreement with SMSL. This indicated that WEBEL itself was in need for technical support and assistance for this project. Therefore, selection of WEBEL for this project could not be justified.

On being pointed out (April 2017), the Department stated (December 2017) that WEBEL was a West Bengal Government undertaking under the IT Department. Finance Department had allowed direct e-procurements from them by any Department by order.

However, there were no restrictions for exploring the better options through tendering. Department did not respond to the observation about compliance with the provisions of WBFR by WEBEL for selection of SMSL.

#### 4.4.4.2 Smart Card based Management System not implemented through out the State

Smart Card based Management system had not been implemented throughout the State even after 12 years of its introduction in the State.

As per Notification<sup>183</sup>, Smart Card Based Management System for motor vehicles was to be introduced to improve vigilance towards closing the window of clandestine operations which entail loss of revenue. As per agreement between the Government and the vendor (October 2003), the vendor was required to roll out smart card based DL and RC in one year from the date of execution of that agreement. Further, smart card readers and Hand Held Terminals (HHT) in motor vehicle offices, essential for checking of authenticity of smart card, was required for maintaining smooth operations of the system.

Audit observed that smart card for DL and RC had been introduced in PVD, Kolkata in the year 2004. However, even after a lapse of more than 12 years of its introduction in the State, the Department failed to roll out the project in other 46 RAs in the State. Thus, plastic card/laminated card based RC and DL continued to be issued by these RAs. This defeated the objective of the Smart Card based Management System. There was no information on record regarding procurement and issuance of HHTs by the Department. Nor were any records to show that the authenticity of the smart cards had been verified by the HHTs. Thus, the Department failed to ensure complete implementation of Smart Card Based Management system in the State.

Department accepted (June 2017) the audit observation and stated that WEBEL was asked to select vendors through tender process for smart card based RC and DL for all the offices. As to procurement of smart card readers and HHT, the Department stated (December 2017) that smart card readers were made available in the smart card enabled motor vehicle offices of Kolkata. Smart Card management system and HHT had been made part of the new vendor selection process.

However, this was still to be made operational in all motor vehicle offices.

#### 4.4.5 Issue of Pollution under Control Certificate

Rule 115(7) of the CMV Rules, 1989, prescribes that after expiry of a period of one year from the date on which vehicle was first registered, shall carry a valid Pollution under Control Certificate (PUCC) issued by an agency authorised for this purpose by the State Government, to test exhaust emission. The validity of such certificate shall be for six months from the date of its issue. Further, under Rule 62, certificate of fitness (CF) was to be issued to the vehicles having valid PUCC. For issuance of CF, the inspecting officer or authorised testing stations had to carry out tests specified under

<sup>183</sup> Notification No.4595-WT/3M-187/2004 dated 6 October 2004.

the rule and one of the tests to be carried out was exhaust emission from the vehicles. As per GoWB notification<sup>184</sup> (July 2004) the Director of PVD, Kolkata and RAs in Districts were authorised to issue licences to Auto Emission Test Centres (AETCs) for conducting emission tests and issuing PUCCs. The licenses were issued to AETCs after getting technically examined by the West Bengal Pollution Control Board (WBPCB). The validity of licences to AETCs was for one year. The AETCs had to apply for renewal of licence two months before expiry of the valid licence. The Department had authorised WBTIDC Ltd. to print and distribute blank PUC to AETCs and Auto Emission Testing Centres' Associations (AETCA) subject to recommendation from Director, PVD/District Magistrates as the case may be.

#### **4.4.5.1 Fee for renewal of AETC licence not realised**

In two out of six RAs, renewal fee of AETC licences amounting to ₹ 6.88 lakh was not realised. These AETCs continued to conduct emission test of vehicles without getting their licences renewed.

As per Notification<sup>185</sup>, the application fee and licence fee for grant/renewal of licence for AETCs was ₹ 300 and ₹ 1,000 per annum respectively.

Audit noticed from the records of six RAs that in 115 cases<sup>186</sup> of AETCs under two<sup>187</sup> RAs, did not renew their licences though the period of validity of the licences expired between August 2006 and March 2016. The RAs neither issued notices to recover the dues nor suspended/cancelled their licences. Moreover, the defaulting AETCs did not surrender their licences. It was evident from monthly returns of AETCs that emission test of vehicles was being carried out by those AETCs even after expiry of the period of validity of the licenses. Thus, due to lack of monitoring by the RAs fee for renewal of licence of ₹ 6.88 lakh could not be realised in these cases.

Department stated (December 2017) that both RAs were directed to check and take necessary actions in the matter including cancellation of licence, if necessary.

#### **4.4.5.2 Issuance of Certificate of Fitness to the vehicles on invalid PUC**

Certificate of Fitness issued to vehicles not having valid PUC defeated the objective of minimising the pollution level in exhaust emissions.

Under Section 56 of the MV Act read with Rule 62 of CMV Rules, certificate of fitness (CF) shall be renewed only after the Inspecting Officer (IO) or authorised AETCs has carried out the specified emission tests.

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<sup>184</sup> Notification No.3357-WT/3M-7/2003/2004 dated 28 July 2004.

<sup>185</sup> Notification No.4467-WT/3M-7/2004 dated 28 October 2004.

<sup>186</sup> One case means one licence. One AETC is required to have separate licences for Petrol, Diesel and alternative fuels.

<sup>187</sup> Alipur and Barasat.



Audit found from the analysis of the data in respect of six<sup>188</sup> RAs that in cases of 2,221 vehicles, CFs of the vehicles were renewed despite the fact that such vehicles did not have valid PUCs. IOs did not take into account the validity of PUC for issue of CFs to the vehicles. Moreover, as AETCs were not interlinked with the VAHAN database, system was not able to identify vehicles having invalid PUC and could not prompt IOs to take necessary action. Thus, RAs were not able to monitor the process of granting of CF to the vehicles due to lack of validation control in VAHAN database. This allowed unfit vehicles to ply on road without valid PUC. Thus, such vehicles without valid PUC were adding pollution to the environment.

Department stated (December 2017) that letters were sent in August 2017 to RTOs/ARTO to strictly follow the provisions of existing Notifications.

#### 4.4.5.3 Licence fee of AETC not revised

Licence fee of AETC was not revised in the State for last 12 years.

As per Notification<sup>189</sup>, the application fee and license fee for grant/renewal of licence for AETCs was ₹ 300 and ₹ 1000 per annum respectively. Fee for grant/renewal of licence of AETC in States<sup>190</sup> like Haryana, Assam and Delhi was higher than that in West Bengal.

Audit noticed that the fees for grant/renewal of AETC licence had not been revised in the State for the last 12 years.

On being pointed out (April 2017), the Department accepted the audit observation and stated (December 2017) that the Department would soon be considering the issue to take a policy decision.

#### 4.4.5.4 Absence of provision for sharing of revenue from outsourcing to AETCs

In the absence of relevant provision, Government was deprived of the share of fee collected from issue of PUC.

As per notification<sup>191</sup>, AETCs are authorised by the State Government to test smoke emission level and charge fees at the rate of ₹ 80 from owners of two wheelers and ₹ 100 for other vehicles for issue of a PUC. In terms of notification<sup>192</sup> issued by the Transport Department in February 2007, WBTIDC Ltd. was authorised to issue blank PUC to AETCs and AETCAs subject to recommendations of the Director, PVD Kolkata/District Magistrate and on payment of the cost price of blank PUC to WBTIDC Ltd.

<sup>188</sup> Alipur, Barasat, Hooghly, Howrah, Nadia and PVD, Kolkata.

<sup>189</sup> Notification No.4467-WT/3M-7/2004 dated 28 October 2004.

<sup>190</sup> Haryana- Fee for issue and renewal of PUC licence- ₹ 2,500 per annum; Assam- Initial licence fee for petrol vehicle/for diesel vehicle- ₹ 10,000 and subsequent renewal for diesel/ petrol- ₹ 5,000 per annum; Delhi- Application fee for authorisation and renewal of AETC Licence- ₹ 5,000.

<sup>191</sup> Notification No.4467-WT/3M-7/2004 dated 28 October 2004.

<sup>192</sup> Notification No.413-WT/3M-7/2003 Pt-1 dated 12 February 2007.

Audit noticed from record of WBTIDC Ltd. that 1,79,98,000 blank PUCC were issued by the WBTIDC Ltd. during the period from April 2011 to March 2016 to AETCs/AETCAs on realisation of cost price of ₹ 1.35 crore. Of this, ₹ 90 lakh was realised as printing cost of the forms which was subsequently paid to printing press and ₹ 45 lakh was retained as service charge by the WBTIDC Ltd. Audit also noticed that AETCs collected ₹ 142.63 crore<sup>193</sup> by issue of PUCC. The Government did not have any share from such receipts of test fees for issuance of PUCCs in absence of any provision in this regard.

Department stated (December 2017) that the whole issue of administering/ regulating the AETCs under a networked surveillance system was being contemplated by the Department which might bring about policy changes in this regard.

#### **4.4.5.5 Absence of network among AETCs and RAs**

Networking among the AETCs and with the RAs had not been established.

As per notification<sup>194</sup> issued by the Government of West Bengal in July 2004, network among the AETCs and with the RAs was to be established to improve the level of performance of the AETCs of the State.

Audit noticed that no network was established among the AETCs and between AETCs and RAs for online transmission of reports from the AETCs to monitor the performance of the AETCs. In the absence of such network, AETCs were submitting monthly testing reports of the vehicles in voluminous hard copies as noticed in three RAs<sup>195</sup> out of six RAs. Though the process of computerisation of the Department was initiated in 2004, networking of AETCs had not been established by the Department till date. In absence of network, issue of PUCCs and its misuse by AETCs without having valid licence could not be ruled out.

Department accepted the audit observation and stated (December 2017) that IIT, Kharagpur had been entrusted with the task of studying vehicular pollution and preparation of a Vision document along with action plans to curb and control vehicular pollution. The task included developing of protocol for surveillance, monitoring through a regulatory networking system, and performance audit of AETCs and overall control of AETCs.

#### **4.4.5.6 Guidelines for AETCs not followed**

AETCs did not follow prescribed guidelines regarding submission of monthly and half yearly returns to RAs.

As per Clause 12 of the Notification<sup>196</sup>, all AETCs have to follow WBPCB guidelines provided along with the application form for grant/renewal of AETCs. AETCs were

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<sup>193</sup> In the absence of records in respect of type of vehicles for which PUCCs were issued, collection charges of ₹ 142.63 crore (₹ 143.98 crore minus ₹ 1.35 crore) have been calculated taking into account the minimum cost of ₹ 80 applicable for two wheelers only.

<sup>194</sup> Notification No. 3357-WT/3M-7/2003/2004 dated 28 July 2004.

<sup>195</sup> Alipur, Barasat and PVD, Kolkata.

<sup>196</sup> Notification No. 3357-WT/3M-7/2003/2004 dated 28 July 2004.



required to submit monthly statement of vehicles tested date-wise. Further, AETCs were required to submit information regarding tests carried out during last six months to RAs for records.

Audit noticed from the records of three<sup>197</sup> RAs that none of the AETCs were submitting monthly returns as well as six monthly information in respect of tests carried out. Thus, AETCs did not follow the prescribed guideline. In this connection RAs also did not take any action. Therefore, the RAs could not control and monitor the work of AETCs.

The AETCs were to be inspected occasionally by the Motor Vehicle Inspector (Technical) of the RAs. The AETCs shall always remain open for inspection by the inspecting staff of the Department so as to ensure proper facilities to the customers/motorists.

Audit noticed from the records of six<sup>198</sup> RAs that none of the AETCs were inspected by the officials of RAs except at the time of commissioning of AETCs and renewal of their licences. In absence of occasional inspection of AETCs, it could not be ensured AETCs were carrying out their designated functions properly.

After this was pointed out (July 2017), the Department stated (December 2017) that letters were sent to DMs, RTOs and Director-PVD in August 2017 in that regard.

#### **4.4.6 Conclusion**

The Detailed Compliance Audit noticed certain system deficiencies, deficiencies in the compliance to the provisions of the Acts, Rules and Notifications. The Department had not ensured the objective of affixation of HSRP to all vehicles in the State. The Department had not put in place any mechanism to ensure that unique PCIN for each HSRP was consecutively generated and affixed to vehicles. There were weaknesses in monitoring of vendors engaged for HSRPs scheme and Smart Card scheme for DL and RC. Except for PVD, Kolkata, Smart Card for DL and RC in other RAs did not get started even after a lapse of 12 years since its introduction in the State. There was no system to ensure that the compliance of stipulated time limit for renewal of licenses by AETCs was done due to weak correlation between the WBPCB and RAs. In the absence of networking among AETCs and with VAHAN software, the system could not identify vehicles plying without valid PUCs and generate any information of such vehicles.

#### **Other Audit Observations**

The Transport Department introduced VAHAN software from July 2004 for collection of Motor Vehicles Tax. Data for the period from 2011-12 to 2014-15 in respect of public transport vehicles were obtained from the Registering Authorities. On analysis

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<sup>197</sup> Hooghly, Howrah and Nadia.

<sup>198</sup> Alipur, Barasat, Hooghly, Howrah, Nadia and PVD, Kolkata.

of data by Computer Assisted Auditing Techniques (CAATs), Audit observed deficiencies in VAHAN software. This resulted in non/short realisation of revenue as discussed in the following paragraphs:

#### **4.5 Tax, additional tax, penalty and special fee not realised**

Tax, additional tax, penalty and special fee of ₹ 272.41 crore were not realised from owners of 1,05,483 vehicles.

Section 3 of West Bengal Motor Vehicles Tax (WBMVT) Act, 1979 and Sections 3 and 4 of the West Bengal Additional Tax & One-time Tax on Motor Vehicles (WBAT&OTMV) Act, 1989 prescribe the rates of tax and additional tax on vehicles. Further, Sections 11 and 10 of these Acts, respectively, provide for imposition of penalty in case of non-payment of taxes. Moreover, Rule 26 of the West Bengal Motor Vehicles Tax (WBMVT) Rules, 1957 prescribes that the tax officer shall maintain a Tax Demand Register (TDR)<sup>199</sup>. Tax Demand register shows registration number of the vehicle, name and address of the owner, tax due etc. Further, tax officer shall review the register in order to see whether the tax is regularly paid. He shall take prompt action against the person concerned who has not paid the tax. In addition, Rule 121 of the West Bengal Motor Vehicles (WBMV) Rules, 1989 prohibit plying of heavy goods vehicles having gross vehicle weight (GVW) above 22,542 kg within the State. Government of West Bengal relaxed this provision in February 1991. Plying of such vehicles is now permitted on payment of a special fee at varying rates depending on the GVW.

During analysis of data pertaining to 16 Registering Authorities (RAs), Audit found that with the introduction of VAHAN<sup>200</sup> software in July 2004, the RAs discontinued maintenance of TDRs manually. The software VAHAN did not have the provision to maintain TDR electronically to monitor payment of taxes, fees etc., falling due from the owners of the vehicles. VAHAN also did not have any provision to generate a report providing information as required in the TDR, by capturing data spread across various tables created in the software. Audit, however, by analysing the data as available across different tables, calculated the taxes and penalty of ₹ 271.76 crore which was realisable from the defaulting owners of 1,05,483 vehicles during 2012-2015. Out of these, owners of 2,436 vehicles were also liable to pay special fees of ₹ 65.22 lakh during the period. Thus, non-maintenance of TDRs deprived the Department of monitoring and taking necessary action against defaulting owners of vehicles. It was seen that the Department was aware of the deficiency in the software which except for the list of defaulting vehicles, did not generate the period of default and amount involved therein. No corrective measures, however, were taken by the Department to address these deficiencies in the VAHAN software.

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<sup>199</sup> In Form 'J'

<sup>200</sup> An application software used by the Transport Department for registration of vehicles and collection of taxes and fees thereof.

Thus tax, additional tax, penalty and special fee of ₹ 272.41 crore were not realised as detailed in **Appendix IV**.

After Audit pointed out the cases

- in respect of tax, additional tax and penalty, 13<sup>201</sup> RAs accepted<sup>202</sup> audit observations in 96,476 cases involving ₹ 260.79 crore. Of these, five<sup>203</sup> RAs realised ₹ 1.52 crore in 841 cases.
- As to special fees, nine<sup>204</sup> RAs accepted<sup>205</sup> audit observations in 1,690 cases involving ₹ 42.28 lakh. Of these, two<sup>206</sup> RAs realised ₹ 0.30 lakh in 12 cases.
- In the remaining cases, RAs did not furnish any specific reply (February 2018).

The matter was reported to the Government in July 2017 followed by a reminder issued in August 2017. Their reply has not been received (February 2018).

#### 4.6 Permit fee not realised

RAs did not realise permit fee of ₹ 20.15 crore from owners of 23,747 transport vehicles plying with expired permits.

Section 66 of the Motor Vehicles (MV) Act, 1988 provides that the owner of a transport vehicle can use his vehicle in a public place having valid permit. Further, Rules 126 and 127 of the WBMV Rules, 1989 prescribe fees for application and grant/renewal of permit in respect of different kinds of vehicles. These fees are realisable from owners of the vehicles as per rates specified in Schedule-‘A’ of the Rules.

Audit found<sup>207</sup> from the scrutiny of permit registers and analysis of database of 15 RAs, that 23,747 public transport vehicles were plying with expired permits during 2011-12 to 2014-15. Audit also noticed that owners of those vehicles were paying fitness fees and road taxes. This indicated that the vehicles were plying on road and not lying idle. RAs, however, did not realise permit fee from them while collecting other taxes. There was no provision in the system to raise an alert regarding the requirement of realisation of permit fee at the time of collection of other taxes. Thus, permit fee of ₹ 20.15 crore was not realised as detailed in **Appendix-V**.

<sup>201</sup> Alipurduar, Asansol, Bankura, Barasat, Barrackpore, Cooch Behar, Hooghly, Howrah, Murshidabad, Paschim Medinipur, Purba Medinipur, Purulia and PVD, Kolkata.

<sup>202</sup> Between December 2016 and March 2017.

<sup>203</sup> Alipurduar, Cooch Behar, Hooghly, Howrah and PVD, Kolkata.

<sup>204</sup> Bankura, Barasat, Barrackpore, Hooghly, Howrah, Murshidabad, Paschim Medinipur, Purba Medinipur and PVD, Kolkata.

<sup>205</sup> Between December 2016 and March 2017.

<sup>206</sup> Hooghly and PVD, Kolkata.

<sup>207</sup> Between January 2016 and March 2016.

After Audit pointed out the cases, 10<sup>208</sup> RAs accepted<sup>209</sup> audit observations in 18,095 cases involving ₹ 15.36 crore. Of these, four<sup>210</sup> RAs intimated realisation of ₹ 5.16 lakh in 63 cases. Further report on realisation was however awaited. In remaining 5,652 cases, RAs did not furnish any/specific reply (February 2018).

The matter was reported to the Government in July 2017. Reply was awaited (February 2018).

#### **4.7 Dealer's tax and penalty not realised**

In case of 4,70,076 vehicles, RAs did not realise dealer's tax of ₹ 18.87 crore from the dealers of vehicles at the time of first registration of the vehicles.

Section 3(2) of the WBMVT Act, 1979 prescribes that every dealer or manufacturer who keeps in his possession or control any motor vehicle shall pay dealer's tax on such motor vehicle at the time of its first registration. The rates are specified in part H of the Schedule appended to the Act. Further, Sections 4 and 11(b)(iii) of the Act provide that in case of delay in payment of tax exceeding 60 days after the expiry of grace period of 15 days, penalty equal to the amount of tax payable is also realisable from a defaulting dealer.

During analysis of data of 16 RAs, Audit found<sup>211</sup> that 6,55,902 vehicles were registered between 2012-13 and 2014-15. Of these, in case of 4,70,076 vehicles, dealer's tax of ₹ 18.87 crore was not realised from the dealers at the time of first registration of the vehicles.

It was noticed that the VAHAN software was not customised to make the field "Dealer's tax" mandatory for realisation of the dealer's tax at the time of first registration. Imposition of penalty for delayed payment of dealer's tax was also not integrated into the software. Thus, dealer's tax and penalty of ₹ 18.87 crore was not realised as detailed in **Appendix-VI**.

After Audit pointed out the cases, seven<sup>212</sup> RAs accepted<sup>213</sup> audit observations in 1,91,257 cases involving ₹ 7.66 crore.

Four<sup>214</sup> RAs in 1,31,733 cases involving ₹ 5.32 crore contested that these vehicles were not liable to pay dealer's tax as per amendment in WBMVT Act, 1979 in August 2012. The reply is not tenable as the amendment in WBMVT Act was applicable only to motor car and omnibus (with seats up to 14 and not registered as transport vehicles) and tourist taxi, luxury taxi or contract carriages with seats up to 14. The vehicles under audit observation were motor cycles, three wheelers and light motor vehicles. In remaining 1,47,086 cases, RAs did not furnish any specific reply (February 2018).

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<sup>208</sup> Alipurduar, Asansol, Bankura, Barasat, Cooch Behar, Hooghly, Howrah, Murshidabad, Paschim Medinipur and PVD, Kolkata.

<sup>209</sup> Between December 2016 and March 2017.

<sup>210</sup> Alipurduar, Cooch Behar, Hooghly and PVD, Kolkata.

<sup>211</sup> Between January 2016 and March 2016.

<sup>212</sup> Alipurduar, Bankura, Barrackpore, Murshidabad, Paschim Medinipur, Purulia and PVD, Kolkata.

<sup>213</sup> Between December 2016 and March 2017.

<sup>214</sup> Cooch Behar, Hooghly, Howrah and Purba Medinipur.

The matter was reported to the Government in July 2017. Reply was awaited (February 2018).

#### 4.8 Fine on overloaded vehicles not levied and not realised

RA failed to levy and realise fine of ₹ 2.46 crore in case of 2,424 overloaded vehicles.

Section 194(1) of the MV Act, 1988 prohibits driving of a motor vehicle in contravention of the provisions in respect of permissible weight. Such driving is punishable with minimum fine of ₹ 2,000 and an additional amount of ₹ 1,000 per tonne of excess load.

Audit cross-verified<sup>215</sup> data relating to plying of overloaded vehicles as maintained in a weighbridge<sup>216</sup> in the district of Cooch Behar, with the offence register and other records maintained under RA, Cooch Behar. Audit found that fine was not levied under the provisions of the Act in case of 2,424 overloaded vehicles. These overloaded vehicles had plied with excess load of 19,799 tonne during 2012-2013 to 2014-2015. Thus, RA failed to levy and realise fine of ₹ 2.46 crore in these cases. Plying overloaded vehicles on road not only compromises with public safety, but also causes damage to the road. This entails avoidable excess expenditure on repair and maintenance of the road.

After this was pointed out, the RA accepted the audit observation and stated<sup>217</sup> that there was no deployment of Enforcement Wing by the Transport Department at the said weighbridge till February 2016. RA also stated that action would be taken against the listed vehicles and Enforcement Wing was alerted over the movement of those vehicles.

The matter was reported to the Government in July 2017 followed by a reminder issued in August 2017. Their reply has not been received (February 2018).

#### 4.9 Short realisation of fitness fee

RAs realised fee for conducting test of fitness at normal rates instead of 150 per cent of the fee for delayed production of vehicles. This resulted in short realisation of fitness fee of ₹ 1.69 crore in case of 91,079 vehicles.

Rules 62 and 81 of the Central Motor Vehicles (CMV) Rules, 1989 prescribe that the owner of a transport vehicle shall make application and produce the vehicle for inspection for conducting test of fitness annually. This is for the renewal of certificate of fitness (CF) after completion of two years of registration and pay fees at the prescribed rates. Further, Rule 57(6) of the WBMV Rules, 1989 provides that if the owner fails to produce the vehicle within the stipulated time, he shall be liable to pay 150 per cent of prescribed fee for conducting test of fitness.

<sup>215</sup> March 2016.

<sup>216</sup> Operated under Toofanganj Construction Engineering Co. Pvt. Ltd. as per order vide No.-04-JS (UB)/2010 dated 10 November 2010 of Transport Department, Government of West Bengal.

<sup>217</sup> February 2017.

During analysis of data of 16 RAs, Audit found<sup>218</sup> that in case of 91,079 vehicles, the owners produced the vehicles for inspection for renewal of CF with delay. The delay was ranging from 15 days to more than two months during the period between April 2012 and March 2015. RAs, however, realised the fee for conducting test of fitness at normal rates instead of 150 *per cent* of the fee for conducting test of fitness. This was due to non-mapping of the particular provision in the VAHAN software. This resulted in short realisation of fitness fee of ₹ 1.69 crore as detailed in **Appendix VII**.

After this was pointed out, six<sup>219</sup> RAs accepted (between December 2016 and March 2017) the audit observations in 18,721 cases involving ₹ 34.28 lakh. Of these:

- Three<sup>220</sup> RAs stated that fitness fee in 10,200 cases could not be realised as VAHAN software was not mapped to realise fitness fee as per applicable rates. These RAs, however, did not give any assurance regarding mapping of the particular provision in the VAHAN software.
- Three<sup>221</sup> RAs in respect of 8,521 cases though stated to have made part realisation of the dues, they did not furnish the details of realisation.

In 17,048 cases involving ₹ 25.46 lakh, PVD, Kolkata contested<sup>222</sup> the audit observations. It stated that Rule 57(6) of WBMV Rules, 1989 did not cover 150 *per cent* of fee for conducting test of fitness under Sl. No. 11<sup>223</sup>, but covered fee for grant/renewal of CF only under Sl. No. 12<sup>224</sup>. The reply is not tenable. Rule 57(6) WBMV Rules, 1989 provides payment of 150 *per cent* of the fee by the owner of the vehicles, if they fail to produce the vehicle for inspection for renewal of certificate of fitness on or before the expiry of last certificate of fitness. Further, in terms of Rule 62 of Central Motor Vehicles Rules, 1989, renewal of CF shall be made only after the inspecting officer has carried out the specified tests. Thus, conducting specified tests of vehicles constitutes an integral part of renewal of the CF. Therefore, application of Rule 57(6) i.e., 150 *per cent* of fee for conducting test of fitness in case of delayed production of vehicles is valid.

In the remaining 55,310 cases, the RAs did not furnish any/specific reply (February 2018).

The matter was reported to the Government in July 2017. Reply was awaited (February 2018).

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<sup>218</sup> Between January 2016 and March 2016.

<sup>219</sup> Alipurduar, Bankura, Howrah, Murshidabad, Paschim Medinipur and Purulia.

<sup>220</sup> Alipurduar, Bankura and Paschim Medinipur.

<sup>221</sup> Howrah, Murshidabad and Purulia.

<sup>222</sup> December 2016.

<sup>223</sup> Sl. No. 11 of the Table under Rule 81 of CMV Rules, 1989 prescribes fees for conducting test of a vehicle for grant and renewal of certificate of fitness of motor vehicles.

<sup>224</sup> Sl. No. 12 of the Table under Rule 81 of CMV Rules, 1989 prescribes fee for grant or renewal of certificate of fitness for motor vehicles.



#### 4.10 Authorisation fee not realised

Authorisation fee of ₹ 89.05 lakh was not realised due to non-renewal of authorisation for national permit in case of 8,896 vehicles.

Rule 87 of CMV Rules, 1989 read with guidelines<sup>225</sup> issued by Ministry of Road Transport and Highways, Government of India laid down the procedure for grant of authorisation for a national permit. It also prescribes a fee of ₹ 1,000 per annum for such authorisation. The Rule prescribes that the period of validity of such authorisation shall not exceed one year at a time.

During analysis of data of 13 RAs between January 2016 and March 2016, Audit found that 8,896 vehicle holders of national permits<sup>226</sup>, did not get their authorisation renewed after the expiry of validity of authorisation during 2013-14 and 2014-15. The analysis also disclosed that the owners of the vehicles, covered under the permits, continued paying their taxes. Further, they were in possession of valid fitness certificates of the vehicles. This indicated that these vehicles were plying on the road without renewal of authorisation. Thus, RAs did not realise authorisation fee of ₹ 89.05 lakh due to non-renewal of authorisation for national permit during 2013-14<sup>227</sup> and 2014-15 as detailed in **Appendix VIII**.

After Audit pointed out the cases, nine<sup>228</sup> RAs accepted<sup>229</sup> the audit observations in 7,374 cases involving ₹ 73.78 lakh. RA, Asansol realised an amount of ₹ 0.11 lakh in 11 cases. RA, Purulia, and PVD, Kolkata also intimated that they had realised authorisation fee in above-mentioned cases. Vehicle-wise details regarding realisation were, however, not produced. Report on further realisation was awaited. In the remaining 1,522 cases, RAs did not furnish any/specific reply (February 2018).

The matter was reported to the Government in July 2017. Reply was awaited (February 2018).

#### 4.11 Short realisation of one-time and life-time tax

Improper mapping of the amendment in the WBAT&OTMV Act in the VAHAN software resulted in short levy with consequent short realisation of life-time and one-time tax of ₹ 72.49 lakh.

WBMVT Act, 1979 and West Bengal Additional Tax and One Time Tax on Motor Vehicles Act, 1989 (WBAT&OTMV Act) prescribe the rates of tax and additional tax on vehicles. WBAT&OTMV Act, 1989 was amended<sup>230</sup> in August 2012 and provisions were made for:

<sup>225</sup> F. No. RT-16031/3/2009-T dated 27 August 2010.

<sup>226</sup> Effective for a period of five years.

<sup>227</sup> During analysis for the period 2013-14, nine cases of default – one each in seven RAs namely, Asansol, Barasat, Birbhum, Hooghly, Howrah, Malda and Purulia, and two cases in RA, Purba Medinipur were detected.

<sup>228</sup> Asansol, Bankura, Barrackpore, Hooghly, Howrah, Murshidabad, Paschim Medinipur, Purulia and PVD, Kolkata.

<sup>229</sup> Between December 2016 and March 2017.

<sup>230</sup> Vide Government Notification No. 1182-L dated 10.08.2012.

- (a) realisation of life-time tax or one-time tax at prescribed rates on motor cars and omnibuses (with seats up to 14 and not registered as transport vehicles);
- (b) rebate on life-time tax or one-time tax to non-air-conditioned (non-AC) vehicles having engine capacity up to 800 cc.

Further, after the amendment in WBAT and OTMV Act, 1989, the VAHAN software was to be updated accordingly. Every amendment in the Act was to be mapped in the system for the prevention of short assessment and realisation of revenue.

During analysis of data of 13 RAs, Audit found<sup>231</sup> that in case of 410 vehicles, one-time and life-time tax of ₹ 93.73 lakh was realised instead of ₹ 1.66 crore during the period from September 2012 to March 2015. Of these, one-time and life-time tax was realised at rates lower than the prescribed rates in 312 cases, irregular rebate was given in 86 cases and in remaining 12 cases, irregular rebate to non-AC vehicles having engine capacity more than 800 cc was given. This was due to improper mapping of the amendment in the WBAT&OTMV Act in the VAHAN software. This resulted in short levy with consequent short realisation of life-time and one-time tax of ₹ 72.49 lakh as detailed in **Appendix IX**.

After this was pointed out, six<sup>232</sup> RAs accepted<sup>233</sup> audit observations in 209 cases involving ₹ 49.72 lakh. They, however, did not furnish any report on realisation. In remaining 201 cases, RAs did not furnish any/specific reply (February 2018).

The matter was reported to the Government in July 2017 followed by a reminder issued in August 2017. Their reply has not been received (February 2018).

#### **4.12 Short realisation of tax from contract carriage vehicles**

RA's realised tax of ₹ 10.19 lakh instead of ₹ 63.48 lakh from the owners of 549 contract carriage vehicles. This was due to incorrect mapping in VAHAN software. This resulted in short realisation of tax of ₹ 53.29 lakh.

Schedule to Section 3 of the WBMVT Act, 1979 prescribes different rates of tax for stage carriage vehicles and contract carriage vehicles. An amendment was made in August 2012 which prescribed the tax for contract carriage vehicles as 1.2 *per cent* of the value of vehicle or ₹ 8,000 whichever is higher for vehicles with seating capacity up to seven and 1.2 *per cent* of the value of the vehicle or ₹ 14,000 whichever is higher for vehicles with seating capacity beyond seven. After the amendment in WBAT and OTMV Act, 1989, the VAHAN software was to be updated accordingly. Every amendment needed to be mapped in the system for the prevention of short assessment and realisation of revenue.

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<sup>231</sup> Between January 2016 and March 2016.

<sup>232</sup> Bankura, Cooch Behar, Hooghly, Paschim Medinipur, Purba Medinipur and PVD, Kolkata.

<sup>233</sup> Between December 2016 and March 2017.



During analysis of data of eight RAs, Audit found<sup>234</sup> that the RAs realised<sup>235</sup> tax of ₹ 10.19 lakh instead of ₹ 63.48 lakh, from the owners of 549 contract carriage vehicles comprising 539 maxi cabs and 10 luxury taxis. Audit observed that in case of maxi cabs, the system incorrectly mapped them as stage carriage vehicles. Thus, lower rates of taxes as applicable to stage carriage vehicles were imposed. In case of luxury taxis, however, the amended rate of tax was not found to have been mapped in the system. This resulted in short realisation of tax of ₹ 53.29 lakh as detailed in **Appendix X**.

After this was pointed out, five<sup>236</sup> RAs, accepted<sup>237</sup> the audit observations in 209 cases involving ₹ 21.65 lakh. They however, did not furnish any report on realisation of tax, except RA, Hooghly. RA, Hooghly realised an amount of ₹ 0.03 lakh in one case. In remaining cases, RAs did not furnish any/specific reply (February 2018).

The matter was reported to the Government in July 2017 followed by a reminder issued in August 2017. Their reply has not been received (February 2018).

#### 4.13 Audio fees not realised

RAs did not realise audio fees of ₹ 17.13 lakh from the owners of 3,359 vehicles fitted with audio sets.

Schedule F to Rule 218(7) of the WBMV Rules, 1989 provides for realisation of annual audio fees at prescribed rates. These fees are applicable to the installation of radio set, gramophone, tape recorder, cassette recorder or any kind of apparatus producing sound effect or voice. The owner of motor cars and omnibuses (with seats upto 14 and not registered as transport vehicles), other than battery operated motor vehicles, however, shall not be liable to pay audio fees with effect from 3 September 2012.

During analysis of data of 10 RAs, Audit found<sup>238</sup> that audio fees could not be realised from the owners of 3,359 vehicles fitted with audio sets. This was due to the VAHAN software having been not customised to make entries in the field 'audio fees', mandatory for realisation of the fees at the time of payment of tax. Thus, audio fees of ₹ 17.13 lakh was not realised during the period from 2012-13 to 2014-15 as detailed in **Appendix XI**.

After Audit pointed out the cases, seven<sup>239</sup> RAs accepted<sup>240</sup> audit observations in 2,851 cases involving ₹ 14.34 lakh. They, however, did not furnish any report on realisation except RA, PVD, Kolkata who realised ₹ 3.51 lakh in 701 cases. In remaining 508 cases, RAs did not furnish any/specific reply (February 2018).

<sup>234</sup> Between February 2015 and March 2016.

<sup>235</sup> Between September 2012 and March 2015.

<sup>236</sup> Cooch Behar, Hooghly, Paschim Medinipur, Purba Medinipur and PVD, Kolkata.

<sup>237</sup> Between December 2015 and March 2017.

<sup>238</sup> Between February 2015 and March 2016.

<sup>239</sup> Barasat, Barrackpore, Hooghly, Murshidabad, Nadia, Paschim Medinipur and PVD, Kolkata.

<sup>240</sup> Between December 2016 and March 2017.

The matter was reported to the Government in July 2017 followed by a reminder issued in August 2017. Their reply has not been received (February 2018).

#### **4.14 Special tax from air-conditioned vehicles not realised**

RAAs did not realise special tax and penalty of ₹ 12.08 lakh from the owners of 351 vehicles.

Section 3 of the WBMVT Act, 1979 and Sections 9B and 10 of the WBAT&OTMV Act, 1989 provide for realisation of special tax on air-conditioned vehicles. Rates of the tax have been prescribed based on their use, seating capacity, engine capacity and category of the vehicle. The owner of motor car and omnibus (with seats up to 14 and not registered as transport vehicles), other than battery operated motor vehicles and contract carriage vehicles with seating capacity up to 14 however, shall not be liable to pay special tax with effect from 3 September 2012<sup>241</sup>. Further, Section 11 of the WBMVT Act, 1979 and Section 10 of the WBAT&OTMV Act, 1989 provide for imposition of penalty in case of non-payment of taxes.

During analysis of data of 13 RAAs, Audit found<sup>242</sup> that owners of 351 vehicles were liable to pay special tax for different periods between 2011-12 and 2014-15. RAAs, however, did not realise the tax from the owners. Thus, special tax and penalty of ₹ 12.08 lakh was not realised due to failure of RAAs to monitor payment in such cases as detailed in **Appendix XII**.

After Audit pointed out the cases, six<sup>243</sup> RAAs accepted<sup>244</sup> audit observations in 146 cases involving ₹ 6.34 lakh. They however, did not furnish any report on realisation. In remaining 205 cases, RAAs did not furnish any specific reply (February 2018).

The matter was reported to the Government in July 2017 followed by a reminder issued in August 2017. Their reply has not been received (February 2018).

**These are the results of the test check of records made available to audit. The department may consider devising a system to identify similar cases and take necessary action.**

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<sup>241</sup> Government Notification nos. 1181 L and 1182 L both dated 10 August 2012.

<sup>242</sup> Between January 2015 and March 2016.

<sup>243</sup> Barasat, Barrackpore, Birbhum, Howrah, Nadia and PVD, Kolkata.

<sup>244</sup> Between January 2015 and March 2017.

# CHAPTER V



## CHAPTER V

### STAMP DUTY AND REGISTRATION FEES

#### 5.1 Tax administration

Receipts from stamp duty and registration fees are regulated under the Indian Stamp Act, 1899, (IS Act); Indian Registration Act, (IR Act) 1908. The Inspector General of Registration & Commissioner of Stamp Revenue (IGR & CSR) is the head of the Directorate of Registration and Stamp Revenue under the Finance (Revenue).

#### 5.2 Internal audit

As on December 2017, the Department did not furnish details regarding Internal Audit Wing (IAW). Therefore, the performance of internal audit conducted by the Department could not be analysed.

#### 5.3 Results of audit

In 2016-17, test check of the records of 57 units revealed non/short levy of stamp duty and registration fee etc. and other irregularities amounting to ₹ 18.53 crore in 193 cases, which fall under the categories given in **Table 5.1**.

**Table - 5.1**  
**Results of audit**

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Short levy of stamp duty and registration fees due to misclassification of deed/property	18	1.16
2.	Short assessment/realisation of stamp duty and registration fees due to incorrect consideration of lease period	11	0.64
3.	Short levy of stamp duty and registration fees due to omission of property details during registration	2	0.41
4.	Short levy of stamp duty due to incorrect particulars of amenities	7	0.34
5.	Short levy of stamp duty and registration fees due to irregular grant of remission	2	0.12
6.	Others	153	15.86
<b>Total</b>		<b>193</b>	<b>18.53</b>

During the course of the year, the Department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 1.27 crore in 108 cases, of which 102 cases involving ₹ 0.69 crore were pointed out during the year 2016-17 and the rest in earlier years. An amount of ₹ 33.21 lakh was realised in six cases at the instance of audit.

A few illustrative cases involving ₹ 50.57 crore are discussed in the following paragraphs.

#### **5.4 Short levy of stamp duty and registration fees due to misclassification of instruments**

In registration of nine deeds, stamp duty and registration fees was short-realised by ₹ 25.02 crore due to misclassification of instruments.

Stamp duty chargeable on an instrument depends upon the nature of instrument. The rate of stamp duty chargeable on an instrument is prescribed under Schedule IA of the Indian Stamp (IS) Act, 1899.

**5.4.1.** Article 63 of Schedule IA of the IS Act, 1899, provides that in case of instrument of transfer of lease by way of assignment, stamp duty applicable for sale/conveyance deed is chargeable on the market value of the properties. According to the clarification issued by IGR&CSR, West Bengal<sup>245</sup>, sub-lease for the entire unexpired remainder of term lease is treated as assignment of lease.

During scrutiny of deeds in two<sup>246</sup> Registration offices, Audit found<sup>247</sup> that two deeds of immovable properties involving market value of ₹ 10.82 crore were registered<sup>248</sup>. The Registering Authorities (RAs) classified these as sub-lease. On further scrutiny of both the deeds, Audit observed that the lessees were entitled to hold the properties on lease for a period of 99 years. Thereafter, the lessees sub-leased the properties to sub-lessees for the entire balance unexpired period of the original lease. Thus, the entire leasehold rights, title and interests of the lessees on the leasehold property was assigned to the sub-lessees in these cases. Accordingly, stamp duty and registration fees of ₹ 87.66 lakh, as calculated by Audit, was chargeable on the instruments on the market value of the properties. RAs, however, classified the instruments as sub-lease and realised stamp duty and registration fees of ₹ 0.40 lakh, on the basis of average annual rent and/or premium paid by the sub-lessees for the sub-lease. Thus, there was short levy of stamp duty and registration fees of ₹ 87.26 lakh.

The IGR&CSR, West Bengal, accepted the audit observations and stated<sup>249</sup> that, in both the cases, demand notices had been issued<sup>250</sup> by the RAs to the concerned parties. The cases were also referred to Deputy Inspector General of Registration (DIGR) for realisation of deficit stamp duty and registration fees. Demand notices were issued in October/December 2015. However, no recovery had been reported (February 2018).

This issue was brought to the notice of the Government in September 2017. Reply was awaited (February 2018).

<sup>245</sup> Memo No. CON-347/(28)/4C-54/2003 dated 19 December 2003.

<sup>246</sup> Additional Registrar of Assurances (ARA) I and II, Kolkata.

<sup>247</sup> Between October 2015 and December 2015.

<sup>248</sup> Between November 2014 and December 2014.

<sup>249</sup> May 2017.

<sup>250</sup> Between October and December 2015.

**5.4.2.** Section 118 of the Transfer of Properties (TP) Act, 1882, provides that when two persons mutually transfer the ownership of one thing for the ownership of another, the transaction is called an exchange. Under Section 2 (24) (b) of the IS Act, 1899, settlement means any non-testamentary disposition, in writing, of movable or immovable property made for the purpose of distributing property of the settlor. Under Articles 31 and 58 of Schedule IA of the IS Act, same stamp duty applicable for the conveyance/sale deed is applicable in case of the exchange and settlement deeds. Under Section 122 of the TP Act, 1882, gift is the transfer of certain existing movable or immovable property made voluntarily and without any consideration, by donor to the donee, and accepted by or on behalf of the donee. Gift to family members attracts lower rate of stamp duty of 0.5 per cent of the market value of the property under Article 33 of Schedule IA of the IS Act.

During scrutiny of deeds in two<sup>251</sup> Registration offices, Audit found<sup>252</sup> that three gift deeds in favour of family members involving market value of properties of ₹ 5.03 crore were registered<sup>253</sup> in those offices. Of these, in two deeds registered under one<sup>254</sup> Registration office, the donees also made return gifts of movable properties to the donors in exchange of the gifted properties. Thus, the deeds should have been classified as deed of exchange by the RA instead of gift deeds. In the remaining case, the gifted property belonged to a private trust to which the donor was one of the trustees. The property belonged to the trust which was not dissolved by the trustees. Therefore, the trustee/donor could only transfer his/her rights on the property through settlement deed. In the instant case, however, the property of the trust was gifted by the trustee/donor in favour of family members. Therefore, the deed should have been classified as deed of settlement instead of gift deed. The RAs levied and realised stamp duty of ₹ 2.51 lakh instead of ₹ 35.19 lakh leviable on the market value of the properties. This resulted in short levy of stamp duty of ₹ 32.68 lakh.

The IGR&CSR, West Bengal accepted the audit observations and stated<sup>255</sup> that, in two cases, Additional District Sub-Registrar, Sealdah had been directed to issue notices to the parties and inform the matter to the concerned DIGR for realisation of deficit stamp duty. In the remaining case, it was stated that demand notice had been issued<sup>256</sup> by the RA to the concerned party and the matter had also been referred<sup>257</sup> to DIGR. However, no recovery has been reported (February 2018) even after lapse of more than 32 months.

This issue was brought to the notice of the Government in September 2017. Reply was awaited (February 2018).

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<sup>251</sup> ADSR, Sealdah and ARA-I, Kolkata.

<sup>252</sup> Between May 2014 and January 2015.

<sup>253</sup> Between January 2012 and December 2013.

<sup>254</sup> Additional District Sub-Registrar, Sealdah.

<sup>255</sup> May 2017.

<sup>256</sup> February 2015.

<sup>257</sup> April 2015.

**5.4.3.** Under Article 5 of Schedule IA of the IS Act, 1899, the rate of stamp duty on development agreement<sup>258</sup> depends upon the market value of the property. The maximum rate of stamp duty chargeable on development agreement is ₹ 0.75 lakh only. Under Article 23 of the IS Act, sale/conveyance deed of any property situated under a municipal corporation and having market value exceeding ₹ 25 lakh attracts stamp duty of seven *per cent* on the market value of the property.

During scrutiny of records of Additional Registrar of Assurances (ARA)-I, Kolkata, it was found<sup>259</sup> that four agreements of properties situated within the Kolkata Municipal Corporation were registered<sup>260</sup> as development agreements. The RA classified the deeds as development agreements and levied stamp duty of ₹ 0.75 lakh in each case.

Further, Audit observed in all the cases, the properties were actually conveyed to the developers and the owners did not have any right, title or interest on the said properties. In order to avoid payment of higher stamp duty on conveyance deed, development agreements were executed to obscure the real motive of the transaction. Thus, stamp duty and registration fees of ₹ 23.86 crore was leviable in these cases on the assessed market value of the properties of ₹ 294.63 crore by classifying them as sale deeds. Due to misclassification of deeds by the RA, however, stamp duty and registration fees of only ₹ 0.04 crore was levied. This resulted in short levy of stamp duty and registration fees of ₹ 23.82 crore.

The IGR&CSR, West Bengal accepted the audit observations and stated (June 2017) that directions had been issued to the RA to refer the cases to the concerned DIGR for realisation of deficit stamp duty and registration fees. Audit verified that all the cases had been referred<sup>261</sup> to the concerned DIGR as per the directions of the IGR&CSR. Report on realisation, however, had not been received (February 2018).

The matter was reported to the Government in July 2017. Reply was awaited (February 2018).

## **5.5 Short levy of stamp duty due to incorrect determination of lease period**

In registration of 50 lease deeds, stamp duty and registration fees of ₹ 22.87 crore was short-levied due to incorrect determination of lease period.

Under Sections 6 (3) (a) (iv), 6 (3) (b) (ii) and 6 (3) (c) (ii) of the IS (West Bengal Amendment) Act, 2012<sup>262</sup>, where any lease purports to be for a term/any term renewed which exceeds 30 years, stamp duty applicable for conveyance/sale deed is applicable on the market value of the leased out property.

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<sup>258</sup> Article 5 of Schedule IA of the Act states that a development agreement is an agreement giving authority to a promoter or developer for construction on, or sale of, or transfer (in any manner whatsoever) of, any immovable property.

<sup>259</sup> Between January 2015 and February 2015.

<sup>260</sup> Between August 2013 and October 2013.

<sup>261</sup> June 2017.

<sup>262</sup> Issued under Notification No. 42 L dated 8 January 2013 by Law Department, Government of West Bengal.



Further, explanation-II below the said Sections provides that, apart from the lease period stated in the lease document, any prior/subsequent period in continuation of the present lease shall also be added with the present lease period for the purpose of determination of the lease period, if the lessor and lessee for the said periods are same.

Stamp duty on lease deeds up to 30 years is chargeable on the basis of average annual rent and/or premium paid for the lease. Further, Section 27 of the IS Act, 1899, provides that the consideration and all other facts and circumstances affecting the chargeability of any instruments with duty shall be fully and truly set forth therein.

During scrutiny of the lease deeds, Audit found<sup>263</sup> that 50 lease deeds involving market value of ₹ 333.58 crore were registered<sup>264</sup> under five<sup>265</sup> Registering Authorities (RAs). In these cases, leases were granted for a period ranging between 20 and 30 years. Further, Audit observed that in one case, renewal of the lease for a period of 30 years was registered in continuation of the previous lease of 25 years. In another case, the lessor had executed and registered two lease deeds on the same day in favour of a lessee for a period of 30 years each, with consecutive effect. The lessor, however, in order to avoid payment of higher stamp duty, did not disclose this fact in the recitals of the deeds.

In remaining 48 cases, the lease deeds contained specific clauses of automatic renewal/ further renewal of the leases for the subsequent period ranging between 30 and 99 years. Therefore, the RAs, while determining the actual lease period, were required to take into consideration the previous or subsequent lease periods<sup>266</sup>. Thus, due to incorrect determination of lease periods by the RAs, stamp duty of ₹ 0.46 crore was levied in those cases on the basis of the average annual rent/premium paid for the leases instead of ₹ 23.33 crore leviable, on the market value of the properties. This resulted in short levy of stamp duty of ₹ 22.87 crore.

The IGR&CSR, West Bengal accepted the audit observations. IGR&CSR further stated<sup>267</sup> that in six cases involving ₹ 13.48 crore, demand notices had been issued<sup>268</sup> by the RAs. In six cases involving ₹ 1.59 crore, the matter had been referred to the concerned DIGR by the RAs for realisation of deficit stamp duty. In the remaining 38 cases involving ₹ 7.80 crore, the concerned RAs had been directed to refer the cases to the concerned DIGR. Report on realisation, however, had not been received (February 2018).

The matter was reported to the Government in July 2017. Their reply was awaited (February 2018).

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<sup>263</sup> Between December 2014 and December 2015.

<sup>264</sup> Between August 2013 and March 2015.

<sup>265</sup> ADSR, Asansol; Additional Registrar of Assurances-(ARA)-I, II &III, Kolkata and DSR, Malda.

<sup>266</sup> As per explanation-II below Section 6 of the IS (West Bengal Amendment) Act, 2012.

<sup>267</sup> June 2017.

<sup>268</sup> Between February 2015 and December 2015.

## 5.6 Stamp duty and registration fees in respect of deeds containing several distinct matters not levied

In registration of three deeds containing several distinct matters, stamp duty and registration fees of ₹ 1.61 crore was not levied.

Under Section 5 of the IS Act, 1899, if any instrument contains several distinct matters, it shall be chargeable with the aggregate amount of the duties applicable on each instrument containing such matters.

Article 5 of Schedule IA of the Act states that a development agreement is an agreement giving authority to a promoter or developer for construction on, or sale of, or transfer (in any manner whatsoever) of, any immovable property. Further, Section 2(24)(b) of the IS Act states that 'settlement' means any non-testamentary<sup>269</sup> disposition, in writing, of movable or immovable property made for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him.

Audit observed<sup>270</sup> in the office of Additional Registrar of Assurances-I & II, Kolkata that three deeds were registered<sup>271</sup> as development agreements. Stamp duty of ₹ 0.75 lakh was levied on registration of each deed. Audit observed in recital of one deed that the share of the owner and the developer was 30 per cent and 70 per cent respectively in 48 land properties and 10 units of constructed properties of flats/shops/garages. Thus, the deed contained two separate distinct matters. One for 'settlement' by means of the distribution of share out of constructed flats/shops/garages having market value ₹ 14.03 crore<sup>272</sup> and another for development agreement on the property.

In another case, the developer agreed to pay ₹ 6.50 crore as amount of compensation to the third party to withdraw litigation. The third party was neither the owner of the property nor the developer of the property. Thus, the instant development deed also contained another distinct matter of 'settlement' with third party.

In the remaining case, the agreement included a third party who was neither the developer nor the owner of the property. The market value of the property involved was ₹ 8.95 crore. The allocation of share agreed upon by the owner, the developer and the third party was 10 per cent, 50 per cent and 40 per cent respectively. Thus, the deed not only was a 'development agreement' between the 'owner' and the 'developer' but also included distinct matter of 'ownership'<sup>273</sup> between the 'owner' and the 'third party' by entrusting 40 per cent of the share.

This resulted in overall non-realisation of revenue of ₹ 1.61 crore (stamp duty ₹ 1.39 crore and registration fee ₹ 21.89 lakh).

<sup>269</sup> Non-testamentary disposition is the disposition or transfer of property that takes effect upon execution of the deed by the person making it.

<sup>270</sup> December 2015.

<sup>271</sup> Between April 2014 and September 2014.

<sup>272</sup> SDRF of ₹ 79.55 lakh is leviable on ₹ 9.82 crore (70 per cent of ₹ 14.03 crore).

<sup>273</sup> SDRF of ₹ 28.99 lakh is leviable under Article 23 of the Schedule IA of IS Act.

ARA-II, Kolkata contested the case involving land properties and constructed properties of flats/shops/garages stating that the deed was a development agreement, not a deed of settlement. The reply was not tenable. Distribution of share between owners and developers in constructed flats/shops/garages (already registered sale deeds executed between the year 2005 and 2008) was not for future development but a settlement. In remaining two cases, the ARA-I accepted the audit observations.

The matter was reported to the Government in July 2017. Reply was awaited (February 2018).

### 5.7 Allowance of incorrect exemption of stamp duty on assignment of copyright

In registration of a deed of assignment of copy right, incorrect exemption of stamp duty of ₹ 54 lakh was allowed by the Registering Authority.

Clause (a) under the Article 23 of Schedule IA to the IS Act, 1899, as applicable in West Bengal provides that assignment of copyright by entry made under Section 18<sup>274</sup> of the Indian Copyright (IC) Act, 1957, is exempted from stamp duty. Correction of entries made in the register of copyright is permissible under Section 49 of the IC Act. Under Section 50A of the IC Act, every such correction made shall be published by the Registrar of Copyright in the Official Gazette or in such manner as may be prescribed.

Audit observed<sup>275</sup> from the records of the Additional Registrar of Assurances (ARA)-III, Kolkata that one deed of assignment of copyright was registered in January 2015. The assignor assigned the copyright in favour of the assignee at a consideration of ₹ 9 crore by executing the deed of assignment on non-judicial stamp paper of ₹ 300. On further scrutiny of records, Audit observed that the stamp duty payable on the deed of assignment was assessed at ₹ 54 lakh through the Computerisation of Registration of Documents (CORD) software. Audit also observed that while registering the deed, the RA exempted the stamp duty in full, on the basis of provision contained in clause (a) below Article 23 of Schedule-IA of the IS Act. The said exemption was allowable only if the assignment had been done by entry made under the IC Act. The RA failed to produce the copy of gazette notification issued under Section 50A of the IC Act or any other document, on the basis of which such exemption was allowed. This resulted in allowance of incorrect exemption of stamp duty of ₹ 54 lakh.

IGR&CSR, West Bengal accepted the audit observation and stated<sup>276</sup> that ARA-III had referred the matter to the concerned DIGR.

The matter was reported to the Government in July 2017. Reply was awaited (February 2018).

<sup>274</sup> Section 18 of IC Act deals with assignment of copyright where the owner of the copyright may assign to any person the copyright.

<sup>275</sup> December 2015.

<sup>276</sup> June 2017.

## 5.8 Short levy of stamp duty and registration fees due to misclassification of property

Registering Authorities misclassified 10 commercial properties as residential and semi-commercial properties. This resulted in short levy of stamp duty and registration fees of ₹ 31.67 lakh.

As per Rule 3B of the West Bengal Stamp (Prevention of Undervaluation of Instruments) Rules, 2001, read with the business process of CORD software, market value of flats will be enhanced according to the type of use, namely, residential, semi-commercial and commercial. Market value of semi-commercial and commercial property shall be one and half times and two and half times of the market value of the residential property respectively.

Audit observed<sup>277</sup> from CORD data in the office of four<sup>278</sup> RAs that in 10 deeds<sup>279</sup>, the RAs classified the properties mentioned in four deeds as residential property and that in six deeds, as semi-commercial property. Stamp duty was assessed and realised accordingly. From recitals of the deeds, Audit found that the properties were misclassified. The purpose of use of the property was categorically written in these deeds as commercial in place of residential/semi-commercial. This resulted in short determination of market value with consequent short realisation of stamp duty and registration fees of ₹ 31.67 lakh as detailed in the following table:

**Table - 5.2**  
**Misclassification of property**

(₹ in lakh)						
Sl. No.	Nature of misclassification	No. of cases/deeds	Market value of property assessed	Market value of property assessable	Short determination of market value	Short levy of SDRF
1.	Residential property in place of commercial property	4	101.17	252.91	151.74	12.12
2.	Semi-commercial property in place of commercial property	6	363.65	606.09	242.44	19.55
<b>Total</b>		<b>10</b>	<b>464.82</b>	<b>859.00</b>	<b>394.18</b>	<b>31.67</b>

Two<sup>280</sup> RAs accepted<sup>281</sup> audit observations in five cases involving ₹ 28.90 lakh. They however, did not furnish any report on realisation. In the remaining cases, reply was awaited (February 2018).

<sup>277</sup> Between January 2015 and December 2015.

<sup>278</sup> ADSR, Chandannagar and ARA-I, II&III, Kolkata.

<sup>279</sup> Executed and registered between 2011 and 2013.

<sup>280</sup> ARA-I&II, Kolkata.

<sup>281</sup> Between February 2015 and December 2015.

The matter was reported to the Government in July 2017. Reply was awaited (February 2018).

### 5.9 Short levy of stamp duty and registration fees due to short determination of market value of roof right

Stamp duty and registration fees of ₹ 21.15 lakh in case of registration of 28 flats was short-realised due to incorrect determination of market value of roof rights.

In terms of Rule 123 of West Bengal Registration Rules, 1962, every person shall submit a duly filled in requisition form to the Registration office corresponding to the subject matter of a deed for determination of market value (MV) of the property. After entering all particulars of such requisition form in the computer, the registering office shall take steps to generate an assessment slip automatically. The slip shall contain therein market value of the property, stamp duty and registration fees to be paid and other particulars. The RA shall verify such entries mentioned in the requisition form and scrutinise the assessment slip so generated.

Rule 3C (4b) of the West Bengal Stamp (Prevention of Undervaluation of Instruments) [WBS (PUI)] Rules, 2001, read with the business process of CORD software provides that in determining the MV of roof right<sup>282</sup> the following procedure may be adopted:

- (i) When the right of construction would be given over the roof of a residential flat, MV of roof right may be determined on 60 *per cent* of MV of the flat.
- (ii) When such right of construction would not be given over the roof, MV may be determined on 40 *per cent* of the MV of the residential flat of that locality only for the right to use the said roof.

Audit observed<sup>283</sup> from analysis of CORD data of seven<sup>284</sup> Registration offices that:

- In assessment slips<sup>285</sup> in respect of 27 flats out of 28 flats registered between 2011 and 2014, there was mention of ‘right to use the roofs only’ (without right of construction) as roof right of the flats. Audit, however, found from recitals of deeds that right of construction over the roof was also given to the purchasers.
- In the case of one flat out of the 28 flats, registered in 2013, assessment slip did not have any information in respect of roof right, though right to use roof of the flat was specified in the deed. RAs did not cross-verify the accuracy of such declarations with those mentioned in the recitals of the deeds before assessing the

<sup>282</sup> Right over the roof of a residential flat for use or further construction.

<sup>283</sup> Between May 2014 and February 2015.

<sup>284</sup> ADSR, Alipore; ADSR, Asansol; ADSR, Sealdah; ARA-I, II & III, Kolkata and DSR, Howrah.

<sup>285</sup> Generated on the basis of particulars furnished by the purchasers.

MV of the roof right. They accepted the declarations made in assessment slips to be correct. Thus,

- Stamp duty and registration fees in case of registration of roof right in 27 flats (out of 28 flats) was realised at 40 *per cent* instead of on 60 *per cent* of the MV of flats.
- In case of one flat (out of 28 flats), no stamp duty and registration fees on registration of roof right was realised.

This resulted in short determination of market value of roof right by ₹ 2.65 crore with consequent short levy of stamp duty and registration fees of ₹ 21.15 lakh.

Three<sup>286</sup> RAs accepted the audit observations in 15 cases involving ₹ 7.65 lakh.

The matter was reported to the Government in July 2017. Reply was awaited (February 2018).

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<sup>286</sup> ADSR, Alipore; ADSR, Sealdah and ARA-II, Kolkata.

# CHAPTER VI





## CHAPTER VI

### MINES AND MINERALS

#### 6.1 Tax administration

Assessment and collection of mining receipts are governed by the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957; the West Bengal Minor Minerals (WBMM) Rules, 2002; the Bengal Public Demands Recovery (BPDR) Act, 1913; the Cess Act, 1880; the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.

Commerce and Industries (C&I) Department, Finance Department, Land and Land Reforms (L&LR) Department, Irrigation and Waterways (I&W) Department and the General Administration Department are associated with the assessment, levy and collection of mining receipts.

#### 6.2 Internal audit

There was no separate Internal Audit Wing (IAW) for the units related to mining receipts. As the mining activities are mainly regulated by Land and Land Reforms (L&LR) Department, the IAW of the L&LR Department is liable to conduct audit of the units involved in regulation of mining activities. The IAW of the L&LR Department was established with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly and effective operations and safeguarding resources against loss.

#### 6.3 Results of audit

In 2016-17, test check of the records of 13 units relating to mining receipts showed underassessment of tax and other irregularities amounting to ₹ 92.23 crore in 119 cases as given in **Table 6.1**.

**Table - 6.1**  
**Results of audit**

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short assessment/realisation of price of minor/major minerals extracted unauthorisedly	70	11.30
2.	Non/short assessment/levy/realisation of royalty and cess	36	11.15
3.	Other cases	13	69.78
<b>Total</b>		<b>119</b>	<b>92.23</b>

During the course of the year, the Department accepted underassessment and other deficiencies in 107 cases of ₹ 18.92 crore, of which 104 cases involving ₹ 18.65 crore were pointed out during the year 2016-17 and the rest in earlier years. An amount of ₹ 22.19 lakh was realised in three cases during the year.

A few illustrative cases involving ₹ 12.61 crore are discussed in the following paragraphs.

#### 6.4 Price of brick earth not recovered/short recovered

Price of brick earth of ₹ 9.89 crore was not recovered/short recovered in 843 cases on extraction of brick earth without valid permit.

Rule 4(1) (a) of West Bengal Minor Minerals (WBMM) Rules, 2002 prescribes that no person shall undertake any mining operation except under the terms and conditions of a mining lease or quarry permit. Under Section 21(5) of Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 and Rule 33(5) of the WBMM Rules, 2002, no person is entitled to undertake mining operations without a lease or valid permit. In the event of violation, the State Government is empowered<sup>287</sup> to recover either the minerals raised unlawfully or the price thereof. Accordingly, the State Government fixed the market price of brick earth at ₹ 30 per 100 cubic feet (cft) for 1981 with an increase of ₹ 1.50 per 100 cft each year<sup>288</sup>. The revised order issued in March 2015 fixed the price of earth at ₹ 51 per 100 cft with effect from 2015-16.

Audit scrutinised<sup>289</sup> relevant records<sup>290</sup> and files in office of eight<sup>291</sup> District Land and Land Reforms Officers (DL&LROs). In 843 cases<sup>292</sup>, 787 brick field owners had extracted 18.42 crore cft of brick earth between 2013-14 and 2015-16. This extraction was carried out without valid permit<sup>293</sup>. For such extraction, price of brick earth of ₹ 13.29 crore was recoverable from these brick field owners.

This has been shown in the following table:

**Table - 6.2**  
**Price of brick earth not recovered/short recovered**

							(₹ in crore)
Sl. No.	Nature of irregularities	No. of cases	No. of brick field owners	Quantity of brick earth extracted	Price of brick earth to be recovered	Price of brick earth recovered	Price of brick earth not recovered/short recovered
1.	Authorities did not recover price of brick earth from brick field owners on extraction of brick earth	446	429 <sup>294</sup>	9.46 crore cft	6.75	Nil	6.75
2.	Authorities recovered price of earth short on extraction of brick earth	397	360	8.96 crore cft	6.54	3.40	3.14
<b>Total</b>		<b>843</b>	<b>787</b>	<b>18.42 crore cft</b>	<b>13.29</b>	<b>3.40</b>	<b>9.89</b>

<sup>287</sup> Apart from other penal actions like seizure, confiscation, eviction, imprisonment etc.

<sup>288</sup> By an order passed in September 1984.

<sup>289</sup> Between December 2015 and September 2016.

<sup>290</sup> Brick field registers.

<sup>291</sup> DL&LROs and period involved in observation: Bankura-2013-15, Burdwan (East)-2013-15, Burdwan (West)-2014-16, Howrah-2014-16, Malda-2013-16, Murshidabad-2014-15, Paschim Medinipur-2014-15 and Purba Medinipur-2013-15.

<sup>292</sup> One instance of price of earth not paid in any year constitutes one case.

<sup>293</sup> As per interim order of Hon'ble High court Calcutta, members of Brick Field Owners' Association, were allowed to extract brick earth though they did not have valid permit for such extraction. The authorities could realise only price of earth in these cases of unauthorised extraction.

<sup>294</sup> Out of these, two brick field owners were also involved in case of short realisation of price of brick earth.

No reasons were found on records for inaction on the part of the authorities.

Thus, price of brick earth of ₹ 9.89 crore was not recovered/short recovered.

Government accepted the audit observations and intimated (November 2017) realisation of ₹ 41.47 lakh in 204 cases by two<sup>295</sup> DL&LROs. In the remaining cases, they did not furnish specific details in respect of realisation.

### 6.5 Penalty not realised

Penalty to the extent of ₹ 1.74 crore was not realised in 59 cases of shortfall in the extraction of sand/stone.

In terms of Rule 21(1) (e) of the WBMM Rules, 2002, the lessee shall extract and dispatch a minimum quantity of mineral from the leasehold area annually, as prescribed in the lease deed. In case there is any shortfall in the extraction and dispatch of the said minimum quantity<sup>296</sup>, penalty to the extent of twice the amount of royalty, which would have accrued on such shortfall, shall have to be paid by the lessee.

Audit observed (between December 2015 and March 2016) from records of office of three<sup>297</sup> DL&LROs that penalty was not realised on shortfall in the extraction of sand/stone against the minimum quantity prescribed in the lease deeds. This has been shown in the following table:

**Table - 6.3**  
**Penalty not realised**

(₹ in crore)

Sl. No.	Nature of irregularities	No. of lessees	No. of cases	Quantity of sand/stone prescribed	Quantity of sand/stone extracted	Shortfall in extraction	Penalty not realised
1.	Lessees extracted less quantity of sand against the minimum prescribed quantity of sand as per lease deeds.	48	52	180.69 lakh cft of sand	98.85 lakh cft of sand	81.84 lakh cft of sand	1.64
2.	Lessees extracted less quantity stone against the minimum prescribed quantity as per lease deeds.	5	7	6.06 lakh cft of stone	0.80 lakh cft of stone	5.26 lakh cft of stone	0.10
<b>Total</b>		<b>53</b>	<b>59</b>				<b>1.74</b>

No reasons were found on records for these short extraction.

Audit observed that the DL&LROs did not levy and demand penalty for short extraction. Thus, penalty to the extent of ₹ 1.74 crore was not realised.

Government accepted the audit observations and intimated (October 2017) realisation of ₹ 3.02 lakh in 56 cases by two<sup>298</sup> DL&LROs. In the remaining cases, they did not furnish specific details in respect of realisation.

<sup>295</sup> Paschim Medinipur and Malda.

<sup>296</sup> Without any satisfactory reason.

<sup>297</sup> DL&LROs and period involved in observation: Burdwan (E)-2013-15, Darjeeling-2013-15 and Murshidabad-2014-15.

<sup>298</sup> Burdwan(E) and Darjeeling.

## 6.6 Royalty and cess on minor minerals not realised/short realised

Royalty and cess of ₹ 97.62 lakh was not realised/short realised in 105 cases on extraction of brick earth and sand from the brick field owners, the contractor and the lessees of sand.

Rule 27(1) of the WBMM Rules, 2002 provides that the prescribed authority may grant quarry permit to any person to extract any minor mineral on pre-payment of royalty at prescribed rates. Further, under the provisions of the Cess Act, 1880 (as amended in 1984), West Bengal Primary Education Act, 1973 and West Bengal Rural Employment and Production Act, 1976, holders of quarry permits are liable to pay different types of cess at prescribed rates on extraction of minor minerals.

Case records, demand and collection registers and minutes of meetings of DL&LROs with the Brick Field Owners' Associations were test checked in office of six<sup>299</sup> DL&LROs. Audit observed<sup>300</sup> that royalty and cess of ₹ 97.62 lakh was not realised/short realised in 105 cases from the brick field owners, the contractor and the lessees of sand. It was further seen that DL&LROs did not initiate any action to realise the dues. This has been shown in the following table:

**Table - 6.4**  
**Royalty and cess on minor minerals not realised/short realised**

(₹ in lakh)

Sl. No.	Nature of irregularities	Period of extraction	No. of cases	No. of Brick field owners	Quantity of Brick earth extracted	Royalty and cess to be realised	Royalty and cess realised	Royalty and cess on minor minerals not realised/short realised
1.	Brick field owners had extracted earth without payment of royalty and cess	2014-15	23	23	40.60 lakh cft	21.93	Nil	21.93
2.	Brick field owners / contractor extracted earth and paid less royalty and cess	Between 2013-14 and 2015-16	67	62 <sup>301</sup>	201.16 lakh cft	107.37	58.15	49.22
3.	Lessees of sand extracted sand in 2014-15 without pre-payment of royalty and cess	2014-15	15	15	23.02 lakh cft	26.47	Nil	26.47
<b>Total</b>			<b>105</b>	<b>100</b>	<b>264.78</b>	<b>155.77</b>	<b>58.15</b>	<b>97.62</b>

Government accepted the audit observations and intimated (October 2017) realisation of ₹ 14.55 lakh in 31 cases by two<sup>302</sup> DL&LROs. In remaining cases they did not furnish specific details in respect of realisation.

<sup>299</sup> DL&LROs and period involved in observation: Burdwan (E)-2014-15, Burdwan (W)-2014-16, Malda-2013-16, North 24 Parganas-2014-15, Paschim Medinipur-2014-15 and Purba Medinipur-2013-15.

<sup>300</sup> Between December 2015 and September 2016.

<sup>301</sup> Involves one contractor.

<sup>302</sup> North 24 Parganas and Paschim Medinipur.

# CHAPTER VII



## CHAPTER VII

### OTHER TAX RECEIPTS

#### 7.1 Tax administration

This chapter consists of receipts from Electricity Duty, Excise Duty and Profession Tax. The tax administration is governed by Acts and Rules framed separately for each Department. These taxes are administered by the Excise Department and the Finance (Revenue) Department headed by the Principal Secretary who is assisted by the concerned Directorates.

#### 7.2 Results of audit

In 2016-17, test check of the records of 36 units relating to State Excise, Profession Tax, Amusement Tax and Electricity Duty showed non-realisation and other irregularities of different heads amounting to ₹ 358.84 crore in 226 cases, **Table 7.1**.

**Table - 7.1**  
**Results of audit**

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
<b>A. State Excise</b>			
1.	Non/short levy of Excise Duty/Wastage Fee on chargeable wastage of Rectified Spirit/India Made Foreign Liquor	27	6.18
2.	Non/short realisation of licence fee/renewal fee/initial grant fee/pass fee etc.	22	3.43
3.	Non-realisation of fees for change in management	14	1.37
4.	Non-realisation of regulatory fees	14	0.35
5.	Non-realisation of fees for unaccounted Foreign Liquor/spirit	5	0.32
6.	Non-realisation of composition money	4	0.06
7.	Other cases	27	2.63
<b>Total</b>		<b>113</b>	<b>14.34</b>
<b>B. Profession Tax</b>			
1.	Non-realisation of profession tax due to non-enrolment	42	1.02
2.	Non-realisation of profession tax against enrolled certificate holders	6	0.43
3.	Other cases	4	0.01
<b>Total</b>		<b>52</b>	<b>1.46</b>
<b>C. Amusement Tax</b>			
1.	Non-initiation of recovery process of assessed dues of tax	4	7.36
2.	Blockage/loss of Government revenue	3	1.86
3.	Non/short/levy/realisation of Tax/interest/penalty	19	1.56
4.	Short levy of LT due to irregular allowance of internal sale	2	0.66
5.	Excess set off loss & consequent non-levy of agricultural Income Tax	3	0.09
6.	Other cases	7	0.06
<b>Total</b>		<b>38</b>	<b>11.59</b>

Sl. No.	Categories	No. of cases	Amount
<b>D. Electricity Duty</b>			
1.	Non-realisation of Electricity Duty with the interest	2	330.89
2.	Non-realisation of Electricity Duty/non-raising of demand	9	0.30
3.	Non-recovery of Electricity Duty/assessed dues	2	0.21
4.	Non-levy of fines for non-submission of returns and non-payment of Electricity Duty	7	0.05
5.	Shortage of closing balance in the cash book	1	0.004
6.	Non-maintenance of records/irregularities in Service book	2	0
	<b>Total</b>	<b>23</b>	<b>331.45</b>
	<b>Grand Total</b>	<b>226</b>	<b>358.84</b>

During the course of the year, the Department accepted non-realisation and other deficiencies of different tax heads in 65 cases of ₹ 2.73 crore, of which 37 cases involving ₹ 4.29 crore were pointed out during the year 2016-17 and the rest in earlier years. An amount of ₹ 3.27 crore was realised in 46 cases during the year.

A detailed compliance audit on “**Assessment and Collection of Electricity Duty**” having money value of ₹ 42.26 crore and an illustrative case of profession tax involving ₹ 52.44 lakh are discussed in the following paragraphs:

### 7.3 Detailed Compliance Audit on “Assessment and Collection of Electricity Duty”

#### 7.3.1 Introduction

Electricity duty is levied by the State Government on consumption of electricity for domestic as well as industrial purposes. Assessment and collection of electricity duty within West Bengal is regulated by the Bengal Electricity Duty (BED) Act, 1935 and the Bengal Electricity Duty Rules, 1935 (BED Rules).

The BED Act, 1935 is administered by the Directorate of Electricity Duty (DED), West Bengal which is under the administrative control of Finance Department, Government of West Bengal. The overall control and superintendence of the Directorate is vested in the Director of Electricity Duty, West Bengal. He is assisted<sup>303</sup> by one Chief Inspecting Officer, two Senior Inspecting Officers, nine Inspecting Officers, one Administrative Officer and nine Junior Inspecting Officers.

Under Sections 5 and 6 of the BED Act, every licensee<sup>304</sup> has the statutory obligation to pay electricity duty collected from consumers to the State Government and furnish the returns within a prescribed time limit. Apart from that, a non-licensee<sup>305</sup> is also liable to pay duty for generation and consumption of electrical energy.

<sup>303</sup> Sanctioned strength as per Administrative Report of DED for the year 2015-16.

<sup>304</sup> Licensee means any person who is granted a license or who is deemed to be a licensee under Section 14 of the Electricity Act, 2003. A licensee is engaged in transmission/ distribution/ trading of electricity to consumers.

<sup>305</sup> Every person, other than a licensee, who has installed an electricity generating plant for own consumption.



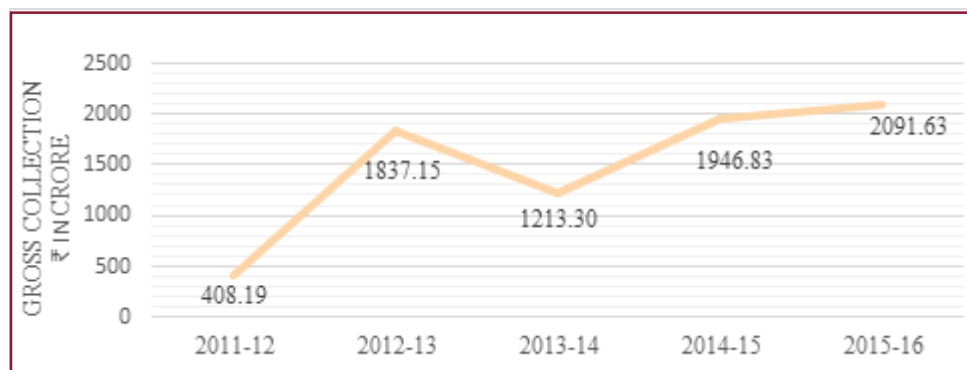
Under the provisions of the BED Act, 1935, the DED, the Electricity Duty officer<sup>306</sup> and the authorised Deputy Magistrates have been entrusted with the work of assessment and collection of electricity duty. The authorities responsible for assessment and collection of duty in respect of licensees and non-licensees in West Bengal are shown in the following table:

**Table - 7.2**  
**Authorities responsible for assessment and collection of duty**

Jurisdiction	Licensees	Non-licensees
Districts of North 24 Paraganas, South 24 Paraganas and area of supply of Calcutta Electric Supply Corporation (CESC)	Electricity Duty Officer (Agricultural Income Tax officer, Range-II ) in Kolkata	Inspecting officers or Junior Inspecting officers
Other districts in West Bengal	Electricity duty officers and authorised Deputy Magistrates in respective districts	Inspecting officers or Junior Inspecting officers and authorised Deputy Magistrates in respective districts

Collection of electricity duty during the last five years is shown in **Chart 7.1**.

**Chart 7.1: Collection of electricity duty during the last five years**



During analysis of the trend of collection of revenue from 2011-12 to 2015-16, Audit observed that collection of revenue increased by 350.07 *per cent* during the year 2012-13 over collection in the year 2011-12.

### 7.3.2 Objectives, Scope and methodology of Audit

The detailed compliance audit was conducted to seek assurance that

- (i) Provisions of rules to safeguard revenue were adequate,
- (ii) Existing provisions on assessment and collection procedures under the Acts/ Rules were being followed by the Department and
- (iii) Internal controls were in place and effective.

<sup>306</sup> Agricultural Income Tax Officer, Range-II at Kolkata is the person appointed by that designation by the State Government under sub-Section (1) of Section 7 of the BED Act, 1935.

The Audit was conducted during the period between January 2017 and June 2017 covering assessment periods from 2011-12 to 2015-16. Audit was conducted in the Directorate office at Kolkata, its two<sup>307</sup> Zonal offices, and seven<sup>308</sup> collectorates. In addition, office of the Electricity Duty Officer at Kolkata was also taken up for audit. During the course of audit, records of the Directorate, its subordinate offices and collectorates were scrutinised. Provisions of the BED Act, 1935, the BED Rules, 1935 and notifications and circulars issued by the Government of West Bengal were used as a source of criteria for the audit.

### **Audit findings**

The audit revealed various system and compliance deficiencies as well as weaknesses in internal control mechanism in the Directorate. These have been discussed in the following paragraphs:

#### **7.3.3 Adequacy and sufficiency of provisions of rules to safeguard Government revenue**

During the course of audit, a number of inadequacies in the provisions of the various Sections of the BED Act, 1935 were observed. This resulted in leakage of revenue as discussed in following paragraphs:

##### **7.3.3.1 Absence of a system of cross verification of data with other departments to identify and bring in potential assesseees into the tax net**

Registration and renewal fee of ₹ 5.75 lakh could not be realised. This was due to absence of a system of cross verification of data with that of other departments to identify and bring in potential assesseees into tax net.

Under Section 7B (1) of the BED Act, 1935 and rules made thereunder, every person, who has installed or will install an electricity generating<sup>309</sup> plant for his own consumption, shall, apply to the appropriate authority for registration of every such plant. The first schedule under Section 3 prescribes payment of electricity duty by such persons at the rate of 20 paise for each unit of energy consumed.

Further, under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, applications were to be made to the West Bengal Pollution Control Board (WBPCB) for obtaining consent to operate.

During the course of audit, information from WBPCB in respect of Diesel Generator (DG) set owners, who applied<sup>310</sup> for consent to operate DG sets, was cross-verified with the registration records of the DG set owners in the jurisdictional Zonal offices of Electricity Duty, Asansol, Jalpaiguri and the Directorate office in Kolkata. It was observed that 2,435 persons in 3,160 cases<sup>311</sup>, were not registered with the DED. In

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<sup>307</sup> Asansol zonal office which exercises jurisdiction over districts of Burdwan, Birbhum, Bankura and Purulia and Jalpaiguri zonal office which exercises jurisdiction over districts of Darjeeling, Cooch Behar, Jalpaiguri, Uttar Dinajpur and Dakshin Dinajpur.

<sup>308</sup> Randomly selected collectorates of Bankura, Burdwan, Hooghly, Howrah, Jalpaiguri, Paschim Medinipur and Purba Medinipur.

<sup>309</sup> Diesel based, coal based or waste gas based generation.

<sup>310</sup> During the period from 2011-12 to 2015-16.

<sup>311</sup> One case=one DG set.

the absence of any system of cross verification of data available with other departments, DED failed to bring potential assessee into tax net. As a result, registration fee and renewal fee of ₹ 5.75 lakh<sup>312</sup> could not be realised.

Further, as these cases were not detected, the actual consumption of electrical energy and the electricity duty leviable could not be ascertained by audit.

The Directorate office, Kolkata and the Zonal offices accepted the audit observation and stated that proceedings for registration of plants as pointed out by audit would be made shortly. The Directorate, however, remained silent about putting in place any mechanism for identifying such cases to safeguard its revenue prospects.

The Director, Electricity Duty stated (January 2018) that necessary measure would be taken to bring non-licences into the tax net after keeping in touch with WBPCB.

The matter was reported to the Government in August 2017; reply was awaited (February 2018).

### 7.3.3.2 Absence of provision to levy interest on delayed/unpaid Electricity duty in respect of non-licences

Interest of ₹ 82.48 lakh could not be levied due to absence of provision to levy interest on delayed/unpaid electricity duty in respect of non-licences.

As per Section 5A(1) of the BED Act, 1935 read with Rule 2 of the BED Rules, 1935, where a licensee fails to make payment<sup>313</sup> of electricity duty collected by him, he is liable to pay a simple interest at the rate of one *per cent* for each calendar month of default.

Further, Rule 11(1) of the BED Rules, 1935 stipulates that a non-licensee is required to pay the amount of electricity duty within 30 days after expiry of the month for which it is payable.

Assessment case records were scrutinised in six<sup>314</sup> collectorates and the DED, Kolkata during the course of audit. It was observed that 53 non-licences had either defaulted in payment or made delayed payment of electricity duty for various assessment periods<sup>315</sup>. These cases were assessed by the Assessing Authorities (AAs) during the years 2011-12 to 2015-16. The electricity duty payable was assessed at ₹ 5.13 crore. No interest was levied by the AAs for default in payment of electricity duty by these non-licences. Unlike the provisions for levy of interest on irregular retention of electricity duty by the licensees, the extant rules did not provide for levy of any interest for default in payment of electricity duty by non-licences.

A non-licensee, who did not pay electricity duty in time, therefore, enjoyed undue benefit of retaining Government money for indefinite periods without payment of any

<sup>312</sup> Including renewal fee of ₹ 5.60 lakh in those cases where more than three years had elapsed since the date of application to the WBPCB.

<sup>313</sup> Within 60 days after expiry of the month for which it is levied.

<sup>314</sup> Bankura, Burdwan, Hooghly, Jalpaiguri, Paschim Medinipur and Purba Medinipur.

<sup>315</sup> Between December 1994 and December 2015.

interest. An enabling provision in the Act would have augmented Government revenue by ₹ 82.48 lakh in the form of interest<sup>316</sup>, with regard to the defaulters pointed out by Audit. This would also have acted as a deterrent against default in timely payment of electricity duty.

After Audit pointed this out between March and June 2017, six<sup>317</sup> collectorates and the DED, Kolkata stated that in the absence of enabling provisions, interest could not be levied.

The Director, Electricity Duty while maintaining (January 2018) that there was no provision for imposing interest for late payment/non-payment of Electricity Duty by the non-licensees, stated that a proposal in that regard had been sent to the Government.

The matter was reported to the Government in August 2017. Reply was awaited (February 2018).

Government may consider making provisions in the Act/Rule for levy of interest on retention of electricity duty by the non-licensees beyond prescribed due dates, similar to the lines of licensees.

### **7.3.3.3 Absence of time limit for initiation of certificate proceedings**

Electricity duty and interest of ₹ 299.98 crore could not be realised due to absence of a time limit for initiation of certificate proceedings.

Under Section 5(1) of the BED Act, 1935 read with Rule 2 of the BED Rules, 1935, every licensee who supplies electricity to consumers is required to collect the electricity duty from consumers, together with his own monthly charges. He is also required to deposit the same in the Government account within 60 days. Similarly, as per Rule 11(1) of the BED Rules, 1935, a non-licensee shall pay the amount of duty within 30 days after expiry of the month for which it is payable. Section 8 of the BED Act, 1935 prescribes that any sum due on account of electricity duty or interest shall be recoverable as a public demand. The Bengal Public Demands Recovery (BPDR) Act, 1913 prescribes the manner of recovery of public demands and process of certificate proceedings<sup>318</sup>.

During the course of audit, assessment case records in the offices of the Electricity Duty officer, Kolkata, the DED, Kolkata and five<sup>319</sup> collectorates were checked. It was observed that in 90 cases of licensees and non-licensees, the AAs raised demand

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<sup>316</sup> Calculated at the rate of one *per cent* per month of default similar to licensees.

<sup>317</sup> Bankura, Burdwan, Hooghly, Jalpaiguri, Paschim Medinipur and Purba Medinipur.

<sup>318</sup> Under the BPDR Act, 1913, "Certificate proceedings" are proceedings to recover a public demand. When any public demand payable to any person other than the Collector is due, such person may send to the Certificate Officer a written requisition in the prescribed form. Also, when the Certificate Officer is satisfied that any public demand payable to the Collector is due, he may sign a certificate in the prescribed form, stating that the demand is due, and shall cause the certificate to be filed in his office. Subject to such conditions and limitations as may be prescribed, a Certificate Officer may order execution of the certificate (a) by attachment and sale, or by sale (without previous attachment), of any property, or (b) by attachment of any decree, or (c) by arresting the certificate-debtor and detaining him in the civil prison, or (d) by any two or all of the methods mentioned in clauses (a), (b) and (c).

<sup>319</sup> Bankura, Burdwan, Hooghly, Paschim Medinipur and Purba Medinipur.

of electricity duty and interest of ₹ 299.98 crore after assessments<sup>320</sup>. Audit further observed that none of the assesseees paid the duty and/or interest raised in these demand notices, even after lapse of considerable periods ranging from nine to 67 months from the dates of assessment. The details are shown in the following table:

Table - 7.3

**Delay in initiation of certificate proceeding**

(₹ in crore)

Nature of assesseees	Number of assesseees	Period of assessments	Assessed between	Total tax and interest due	Amount realised	Delay in payment
Licensees	2 <sup>321</sup>	2008-09 to 2014-15	March 2013 and April 2016	298.92	Nil	9 to 46 months
Non-licensees	88	1997-98 to 2015-16	August 2011 and March 2016	1.06	Nil	12 to 67 months

The assesseees did not prefer any appeal against the assessment orders. However, no action for recovery proceedings was initiated by the AAs to realise these dues. As a result, duty and interest of ₹ 299.98 crore remained unrealised.

Audit observed that the Government neither prescribed any time limit for initiation of certificate proceedings nor instituted a periodic review and monitoring mechanism to ensure its initiation in time.

After Audit pointed this out between February and June 2017, the Electricity Duty Officer and three<sup>322</sup> collectorates stated that necessary action would be taken in due course. Collectorate of Hooghly stated that non-licensees had been communicated to pay the duty. DED, Kolkata and collectorate of Bankura did not furnish specific reply.

The Director, Electricity Duty (January 2018) stated that there was no statutory provision for time limit about initiation of certificate proceedings and it was incumbent upon the AA to decide when the proceedings would be initiated considering merits of the cases and provisions of the law.

The matter was reported to the Government in August 2017. Reply was awaited (February 2018).

**7.3.3.4 Multiplicity of departments for assessment and collection**

The system of assessment and collection of revenues from electricity duty is quite complex, as it involves different departments of the State Government. Assessment and collection of electricity duty has been assigned to Agricultural Income Tax officer, Range-II (Designated as Electricity Duty Officer), Inspecting officers/Junior Inspecting Officers of the DED and authorised deputy magistrates in the districts, in their respective jurisdictional areas as detailed in Para 7.3.1. IOs/JIOs of the DED carry out inspections at the premises of the assesseees and assessment proposals are forwarded to the authorised Deputy magistrates for final assessment and collection.

<sup>320</sup> Between August 2011 and April 2016.

<sup>321</sup> CESC and WBSEDCL.

<sup>322</sup> Burdwan, Paschim Medinipur and Purba Medinipur.

The involvement of different departments of the State Government in assessment and collection of receipts from Electricity Duty led to lack of coordination, delay and mismanagement as described in the following sub-paragraphs:

### **1. Assessment proceedings not initiated on assessment proposals**

Electricity duty of ₹ 22.76 lakh was not realised as assessment proceedings were not initiated.

During the course of audit, it was observed that the IOs/JIOs of Zonal Office of the DED at Jalpaiguri and DED, Kolkata sent assessment proposals of non-licensees to two<sup>323</sup> district collectorates for final assessment and collection of duty. On test check of assessment proposals in those collectorates, it was observed that nine cases involving electricity duty of ₹ 22.76 lakh which were sent between August 2014 and September 2015, were not assessed by the concerned collectorates.

Audit further observed that even notice of assessment in Form D-1 was not issued in any of the cases. These assessment proposals were not attended to in the collectorates even after a lapse of 19 to 32 months from the dates of sending these proposals upto date of audit (May 2017). As a result, duty of ₹ 22.76 lakh involved in these cases remained unrealised. Further, as there was no scope to levy interest on the outstanding amount, delay in final assessment and raising of demand by the AAs was detrimental to the government revenue.

After Audit pointed this out between February and May 2017, the collectorates stated that demand notices were being issued shortly.

The Director, Electricity Duty stated (January 2018) that assessment of the cases had been completed by the concerned AAs. The Department, however remained silent on the recovery of revenue involved in these proposals.

The matter was reported to the Government in August 2017. Reply was awaited (February 2018).

### **2. Electricity duty not realised due to assessments barred by limitation of time**

Electricity duty of ₹ 5.50 lakh in nine cases could not be realised as the assessments became time barred.

Section 3A(3) of the BED Act, 1935 prescribes that no assessment under Section 3A shall be made after expiry of four years from the end of the year<sup>324</sup> comprising the period or periods in respect of which the assessment is made.

Information in respect of assessment proposals was collected from the Asansol Zonal Office and cross checked with the records of two<sup>325</sup> collectorates. On test check of assessments proposed between May 2009 and March 2013, it was noticed that in nine cases involving electricity duty of ₹ 5.50 lakh, no action to finally assess and demand the electricity duty was taken by the collectorates within the prescribed time limit of four years. As a result, the assessments became barred by limitation of time causing a loss to the exchequer of ₹ 5.50 lakh.

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<sup>323</sup> Howrah and Jalpaiguri.

<sup>324</sup> Year means the year commencing on the 1<sup>st</sup> day of April and ending on the last day of March.

<sup>325</sup> Bankura and Burdwan.



Audit observed that there was lack of coordination between the Zonal offices which proposed assessments and the collectorates who were to finally assess and raise the demand. No follow-up action was taken by the proposing office to look into the outcome of the assessment proposals forwarded by it. Further, there was no system of sending monthly progress reports or action taken reports of assessment and collection by the collectorates to the Zonal offices or the DED.

After Audit pointed this out in April 2017, the collectorates did not furnish specific reply.

The Director, Electricity Duty did not furnish any reply.

The matter was reported to the Government in August 2017. Reply was awaited (February 2018).

### **7.3.4 Compliance with the existing provisions on assessment and collection procedures under the Act/Rules**

During the course of audit, compliance to Rules and Regulations by AAs while carrying out assessments and collection procedures was examined and findings were as follows:

#### **7.3.4.1 Irregular and excess rebate as the cost of collection**

In violation of provisions of Government notification, cost of collection of ₹ 11.99 crore was allowed instead of ₹ 10.88 crore.

Section 5(1) of the BED Act, 1935 provides that where electrical energy is supplied by a licensee, the licensee shall collect and pay electricity duty to the State Government at the prescribed time and manner. Under Section 5(3), the licensee shall be entitled to a rebate on the amount of the duty collected and paid by him, for his cost of collection of the duty.

In a notification<sup>326</sup> issued in March 1974, Government of West Bengal, Finance (Taxation) Department, made provision for rebate at a flat rate of one *per cent* of the amount of electricity duty collected and paid by West Bengal State Electricity Board (WBSEB) (now WBSEDCL) for its cost of collection of the duty. This was allowable provided that the duty was credited to the Government account within 30 days following the date on which the return under Rule 4 of the BED Rules, 1935, fell due. In addition, the notification prescribed the manner of claim of rebate on the cost of collection. It stated that the bills in respect of the amount of rebate claimed should be presented to the treasury/sub-treasury with whom the electricity duty collected was deposited by WBSEB (WBSEDCL). These dues, after verification, were to be debited to the concerned head of account.

Scrutiny of assessment case records of the licensee, WBSEDCL for the periods of assessment 2008-09, 2009-10 and 2011-12 was taken up for audit in the office of the Electricity Duty Officer, Kolkata. These cases were assessed by AAs between 2011-12 and 2015-16. Audit observed that the licensee had collected electricity duty of ₹ 1,169.34 crore. Of this, the licensee deposited ₹ 1,087.80 crore only into Government

<sup>326</sup> No.1007 F.T. dated 21 March 1974.

account. According to the rules, licensee was eligible to get rebate towards cost of collection, on the amount actually deposited. Rebate allowable, therefore was ₹ 10.88 crore only, being one *per cent* of the total deposits. However, it was observed that during the course of the assessment, the AA allowed the licensee's entire claim of cost of collection of ₹ 11.99 crore. The AA while assessing the cases did not consider the fact that as per the notification, rebate was allowable on the amount deposited and not on the amount of duty collected. The action of the AA was violative of the provisions of the notification. This resulted in irregular and excess allowance of rebate of ₹ 1.11 crore.

After Audit pointed this out in February 2017, the Electricity Duty Officer stated that necessary action would be taken in due course.

The Director, Electricity Duty stated (January 2018) that the matter was being taken up with the Government as the assessee was also a Government entity.

The matter was reported to the Government in August 2017. Reply was awaited (February 2018).

#### **7.3.4.2 Assessment of licensees not made**

Electricity duty of ₹ 46.93 crore in respect of two licensees could not be realised as assessments had become time barred.

Under Section 3A (1) read with Section 6 of the BED Act, 1935, if no return in respect of any period is submitted by a licensee or if the return submitted is incorrect/incomplete, the authority shall<sup>327</sup> resort to assess<sup>328</sup>, the amount of electricity duty payable under the Act by the licensee. Further, as per Section 3A(3), no assessment under this Section shall be made after expiry of four years from the end of the year comprising the period or periods in respect of which the assessment is made.

1. Audit scrutinised return folders in respect of high tension (HT) and low-tension (LT) supplies of a licensee, Durgapur Projects Limited, in the Burdwan collectorate for the period from April 2011 to April 2012. Audit observed that the licensee had collected electricity duty of ₹ 47.11 crore<sup>329</sup> during the period. The licensee while disclosing these collections in his returns, paid electricity duty of ₹ 18.13 lakh only for the months of January and February 2012 in respect of LT supply, against duty payable of ₹ 47.11 crore. The licensee was, therefore, liable to be assessed under Section 3A of the BED Act. Audit observed that AAs did not assess the cases within the prescribed time limit of four years. As a result, electricity duty of ₹ 46.93 crore could not be realised due to assessments being barred by limitation of time.

After Audit pointed this out in April 2017, the collectorate office did not furnish specific reply.

The Director, Electricity Duty stated (January 2018) that the matter was being taken up with the Government as the assessee was Government entity for realisation of Electricity Duty.

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<sup>327</sup> After giving such licensee a reasonable opportunity of being heard.

<sup>328</sup> To the best of his judgment.

<sup>329</sup> ₹ 45.64 crore and ₹ 1.47 crore from HT and LT consumers respectively.



The matter was reported to the Government in August 2017 followed by a reminder issued in October 2017. Their reply has not been received (February 2018)

2. In terms of Section 6 of the BED Act, 1935 read with Rule 4 of the BED Rules, 1935, every licensee liable to pay Electricity Duty shall, unless he is exempt from payment of duty, keep books of accounts and submit monthly returns within 90 days following the month of return. The return should show the units of energy supplied, generated or consumed by him, and the amount of duty payable thereon and recovered or paid by him under Section 5.

Damodar Valley Corporation (DVC) is a deemed licensee<sup>330</sup> under the Electricity Act, 2003. As a 'deemed licensee' under the Electricity Act, 2003 falls within the definition of 'licensee' in the BED Act, 1935, DVC was required to file returns and collect and pay electricity duty as prescribed in the BED Act.

Audit observed in Zonal Office, Asansol, Burdwan collectorate and DED, Kolkata that DVC, a licensee under the BED Act, 1935 did not furnish returns for the period from 2009-10 to 2015-16. DVC, however, made payments of electricity duty in respect of periods from 2010-11 to 2015-16. Audit also observed that AAs did not take any action to assess the actual electricity duty payable by DVC by way of examination of books of accounts for the period from 2009-10 to 2015-16. In the absence of assessments or verification of books of accounts, AAs could not ascertain the amount of electricity duty and/or interest payable thereon by the licensee.

After audit pointed this out in June 2017, the DED stated that necessary steps were being taken for checking of books of accounts and assessment of electricity duty.

The Director, Electricity Duty stated (January 2018) that checking and verification of requisite papers had already been started from financial year 2013-14 for completion of assessment. The Department, however, remained silent on assessments of the cases for the assessment periods between 2009-10 and 2012-13.

The matter was reported to the Government in August 2017. Reply was awaited (February 2018).

#### **7.3.4.3 Electricity Duty not realised from return defaulters**

Electricity duty of ₹ 4.52 lakh could not be realised due to non-initiation of assessment proceedings against the non-licencees who had defaulted in submission of returns.

As per Rule 11(1) of the BED Rules, 1935, a non-licensee shall pay the amount of duty within 30 days after expiry of the month for which it is payable. He shall also submit<sup>331</sup> a monthly return in Form-D by the 15<sup>th</sup> of the month next following the month to which the return relates. Under Section 3A(1) of the BED Act, 1935, if no return in respect of any period is submitted by a non-licensee as required or the return

<sup>330</sup> Under Section 14 of the Electricity Act, 2003, Damodar Valley Corporation established under Section 3(1) of the Damodar Valley Corporation Act, 1948, is deemed to be a licensee under the Electricity Act, 2003.

<sup>331</sup> To the appropriate authority.

submitted by a non-licensee is found to be incomplete /incorrect, the AA shall<sup>332</sup> proceed to assess<sup>333</sup> the amount of electricity duty payable under the Act. Under Section 3A(3), no assessment under this Section shall be made after expiry of four years from the end of the year comprising the period/periods in respect of which the assessment is made.

Audit observed from return registers in respect of non-licensees in the Jalpaiguri Zonal Office that 17 non-licensees did not furnish returns for different periods between May 2008 and March 2013. No returns were submitted after March 2013 in any of these cases. As such, all such cases were to be assessed by March 2017 as per provisions of the Act. The AAs however did not initiate assessment proceedings to assess the cases before expiry of four years. As a result, assessment of all such cases involving electricity duty of ₹ 4.52 lakh<sup>334</sup> became barred by limitation of time.

After this was pointed out in April 2017, the Jalpaiguri Zonal Office did not furnish specific reply.

The Director, Electricity duty stated (January 2018) that the matter was being looked into for realisation of Electricity Duty.

The matter was reported to the Government in August 2017. Reply was awaited (February 2018).

#### **7.3.4.4 Electricity Duty not realised in pending assessment proposal**

Electricity duty of ₹ 2.22 lakh could not be realised as the final assessment was not made.

Under Section 3A(1) of the BED Act, 1935, if a non-licensee fails to furnish returns or submits incorrect/incomplete returns in respect of any period, the AA shall resort to assessment after giving such non-licensee a reasonable opportunity of being heard. Further, no assessment under this Section shall be made after expiry of four years from the end of the year comprising the period or periods in respect of which the assessment is made.

Audit noticed from records of a non-licensee, Banarhat tea estate in Jalpaiguri Zonal office that the non-licensee had not been paying electricity duty on industrial consumption of electricity since January 2005. The Inspecting officer (IO) assessed electricity duty at ₹ 2.22 lakh for the period from January 2005 to April 2012 and issued a notice in May 2012 to the non-licensee, giving him an opportunity of being heard. In the notice so issued, the IO stated that failing representation on receipt of the notice, the assessment proposal would be forwarded to appropriate authority for further action.

Audit observed from records that the non-licensee did not turn up for the hearing. The IO, however, did not forward the assessment proposal to the appropriate authority for further action. The non-licensee therefore, could not be finally assessed within the time limit prescribed under the Act. Thus, electricity duty of ₹ 2.22 lakh, could not be realised as the assessment became barred by limitation of time.

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<sup>332</sup> After giving such non-licensee, a reasonable opportunity of being heard.

<sup>333</sup> To the best of his judgment.

<sup>334</sup> Calculated on the basis of previous return.

After this was pointed out in April 2017, the Jalpaiguri Zonal Office did not furnish specific reply.

The Director, Electricity Duty stated (January 2018) that the matter was being looked into for realisation of Electricity Duty.

The matter was reported to the Government in August 2017 followed by a reminder issued in October 2017. Their reply has not been received (February 2018).

#### 7.3.4.5 Interest not levied on outstanding electricity duty

Interest of ₹ 38.67 crore was not levied on outstanding electricity duty of ₹ 66.32 crore.

As per Section 5A (1) of the BED Act, 1935, where a licensee fails to make payment of electricity duty collected by him by the prescribed date, he is liable to pay a simple interest at the rate of one *per cent* for each calendar month of default. The calculation of period of default<sup>335</sup> is specified in the Section 5A(1) *ibid*.

Audit observed from assessment case records and returns of two<sup>336</sup> licensees in Burdwan collectorate and the office of the Electricity duty officer at Kolkata, that the licensees collected electricity duty of ₹ 543.09 crore for the period from April 2011 to April 2012. However, the licensees deposited ₹ 476.77 crore only into Government Treasury, retaining ₹ 66.32 crore for a period from 42 to 69 months. As such, the licensees were liable to pay interest of ₹ 38.67 crore on unpaid electricity duty of ₹ 66.32 crore. Audit observed that the AAs did not take any action to realise the interest.

After Audit pointed this out in February 2017, the Burdwan collectorate and Electricity Duty Officer, Kolkata stated that necessary action would be taken in due course to realise the interest.

The Director, Electricity Duty stated (January 2018) that the matter was being taken up with the Government for realisation of Electricity Duty, as the assesses were Government entity.

The matter was reported to the Government in August 2017 followed by a reminder issued in October 2017. Their reply has not been received (February 2018).

#### 7.3.4.6 Interest not levied on irregular retention of rebate

Interest of ₹ 1.54 crore was not levied on unauthorised retention of rebate.

Section 5(1) of the BED Act, 1935 provides that where electrical energy is supplied by a licensee, the licensee shall collect and pay electricity duty to the State Government at the prescribed time and manner. Under Section 5(3), the licensee shall be entitled to a rebate for his cost of collection of the duty on the amount of the duty collected and paid by him under Sub-section (1).

<sup>335</sup> Calculated from the first day of the month immediately following the prescribed date of payment up to the month preceding the month of full payment, or up to the month prior to the month of assessment, whichever is earlier, upon the amount of unpaid duty at the end of each such month of default.

<sup>336</sup> Durgapur Projects Limited and WBSEDCL.

Further, in terms of a notification<sup>337</sup> issued by Government of West Bengal, Finance (Taxation) Department in July 1970, licensees should deposit the entire amount of collection of electricity duty to the Collector of the district. The amount of rebate admissible to the licensee at the prescribed rate has to be drawn by them by submission of bills to the concerned treasury. As per Section 5A(1) of the BED Act, where a licensee fails to make payment of electricity duty collected by him by the prescribed date, is liable to pay interest.

Audit observed from assessment case records of CESC for the period between 2011-12 and 2014-15 that CESC made collection of electricity duty of ₹ 1,708.21 crore. However, it was observed that CESC deposited ₹ 1,691.13 crore into the Government account, after making deduction towards rebate of ₹ 17.08 crore, with delays ranging from one to 16 months from the due dates.

Deduction of rebate before depositing it into Government account was not in conformity with the provisions of the Act and notification issued in this regard. These clearly prescribed that the rebate fell due only after deposit of entire amount into Government treasury and not before. As such, the rebate enjoyed by CESC should have been claimed only after payment of entire amount of electricity duty into the Government account. The licensee unauthorisedly retained duty of ₹ 17.08 crore for periods ranging from one to 16 months for which he was liable to pay interest of ₹ 1.54 crore. Audit further observed that the AA did not take any action to levy interest on such unauthorised retention of electricity duty.

After this was pointed out in February 2017, the Electricity Duty Officer stated that necessary action would be taken in due course.

The Director, Electricity Duty while accepting the audit observation (January 2018) stated that necessary action would be taken to realise interest.

The matter was reported to the Government in August 2017 followed by a reminder issued in October 2017. Their reply has not been received (February 2018).

#### **7.3.4.7 Mistake in calculation during assessment**

Electricity duty of ₹ 3.28 lakh was not realised due to mistake in calculation during assessment.

Under Section 3A of the BED Act, 1935, if a licensee or a non-licensee who is required to submit return fails to do so or files incomplete/incorrect return, the AA shall resort to assessment of the licensee/non-licensee to the best of his judgement.

Assessment case records in two<sup>338</sup> collectorates as well as the DED, Kolkata were scrutinised. It was noticed that in assessing the cases of 10 non-licensees between July 2011 and July 2015, electricity duty payable was assessed at ₹ 12.98 lakh instead of ₹ 16.26 lakh due to mistake in computation. This resulted in short levy of electricity duty and consequent short-raising of demand of ₹ 3.28 lakh.

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<sup>337</sup> No. 4070 (15) F.T. dated 11 July 1970.

<sup>338</sup> Burdwan and Hooghly.

After Audit pointed this out between March and June 2017, the collectorates of Burdwan and Hooghly accepted the audit observations and raised notice of demand whereas the DED Kolkata did not furnish specific reply.

The Director, Electricity Duty stated (January 2018) that the matter was being looked into.

The matter was reported to the Government in August 2017 followed by a reminder issued in October 2017. Their reply has not been received (February 2018).

#### **7.3.4.8 Renewal fee not realised from Diesel generator set owners**

Renewal fee of ₹ 2.98 lakh remained unrealised from diesel generator owners.

As per Rule 9D(3), the registration of every electricity generating plant shall be renewed before the expiry of three years from the date of registration of the plant on payment of a renewal fee of ₹ 100 for every plant up to 100 KVA and ₹ 500 for a plant exceeding 100 KVA.

Further, as per Rule 9D(8), if any such plant owner sells or otherwise disposes/discontinues/changes his name or place of business, or changes the nature of his consumption of energy<sup>339</sup>, he or in his case of death, his legal representative, shall inform the registering authority about such sale, disposal, discontinuance or change.

During the course of the audit, registers of registration in Form H-2 maintained in DED, Kolkata and two<sup>340</sup> Zonal offices were taken up for scrutiny. It was observed that 435 DG set owners did not renew the registration of their 685 DG sets, expired between April 2011 and March 2016. The owners of such DG sets did not furnish any information in respect of sale, disposal, discontinuance or change in the DG sets to the Directorate /zonal offices. The Directorate /zonal offices also did not take any action to realise the renewal fee from such DG set owners. As a result, renewal fee of ₹ 2.98 lakh remained unrealised.

After Audit pointed this out between March and June 2017, the Zonal office, Jalpaiguri and DED, Kolkata stated that action would be taken to realise the fee, while the Zonal office, Asansol did not furnish any specific reply.

The Director, Electricity Duty stated (January 2018) that the matter was being sent to the Government for kind consideration.

The matter was reported to the Government in August 2017 followed by a reminder issued in October 2017. Their reply has not been received (February 2018).

#### **7.3.5 Existence of sufficient internal controls in the Directorate**

Internal control is an integral component of an organisation's management processes which is established in order to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. It also ensures the accountability and compliance of rules and regulations and therefore safeguarding against loss.

<sup>339</sup> Which is specified in his application of registration.

<sup>340</sup> Asansol and Jalpaiguri.

Audit observed several internal control mechanism deficiencies in the administrative, operational and monitoring controls in the DED. Internal audit arrangements were found to be non-existent and did not provide complete assurance against irregularities. Deficiencies in the internal control mechanism are discussed in the following sub-paragraphs:

#### **7.3.5.1 Internal Audit**

There was no Internal Audit wing in the Directorate .

Internal Audit wing (IAW) of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed system is functioning reasonably well.

Audit observed that there was no internal audit wing in the DED. An internal audit wing would have ensured evaluation of the systems, procedures and controls within the department. This permanent in-house mechanism would have scrutinised and detected irregularities in the assessment and collection of receipts from electricity duty and checked different records and registers in the Directorate to ascertain effectiveness of the internal control system. An effective IAW was more important in the DED as there was inadequacy of man-power in the directorate and the system of assessment and collection of revenue was complex. In absence of an IAW, revenue leakage therefore cannot be ruled out.

The Director, Electricity Duty stated (January 2018) that the matter was being looked into and effective steps would be taken accordingly.

#### **7.3.5.2 Submission of returns not monitored**

Submission of returns by the registered DG set owners was not monitored by the collectorates as no database of assessees was maintained.

As per Rule 11(1) of the BED Rules, 1935 a non-licensee shall pay the amount of duty within 30 days after expiry of the month for which it is payable. He shall also submit, to the appropriate authority, a monthly return in Form-D by the 15<sup>th</sup> of the month next after that following month to which the return relates. A database of registered DG Set owners is foremost to monitor timely filing of returns and appropriate monitoring of payment of electricity duty.

During the course of audit, it was noticed that no database of registered DG set owners was available in five<sup>341</sup> collectorates. In the absence of such database in the collectorate offices, submission of returns and/or payment of duty by the registered DG set owners could not be monitored by the collectorates.

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<sup>341</sup> Hooghly, Howrah, Jalpaiguri, Paschim Medinipur and Purba Medinipur.



Further, in the offices taken up for audit, there was no system in place for scrutiny of returns submitted by the non-licensees. In the absence of any mechanism to scrutinise the returns submitted, arithmetical accuracy, verification of exemptions claimed and timely payment of duty by the return filers cannot be established by the appropriate assessing authorities.

The Director, Electricity Duty stated (January 2018) that the online system was being developed to monitor submission and scrutiny of returns.

### **7.3.5.3 Inadequate men in position**

Section 7(1) of the BED Act, 1935 prescribes authorities to be appointed by the State Government to perform duties and exercise powers for the purpose of carrying out the provisions of the Act and Rules made thereunder. In the Directorate, officers in the ranks of Junior Inspecting Officers, Inspecting Officers, Senior Inspecting Officers and Chief Inspecting Officer are mainly responsible for operational functions of the DED and are entrusted with the work of assessment and collection of electricity duty. Adequate man power deployment in these positions is therefore, indispensable for optimum functioning of the DED.

During the course of audit, the sanctioned strength vis-a-vis corresponding men in position in the Directorate as well as in its two Zonal offices in the year 2013-14, 2014-15 and 2015-16 was analysed. It was noticed that men-in position had a downward trend during the years 2013-14, 2014-15 and 2015-16 and vacancies in the department were increasing constantly. It was observed that out of sanctioned posts of 23 officers, there was a vacancy of nine (39 per cent), 12 (52 per cent) and 14 officers (61 per cent) in the posts of JIO and above in the year 2013-14, 2014-15 and 2015-16 respectively. Shortage of man power at important positions was affecting the assessment and collection of revenue and hampering effective monitoring of duty payers. Inadequate man power in the DED, therefore, was detrimental to the Government revenue.

The Department stated (January 2018) that the matter had already been taken up with the Government.

The matter was reported to the Government in August 2017 followed by a reminder issued in October 2017. Their reply has not been received (February 2018).

### **7.3.6 Conclusion**

The detailed compliance audit noticed various system deficiencies in assessment and collection of electricity duty as well as instances where extant rules and regulations were not complied with. The DED had no system in place to obtain and cross verify data available with other departments to tap potential assessees. In absence of any provision under the Act to levy interest for delay in payment of electricity duty, the non-licensees were enjoying undue benefit by way of retaining the Government money for indefinite periods, without payment of any interest. Certificate proceedings were

not initiated to recover outstanding dues. Also no time limit had been prescribed in the rules to initiate the certificate proceedings in cases where dues were not paid by the assessee even after expiry of due date of payment as specified in the demand notice. Irregular and excess cost of collection on account of rebate was claimed by the assessee and was allowed during assessments. There were weaknesses in internal control mechanism. Man power deployment in the operational positions in the DED was also found to be inadequate.

### Other audit observation

#### Profession Tax

#### 7.4 Profession Tax not realised

Profession Tax Officer (PTO) failed to detect that profession tax of ₹ 52.44 lakh had not been deducted by the employer on behalf of employees.

In terms of Section 3(2) of the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, every person earning salary shall be liable to pay profession tax to the State Government at the prescribed rates. Section 4 provides that the profession tax payable by any person shall be deducted by his employer from the salary payable, before such salary is paid. Further, the employer shall be liable to pay tax on behalf of all such persons.

Audit observed<sup>342</sup> that the Commandant, 2<sup>nd</sup> Battalion, National Disaster Response Force (NDRF) did not deduct profession tax from the salaries of the persons employed in two offices for the period 2013-16. Audit also observed<sup>343</sup> in the office of the Profession Tax Officer (PTO), West Bengal, Central Unit, Krishnanagar, Nadia that the PTO failed to detect that the employer on behalf of employees did not deduct profession tax during 2013-16. This resulted in non-realisation of profession tax of ₹ 52.44 lakh as shown in **Table 7.4**.

**Table - 7.4**  
**Profession tax not realised**

(₹ in lakh)

Year	Number of persons employed during the period	Profession tax not realised
2013-14	1,481	15.39
2014-15	1,036	16.66
2015-16	1,110	20.39
<b>Total</b>		<b>52.44</b>


<sup>342</sup> April-May 2016.

<sup>343</sup> September 2016.



The PTO stated<sup>344</sup> that action would be taken for realisation of profession tax from them at the earliest.

The matter was reported to the Government in June 2017. Reply was awaited (February 2018).



(NAMEETA PRASAD)

Accountant General

(Economic and Revenue Sector Audit),

West Bengal

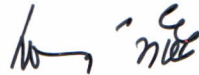
Kolkata

18 MAY 2018

Countersigned

New Delhi

22<sup>nd</sup> May, 2018



(RAJIV MEHRISHI)

Comptroller and Auditor General of India

<sup>344</sup> September 2016.



# APPENDICES



**Appendix-I**  
**(Ref. Para 1.1.2)**  
**Details of tax revenue raised**

(₹ in crore)

Sl. No.	Head of revenue	2012-13		2013-14		2014-15		2015-16		2016-17		Percentage of increase (+)/ decrease (-) in 2016-17 over 2015-16
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1.	Taxes on sales, trade etc.	20,167.37	18,554.76	22,783.98	21,931.09	27,472.66	24,021.91	29,115.91	26,050.16	32,018.09	27,982.69	(+) 7.42
2.	Stamp duty and registration fees	2,940.74	4,357.23	4,500.00	4,053.07	5,399.06	4,196.20	4,597.67	4,174.97	5,199.09	4,382.73	(+) 4.98
3.	State excise	2,786.47	2,621.43	3,202.02	3,017.66	3,810.41	3,587.02	4,418.15	4,015.12	4,698.29	5,226.16	(+) 30.16
4.	Land revenue	1,805.27	2,023.72	3,942.82	2,253.54	2,829.13	2,275.74	3,031.85	2,456.27	2,643.06	2,568.66	(+) 4.58
5.	Taxes and duties on electricity	884.46	1,837.15	1,380.00	1,213.30	1,403.74	1,946.83	1,660.22	2,091.63	1,909.25	1,318.87	(-) 36.95
6.	Taxes on vehicles	1,595.13	1,221.55	1,389.97	1,350.66	1,667.96	1,504.68	1,590.00	1,707.02	1,903.40	1,869.86	(+) 9.54
7.	Others	1,042.80	2,192.65	2,584.83	2,011.24	2,830.99	1,879.60	2,083.01	1,996.91	2,402.33	2,117.49	(+) 6.04
<b>Total</b>		<b>31,222.24</b>	<b>32,808.49</b>	<b>39,783.62</b>	<b>35,830.56</b>	<b>45,413.95</b>	<b>39,411.98</b>	<b>46,496.81</b>	<b>42,492.08</b>	<b>50,773.51</b>	<b>45,466.46</b>	<b>(+) 7.00</b>

Source: Finance Accounts and Budget Publications of the Government of West Bengal.

**Appendix-II**  
**(Ref. Para 1.1.2)**  
**Details of non-tax revenue raised**

(₹ in crore)

Sl. No.	Head of revenue	2012-13		2013-14		2014-15		2015-16		2016-17		Percentage of increase (+)/ decrease (-) in 2016-17 over 2015-16
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1.	Interest receipts	1,008.14	934.10	478.41	986.29	775.45	277.46	1,152.93	334.94	323.80	1,201.24	(+) 258.64
2.	Miscellaneous general services	88.71	187.96	330.46	231.78	227.73	185.79	276.89	180.24	219.47	182.66	(+) 1.34
3.	Forestry and wild life	93.00	113.61	111.89	123.76	137.47	135.73	144.35	134.86	160.32	126.48	(-) 6.21
4.	Police	127.67	133.76	184.87	139.17	161.85	126.61	162.33	104.38	147.69	143.68	(+) 37.65
5.	Other non-tax receipts	1,945.34	548.72	650.57	541.72	687.85	901.07	643.39	1,107.37	1,836.72	1,295.80	(+) 17.02
<b>Total</b>		<b>3,262.86</b>	<b>1,918.15</b>	<b>1,756.20</b>	<b>2,022.72</b>	<b>1,990.35</b>	<b>1,626.66</b>	<b>2,379.89</b>	<b>1,861.79</b>	<b>2,688.00</b>	<b>2,949.86</b>	<b>(+) 58.44</b>

Source: Finance Accounts and Budget Publications of the Government of West Bengal.

**Appendix-III**

**(Ref: Para-1.9)**

**Units planned and audited in 2016-17**

<b>Category/Nature of Audit</b>	<b>Total number of units</b>	<b>No. of units planned for audit</b>	<b>No. of units audited</b>
Value Added Tax			
Sales Tax/VAT units consisting of Corporate Division; DCT; Charge offices; Cess on Petrol, diesel etc. and Check Posts	109	39	39
Other receipts			
State Excise (Receipt cum expenditure)	37	12	12
Stamp Duty and Registration Fees including Non-Judicial Stamp (Receipt cum expenditure)	271	61	61
Motor Vehicles Tax	27	15	15
Amusement Tax	22	8	8
Profession Tax	35	11	11
Land Revenue	22	10	10
Minor Minerals and Mining Receipts	28	13	13
Electricity Duty	21	5	5
Departmental Receipts	1	0	0
<b>Total</b>	<b>573</b>	<b>174</b>	<b>174</b>

## Appendix-IV

(Ref: Para-4.5)

## Taxes and special fees not realised

(₹ in lakh)

Sl. No.	Name of the RA	Period of Audit	Tax, additional tax and penalty		Special fees		Total amount not realised
			Total no. of defaulter vehicles	Amount not realised	Total no. of defaulter vehicles	Amount not realised	
1.	Alipurduar	2013-15	1,279	182.92	Nil	Nil	182.92
2.	Asansol	2013-15	4,821	1,309.83	278	9.72	1,319.55
3.	Bankura	2014-15	2,420	177.63	23	0.57	178.20
4.	Barasat	2014-15	6,865	1,284.61	258	5.84	1,290.45
5.	Barrackpore	2014-15	5,322	1,366.83	495	11.58	1,378.41
6.	Birbhum	2014-15	3,200	339.98	142	3.32	343.30
7.	Cooch Behar	2013-15	1,665	114.11	Nil	Nil	114.11
8.	Dakshin Dinajpur	2012-15	1,528	154.62	32	0.90	155.52
9.	Hooghly	2013-15	4,407	745.48	155	4.75	750.23
10.	Howrah	2014-15	5,221	910.70	194	5.62	916.32
11.	Malda	2012-15	4,279	602.72	294	9.00	611.72
12.	Murshidabad	2014-15	4,054	549.94	139	3.46	553.40
13.	Paschim Medinipur	2014-15	5,707	716.39	143	3.32	719.71
14.	Purba Medinipur	2014-15	2,082	396.41	180	3.72	400.13
15.	Purulia	2014-15	2,075	135.71	Nil	Nil	135.71
16.	Public Vehicles Department (PVD), Kolkata	2014-15	50,558	18,188.04	103	3.42	18,191.46
<b>Total</b>			<b>1,05,483</b>	<b>27,175.92</b>	<b>2,436</b>	<b>65.22</b>	<b>27,241.14</b>

**Appendix-V**  
**(Ref: Para-4.6)**  
**Permit fee not realised**

(₹ in lakh)

SI No.	Name of the RA	Period of Audit	No. of defaulting vehicles	permit fee not realised
1.	Alipurduar	2013-15	297	25.24
2.	Asansol	2013-15	3,816	324.36
3.	Bankura	2014-15	819	71.10
4.	Barasat	2014-15	4,542	386.24
5.	Birbhum	2014-15	1,198	101.83
6.	Cooch Behar	2013-15	70	5.59
7.	Dakshin Dinajpur	2012-15	842	70.77
8.	Hooghly	2013-15	922	78.63
9.	Howrah	2014-15	2,122	180.12
10.	Malda	2012-15	2,254	191.59
11.	Murshidabad	2014-15	1,673	142.21
12.	Paschim Medinipur	2014-15	2,903	246.18
13.	Purba Medinipur	2014-15	958	81.22
14.	Purulia	2014-15	400	33.97
15.	PVD, Kolkata	2014-15	931	76.42
<b>Total</b>			<b>23,747</b>	<b>2,015.47</b>



## Appendix-VI

(Ref: Para-4.7)

## Dealer's tax and penalty not realised

(₹ in lakh)

Sl. No.	Name of the RA	Period of default	No. of newly registered vehicles	No. of defaulter vehicles	dealer's tax and penalty not realised
1.	Alipurduar	2013-15	18,899	13,522	54.11
2.	Asansol	2013-15	43,418	34,442	137.99
3.	Bankura	2014-15	65,354	41,261	165.27
4.	Barasat	2014-15	50,252	40,170	160.76
5.	Barrackpore	2014-15	31,017	22,593	90.54
6.	Birbhum	2014-15	14,773	11,919	47.68
7.	Cooch Behar	2013-15	47,040	34,231	136.94
8.	Dakshin Dinajpur	2012-15	26,172	11,693	46.89
9.	Hooghly	2013-15	77,587	59,282	237.27
10.	Howrah	2014-15	30,491	22,115	93.75
11.	Malda	2012-15	70,275	48,862	195.62
12.	Murshidabad	2014-15	34,768	30,768	123.12
13.	Paschim Medinipur	2014-15	57,635	49,256	197.08
14.	Purba Medinipur	2014-15	20,481	16,105	64.44
15.	Purulia	2014-15	6,553	5,277	21.11
16.	PVD, Kolkata	2014-15	61,187	28,580	114.32
<b>Total</b>			<b>6,55,902</b>	<b>4,70,076</b>	<b>1,886.89</b>

**Appendix-VII**

**(Ref: Para-4.9)**

**Short realisation of fitness fee**

**(₹ in lakh)**

Sl. No.	Name of the RA	Period of Audit	No. of Vehicles produced belatedly for inspection of fitness	Fee realisable (inclusive of application fee @ ₹ 100 per vehicle)	Fee realised (inclusive of application fee @ ₹ 100 per vehicle)	Short realisation
1.	Alipurduar	2013-15	2,053	9.79	6.53	3.26
2.	Asansol	2013-15	11,050	70.15	46.77	23.38
3.	Bankura	2014-15	3,506	17.86	11.91	5.95
4.	Barasat	2014-15	9,864	53.94	35.96	17.98
5.	Barrackpore	2014-15	7,482	49.66	33.11	16.55
6.	Birbhum	2014-15	1,444	8.71	5.81	2.90
7.	Cooch Behar	2013-15	2,533	12.45	8.30	4.15
8.	Dakshin Dinajpur	2012-15	3,380	17.73	11.82	5.91
9.	Hooghly	2013-15	7,600	44.08	29.39	14.69
10.	Howrah	2014-15	4,739	27.63	18.42	9.21
11.	Malda	2012-15	8,767	51.79	34.53	17.26
12.	Murshidabad	2014-15	2,914	16.37	10.91	5.46
13.	Paschim Medinipur	2014-15	4,641	27.07	18.05	9.02
14.	Purba Medinipur	2014-15	3,190	19.50	13.00	6.50
15.	Purulia	2014-15	868	4.11	2.74	1.37
16.	PVD, Kolkata	2014-15	17,048	76.37	50.91	25.46
<b>Total</b>			<b>91,079</b>	<b>507.21</b>	<b>338.16</b>	<b>169.05</b>

**Appendix-VIII****(Ref: Para-4.10)****Authorisation fee not realised****(₹ in lakh)**

<b>Sl. No.</b>	<b>Name of the RA</b>	<b>Total number of defaulter vehicles</b>	<b>Authorisation fee realisable</b>
<b>1.</b>	Asansol	565	5.66
<b>2.</b>	Bankura	63	0.63
<b>3.</b>	Barasat	725	7.26
<b>4.</b>	Barrackpore	3,052	30.52
<b>5.</b>	Birbhum	43	0.44
<b>6.</b>	Hooghly	661	6.62
<b>7.</b>	Howrah	1,258	12.59
<b>8.</b>	Malda	199	2.00
<b>9.</b>	Murshidabad	378	3.78
<b>10.</b>	Paschim Medinipur	896	8.96
<b>11.</b>	Purba Medinipur	555	5.57
<b>12.</b>	Purulia	20	0.21
<b>13.</b>	PVD, Kolkata	481	4.81
<b>Total</b>		<b>8,896</b>	<b>89.05</b>

**Appendix-IX**

(Ref: Para-4.11)

**Short realisation of one-time and life-time tax**

(₹ in lakh)

Sl. No.	Name of the RA	Period of Audit	No. of cases	Amount of tax realisable	Amount of tax realised	Short realisation of tax
1.	Asansol	2013-15	41	14.14	8.08	6.06
2.	Bankura	2014-15	9	4.58	1.34	3.24
3.	Barasat	2014-15	49	17.71	11.79	5.92
4.	Barrackpore	2014-15	33	9.74	7.64	2.10
5.	Birbhum	2014-15	3	0.68	0.54	0.14
6.	Cooch Behar	2013-15	21	4.90	3.24	1.66
7.	Dakshin Dinajpur, Balurghat	2012-15	19	4.54	3.22	1.32
8.	Hooghly	2013-15	58	19.30	11.10	8.20
9.	Malda	2012-15	46	13.60	9.34	4.26
10.	Murshidabad	2014-15	10	5.34	2.37	2.97
11.	Paschim Medinipur	2014-15	3	1.02	0.81	0.21
12.	Purba Medinipur	2014-15	6	1.53	0.98	0.55
13.	PVD, Kolkata	2014-15	112	69.14	33.28	35.86
<b>Total</b>			<b>410</b>	<b>166.22</b>	<b>93.73</b>	<b>72.49</b>

**Appendix-X**

(Ref: Para-4.12)

**Short realisation of tax from contract carriage vehicles**

(₹ in lakh)

Sl. No.	Name of the RA	Period of Audit	No. of cases	Tax realisable	Tax realised	Short realisation
1.	Barasat	2013-15	80	8.32	1.21	7.11
2.	Cooch Behar	2013-15	108	14.29	1.89	12.40
3.	Dakshin Dinajpur	2012-15	21	1.97	0.32	1.65
4.	Hooghly	2013-15	64	7.12	1.24	5.88
5.	Malda	2012-14	176	20.03	3.01	17.02
6.	Paschim Medinipur	2014-15	55	6.32	1.09	5.23
7.	Purba Medinipur	2014-15	42	4.65	0.77	3.88
8.	PVD, Kolkata	2013-14	3	0.78	0.66	0.12
<b>Total</b>			<b>549</b>	<b>63.48</b>	<b>10.19</b>	<b>53.29</b>

**Appendix-XI**

(Ref: Para-4.13)

**Audio fees not realised**

(₹ in lakh)

Sl. No.	Name of the RA	Year of default	Total No. of defaulter Vehicles	Audio fee realisable
1.	Barasat	2014-15	446	2.23
2.	Barrackpore	2014-15	400	2.00
3.	Hooghly	2014-15	177	1.30
4.	Howrah	2014-15	217	1.09
5.	Malda	2012-14	65	0.57
6.	Murshidabad	2014-15	108	0.54
7.	Nadia	2012-14	240	0.86
8.	Paschim Medinipur	2014-15	105	0.53
9.	Purba Medinipur	2014-15	226	1.13
10.	PVD, Kolkata	2014-15	1,375	6.88
<b>Total</b>			<b>3,359</b>	<b>17.13</b>

**Appendix-XII**

(Ref: Para-4.14)

**Special tax from air-conditioned vehicles not realised**

(₹ in lakh)

Sl. No.	Name of the RA	Period of default	No. of defaulter vehicles	Amount not realised
1.	Alipur	2013-14	6	0.52
2.	Asansol	2013-15	12	1.62
3.	Barasat	2013-15	21	1.45
4.	Barrackpore	2013-15	10	0.87
5.	Birbhum	2012-14	47	0.39
6.	Contai	2011-14	5	0.28
7.	Howrah	2014-15	7	0.66
8.	Murshidabad	2012-14	58	0.54
9.	Nadia	2011-14	34	1.20
10.	Paschim Medinipur	2012-14	85	1.06
11.	Purba Medinipur	2013-14	3	0.27
12.	PVD, Kolkata	2014-15	32	2.34
13.	Uttar Dinajpur	2011-14	31	0.88
<b>Total</b>			<b>351</b>	<b>12.08</b>



# GLOSSARY





## Glossary of Abbreviations

Abbreviation	Full form
AA	Assessing Authority
AC	Air Conditioned
ADM	Additional District Magistrate
ADSR	Additional District Sub-Registrar
AETC	Auto Emission Testing Centre
AG	Accountant General
ARA	Additional Registrar of Assurance
ARAI	Automotive Research Association of India
ARTO	Additional Regional Transport Officer
BE	Budget Estimates
BED Act	Bengal Electricity Duty Act
BL&LRO	Block Land and Land Reforms Officer
BoBS	Bon-o-Bhumisanskar Sthayee Samity
BPDR Act	Bengal Public Demands Recovery Act
BS	Bhumi Sahayak
CAATs	Computer Assisted Auditing Techniques
CAG	Comptroller and Auditor General of India
CCT	Commissioner of Commercial Taxes
C&I Department	Commerce and Industries Department
CESC	Calcutta Electric Supply Corporation
CF	Certificate of Fitness
CFT	Cubic Feet
CMV Rules	Central Motor Vehicles Rules
COP	Conformity of Production
CORD	Computerisation of Registration of Documents
CST Act	Central Sales Tax Act
CTC	Calcutta Transport Corporation
CTP	Contractual Transfer Price
CTPL	Celex Technologies Pvt. Ltd.
DAIT	Directorate of Agricultural Income Tax
DAW	Data Analysis Wing
DCT	Directorate of Commercial Taxes
DED	Directorate of Electricity Duty
DG	Diesel Generator
DIGR	Deputy Inspector General of Registration

<b>Abbreviation</b>	<b>Full form</b>
DL	Driving Licence
DL&LRO	District Land and Land Reforms Officer
DLR&S	Director of Land Records and Surveys
DP	Draft Paragraph
DR	District Registrar
DSDA	Digha Shankarpur Development Authority
DSR	District Sub-Registrar
DVC	Damodar Valley Corporation
EC	Eligibility Certificate
e-TD	Electronic Transit Declaration
FLA Collector	First Land Acquisition Collector
GIS	Geographical Information System
GOI	Government of India
GOWB	Government of West Bengal
GVW	Gross Vehicle Weight
HC	Head Clerk
HDA	Haldia Development Authority
HHT	Hand Held Terminals
HSRP	High Security Registration Plates
HT	High Tension
IAW	Internal Audit Wing
IC Act	Indian Copyright Act
IFMS	Integrated Financial Management System
IGR&CSR	Inspector General of Registration & Commissioner of Stamp Revenue
IMPACT	Information Management for Promotion of Administration in Commercial Taxes
IO	Inspecting Officer
IR	Inspection Report
IR Act	Indian Registration Act
IS Act	Indian Stamp Act
ITC	Input Tax Credit
I&W	Irrigation and Waterways
JIO	Junior Inspecting Officer
KLR Act	Kolkata Land Revenue Act
KMC	Kolkata Municipal Corporation
LDC	Lower Division Clerk

<b>Abbreviation</b>	<b>Full form</b>
LMV	Light Motor Vehicle
LR	Land Revenue
L&LR Department	Land and Land Reforms Department
LRC	Land and Land Reforms Commissioner
LT	Low Tension
LTS	Long Term Settlement
LTU	Large Taxpayers Unit
MMDR Act	Mines and Minerals (Development and Regulation) Act
MoRTH	Ministry of Road Transport and Highways
MPR	Monthly Progress Report
MRP	Maximum Retail Price
MV	Market Value
MV	Motor Vehicles
NHAI	National Highway Authority of India
NDRF	National Disaster Response Force
NIC	National Informatics Centre
PA	Performance Audit
PAC	Public Accounts Committee
PAG	Principal Accountant General
PCIN	Permanent Consecutive Identification Number
PTO	Profession Tax Officer
PUCC	Pollution under Control Certificates
PVD	Public Vehicles Department
RA	Registering Authority
RC	Registration Certificate
RI	Revenue Inspector
RO	Revenue Officer
RoR	Records of Right
RTA	Regional Transport Authority
RTO	Regional Transport Office
SDL&LRO	Sub-divisional Land and Land Reforms Officer
SIB	Subsidiary Intelligence Bureau
SMS	Short Message Service
SMSL	Subba Micro System Ltd.
SRO	Senior Revenue Officer
STA	State Transport Authority

<b>Abbreviation</b>	<b>Full form</b>
STDS	Sales Tax Deducted at Source
TAC	Type Approval Certificate
TCS	Tax Collection at Source
TCTP	Taxable Contractual Transfer Price
TDR	Tax Demand Register
TDS	Tax Deducted at Source
TOS	Turnover of Sales
TP Act	Transfer of Properties Act
UDC	Upper Division Clerk
VAT	Value Added Tax
WBAT & OTMV Act	West Bengal Additional Tax & One-time Tax on Motor Vehicles Act
WBEA Act	West Bengal Estate Acquisition Act
WBFR	West Bengal Financial Rules
WBL&LR Manual	West Bengal Land and Land Reforms Manual
WBLR Act	West Bengal Land Reforms Act
WBMM Rules	West Bengal Minor Minerals Rules
WBMV Rules	West Bengal Motor Vehicles Rules
WBMVT Act	West Bengal Motor Vehicles Tax Act
WBPCB	West Bengal Pollution Control Board
WBREP Act	West Bengal Rural Employment and Production Act.
WBS (PUI) Rules	West Bengal Stamp (Prevention of Undervaluation of Instruments) Rules
WBSEB	West Bengal State Electricity Board
WBSEDCL	West Bengal State Electricity Distribution Company Limited
WBTIDCL	West Bengal Transport Infrastructure Development Corporation Limited
WBVAT Act	West Bengal Value Added Tax Act
WEBEL	West Bengal Electronics Industry Development Corporation Ltd.